

STATE OF CONNECTICUT  
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of Joseph Cardillo

File No. 2010-030

FINDINGS AND CONCLUSIONS

The Complainant filed the instant complaint with the Commission pursuant to General Statutes § 9-7b, and asserts that Ann Halibozek (hereinafter "the Respondent") violated General Statutes § 9-364a when she appeared on two occasions at the Complainant's property with a police escort and photographed a political sign on his lawn that he had altered, filed a police report concerning said sign, sent an email and made statements to the press regarding same. Mr. Cardillo maintains that Ms. Halibozek committed such actions with the "intent to influence by force or threat the speech being expressed."

After an investigation of the matter, the Commission makes the following findings and conclusions:

1. The Respondent was a Democratic candidate for Board of Selectman of the Town of Cromwell for the November 2009 municipal election. The Respondent's candidacy was financed by the Cromwell Democratic Town Committee.
2. On October 11, 2009, Victor Harpley, Chairperson of the Cromwell Democratic Town Committee, sent the following email to the Respondent and others:

*All cc'd have given me check for their [sic] contribution to the upcoming election for signs and a flyer. I have not heard from . . . (Ann & . . .) I am asking for \$100 from the BOS candidates and \$70 from BOE candidates. I need to know by the end of the day if you want to have your name on the signs, flyers, etc. and if so your check or commitment. I will be ordering the signs tomorrow and can't wait any longer.*

*Thank You,  
Victor*

3. The Respondent responded via email on October 11, 2009 as follows:

*I do want to have my name on the signs, flyers, etc. I'll get a check to you on Tuesday.*

4. On October 15, 2009, the Respondent provided Mr. Harpley with a \$100 Bank Check. At that time, the Respondent believed that owners of the signs were anyone who contributed money towards the purchase of those signs in response to Mr. Harpley's email. The Respondent did not believe the Committee owned the signs.
5. The signs at issue read as follows:

*Elect Democrats*  
*T.*  
*Murphy - Varricchio*  
*Emaneule – Halibozek*  
*for*  
*Board of Selectman*

6. On October 19, 2009, an article entitled “*11 Candidates Vying for Six Seats on Cromwell Board of Selectmen*” appeared on Courant.com. According to that article, four Democratic candidates were vying for those seats. One of those was the Respondent. Four Republican candidates were also named as well as three petitioning candidates. The Respondent was identified as being allied with the petitioning candidates even though she was running on the Democratic ticket. The Chairperson of the Cromwell Democratic Town Committee, Victor Harpley, is quoted in the article as stating, inter alia, “I see the independent candidates as a distraction from the really serious issues every town faces right now.”
7. On October 22, 2009, a police report was filed by the Respondent with the Cromwell Police Department. According to the report, the Respondent was informed and ultimately discovered that a political campaign sign that was placed on someone’s property had her name covered with tape. It was further reported that the Respondent stated that the individual who resided at the address, the Complainant, “is a member of the Democratic committee and that the two of them do not agree eye to eye on certain issues.”
8. The Respondent was informed by the police that she could take the sign after the Complainant’s fiancé agreed. According to the report, the Respondent then placed the sign in her motor vehicle. It was then reported that the Complainant contacted the police department and admitted that he covered the Respondent’s name with tape due to a statement she made in the local paper supporting candidates in the Independent Party. He is then reported as stating that he would “personally pay for a political sign with his own money and place it in his front yard with the Complainant’s name covered over.” No further police action was taken and the case was closed.
9. The Complainant purchased a second sign from the Committee via check in the amount of \$50.00. That sign was originally purchased with Committee funds and was provided in part to the Complainant to replace the original sign that was taken by the Respondent. The content of the second sign was the same as that of the first sign.
10. The Complainant maintained that he purchased the sign because he was advised by an officer from the Cromwell police department that it would be the best way to avoid having another sign removed from his property by the Respondent because the purchase would establish his ownership of sign. He reposted the sign on his property and covered the word “Halibozek” with a piece of paper that read: “THIS SIGN IS PRIVATE PROPERTY OF PROPERTY OWNER AND REFLECTS MY FREEDOM OF SPEECH.”

11. On October 25, 2009, the Respondent sent an email to the treasurer of the Cromwell Democratic Town Committee that read as follows:

*Did you approve to allow Victor to resell our campaign signs so that they could be defaced? See attached. I spoke with Frank and he had not authorized it. This will open a can of worms for anyone else wishing to do the same.*

12. On October 26, 2009, the Complainant sent an email to Captain Nelson of the Cromwell Police Department which reads as follows:

*Ms. Ann Halibozek is distributing on the internet to countless individuals a copy of my political sign, bill of sale and a copy of my personal check with bank routing numbers. Do you recognize the individual holding up the paperwork on my property allowing Ms. Halibozek to photograph personal and confidential material? Ms. Halibozek is now harassing me through the internet. My banking status along with routing numbers is now all over the internet. I am requesting an investigation for her illegally obtaining this information while trespassing on my property. This harassment will stop. As in a prior email I was concerned for my safety and my family. Ms. Halibozek needs to be stopped. Please advise what action will be taken.*

*Sincerely,  
Joe Cardillo*

13. Captain Nelson responded to the Complainant via email on October 27, 2009. In that email he states the following:

*Regarding your email sent on Monday, October 26, 2009, I acknowledge receipt of your email. You state, "Her unstable behavior is a safety issue." Sir, I disagree with your statement, she is an individual running for an elected office and she has a different interpretation regarding what you can and can't do with a political sign the bears her name. This does not qualify as harassment, it is not a safety issue, if anything it is clearly a disagreement between you and Mrs. Halibozek [sic] regarding both of your rights to freedom of speech.*

*\* \* \**

*An investigation is not warranted because she was not illegally on your property at the time she obtained this information. Mrs. Halibozek [sic] was there with a Police Officer who was investigating her complaint. As unfortunate as this situation as become, I would hope cooler heads will prevail.*

*Captain Nelson  
Cromwell Police*

14. On November 2, 2009, an article appeared in The Middletown Press entitled "'Sign-gate' sparks controversy in Cromwell." In that article, the Respondent gave her opinion as to why her name was taped over on a campaign sign. It was reported that she said

“misogyny is the driving issue” and is quoted as saying “a woman shouldn’t be a candidate for the (Board of Selectmen).” The Complainant is also reported as making statements concerning the sign at issue. He allegedly said the real issue is party loyalty and his right to freedom of speech, and accuses the Respondent of trying to “strong-arm” legitimate criticisms of her actions.

15. The Respondent maintains and the evidence establishes that she felt she had paid for her name to appear on the campaign signs at issue and she therefore believed that defacing those signs was vandalism and a violation of the law.
16. The Complainant alleged in his sworn Complaint that Ann Halibozek violated his “General Statutes § 9-364a when she did the following: (A) Appeared on his property on October 22, 2009 and photographed a campaign sign placed thereon with the Respondent’s name taped over and later called the police and reported that the sign had been vandalized; (B) Sent an email on October 25, 2009 to town committee members asking whether they approved the resale of campaign signs so they could be defaced; and (C) Allegedly made “slanderous and libelous” comments regarding the Complainant that “misogyny is the driving issue” and that “she is protesting what she says is the police ‘interpretation of the law’ which she further stated, ‘would seem to open a can of worms for anyone that wished to protest against a person, business, concept, etc.’”
17. With respect to each alleged act by the Respondent, the Complainant states that the Respondent was “attempting to silence any critic of her candidacy” with the “intent . . . to influence by force or threat the speech being expressed.”
18. General Statutes § 9-364a provides in pertinent part as follows:

**Any person who influences or attempts to influence by force or threat the vote, or by force, threat, bribery or corrupt means, the speech, of any person in a primary . . . or election . . . shall be fined not more than one thousand dollars or imprisoned not more than one year or be both fined and imprisoned. [Emphasis added.]**
19. The Commission notes that it does not have civil penalty authority pursuant to General Statutes § 9-7b over a violation of General Statutes § 9-364a. Instead, § 9-364a is one of the few provision in which the Commission can only refer the matter to the Chief State’s Attorney’s Office for criminal prosecution.
20. Thus, the issue is whether there is evidence sufficient to establish that the Respondent influenced, or attempted to influence, by force, threat, bribery, or corrupt means the Complainant’s speech in an election.
21. Because the Commission’s resolution of this matter requires the application of the aforementioned statutory provision to a particular factual scenario, the Commission’s review is guided by well established principles of statutory interpretation, the fundamental objective of which is to ascertain and give effect to the apparent intent of the legislature. *Picco v. Town of Voluntown*, 295 Conn. 141, 147 (2010).

22. To discern the legislative intent, General Statutes § 1-2z directs us to look first to “the text of the statute itself and its relationship to other statutes. If, after examining such text and considering such relationship, the meaning of such text is plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered.” See also, *Id.*
23. We are mindful that criminal statutes are to be construed strictly. *State v. John F.M.*, 285 Conn. 528, 547 (2008). In addition, the words of a statute are to be construed according to the commonly approved usage of the language. General Statutes § 1-1 (a).
24. The statute prescribes that any person who *influences* or *attempts to influence* by *force, threat, bribery or corrupt means* the speech of any person in a primary or election shall be fined or imprisoned. The legislature has not defined the terms “influence,” “force,” “threat,” “bribery,” or “corrupt means.”
25. To ascertain the commonly approved usage of those terms, the Commission can look to their dictionary definitions. *Picco v. Voluntown*, 295 Conn. 148. They are as follows in pertinent part:

***Influence:*** v. 1. To have power over; affect. 2. To cause a change in the character, thought, or action of; to have effect upon. American Heritage Dictionary, Second College Edition, 1985.

***Force:*** n. 2. a. Power made operative against resistance; exertion. b. The use of such power or exertion. Webster’s New College Dictionary, Third Edition.

***Threat:*** n. 1. An expression of an intention to inflict pain, injury, evil, or punishment. 2. An indication of impending danger or harm. American Heritage Dictionary, Second College Edition, 1985.

***Bribery:*** n. The act or practice of offering, giving, or taking a bribe. Webster’s New College Dictionary, Third Edition. “Bribe” is further defined as “something that serves to influence or persuade. *Id.*”

***Corrupt:*** adj. 1. Immoral and perverse: DEPRAVED. 2. Dishonest and venal. Webster’s New College Dictionary, Third Edition.

26. In order to conclude that General Statutes § 9-364a was violated, the Commission must decide that, given the evidence, it is more likely than not that: 1) the Respondent voluntarily committed an act that influenced the Complainant’s speech and/or voluntarily committed an act that was intended to influence the Complainant’s speech regardless of whether the Complainant’s speech was actually influenced; and 2) that the Respondent did so by using force, threat, bribery or corrupt means.
27. Here, while the Complainant does not expressly allege it, the evidence does establish that the Respondent voluntarily removed the plaintiff’s lawn sign from his property with a police escort. Given the common meaning of the term influence, the evidence therefore

establishes that the Respondent voluntarily committed an act that influenced (here, by suppressing) the Complainant's speech. However, the evidence does not establish that the means through which the Respondent influenced the Complainant's speech was by an act of force or threat made to the Complainant, bribery of the Complainant, or through a corrupt act.

28. More specifically, there is no evidence that Respondent used force against the Complainant to get him to remove the sign in question. In fact, he was not even home at the time the sign was removed. In addition, the evidence does not establish that the Respondent threatened or bribed the Complainant to get him to remove the sign. As noted, the Respondent removed the sign herself with both police approval and the approval of the Complainant's fiancé.
29. The Commission also concludes that Respondent's act of appearing at the Complainant's premises with a police escort and removing the Complainant's sign also was not a "corrupt" act. The common meaning of "corrupt" is immoral and/or depraved. Webster's New College Dictionary, Third Edition. "Immoral" means contrary to accepted moral principles. *Id.* "Moral" means "in accord with standards of what is right or just in behavior." *Id.*
30. Here, the evidence establishes that the Respondent removed the sign because she believed in good faith that it was her property and was being unlawfully vandalized by the Complainant. Furthermore, as noted above, she was given permission by a police officer to remove that sign. As such, it does not appear that the Respondent influenced the Complainant's speech by corrupt means.
31. The Complainant also expressly alleges that the Respondent attempted to influence his speech by *force* or *threat* by: (A) Appearing on his property on October 22, 2009 and photographing a campaign sign placed thereon with the Respondent's name taped over and later calling the police and reporting that the sign had been vandalized; (B) Sending an email on October 25, 2009 to town committee members asking whether they approved the resale of campaign signs so they could be defaced; and (C) Allegedly making "slanderous and libelous" comments regarding the Complainant that "misogyny is the driving issue" and that "she is protesting what she says is the police 'interpretation of the law' which she further stated, 'would seem to open a can of worms for anyone that wished to protest against a person, business, concept, etc.'"
32. Even if the Commission assumes without deciding that the Respondent committed those alleged with the requisite intent to influence the Complainant's speech, none of those acts involve "force" against or "bribery" of the Complainant.
33. With respect to whether these acts constituted a threat to the Complainant, the evidence does not sufficiently establish a threat. Threat is defined as "an expression of an intention to inflict pain, injury, evil, or punishment" or "an indication of impending danger or harm." American Heritage Dictionary, Second College Edition, 1985. None of the aforementioned alleged acts of the Complainant qualify as an expression of impending danger or harm. See *In the Matter of a Complaint by Joseph & Marjorie Marion*,

Putnam, File No. 1993-119 (Commission dismisses complaint alleging a violation of General Statutes § 9-364a finding, inter alia, that respondent's act of calling the police which led to the complainant's arrest and asking complainant to remove a campaign sign did not sufficiently establish a "threat" pursuant to § 9-364a.)

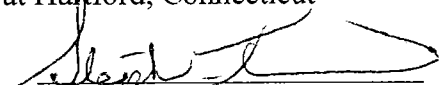
34. Similarly, the evidence does not establish sufficiently that the Complainant's alleged acts constituted "corrupt means." Put another way, they could not be characterized as immoral or depraved behavior. Here, the evidence appears to establish that the Respondent appeared on the Complainant's property on October 22, 2009 and photographed the sign at issue and later called the police and reported that the sign had been vandalized because she believed in good faith that the sign was her property and was being unlawfully vandalized by the Complainant. Furthermore, Captain Nelson of the Cromwell Police noted in the October 26, 2009 email to the Complainant, which is contained herein, that the Respondent was not illegally on the Complainant's property and her actions did not rise to the level of harassment but rather, evidenced a mere disagreement between the parties concerning their rights to speak freely.
35. In addition, the evidence does not establish that the email sent by the Respondent on October 25, 2009 to town committee members asking whether they approved of the resale of campaign signs was an immoral or depraved means of influencing or attempting to influence the Complainant's speech. The email appears instead to support the Respondent's good faith belief that the sign was her property and as well as the property of the recipients of the email: A sign which she believed was being wrongfully altered by the Complainant.
36. Finally, even if we assume that the aforementioned comments were indeed made by the Respondent to the press, such expressions of the Respondent's opinions do not rise to the level of an immoral and/or depraved act for the purposes of General Statutes § 9-364a. As such, it does not appear that the Respondent influenced or attempted to influence the Complainant's speech by *force, threat, bribery or corrupt means*.
37. The Commission therefore concludes that the Respondent did not violate General Statutes § 9-364a.

### ORDER

The following Order is recommended on the basis of the aforementioned findings:

That the matter be dismissed.

Adopted this 26<sup>th</sup> day of May 2010 at Hartford, Connecticut

  
Stephen F. Cashman, Chairman  
By Order of the Commission