

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by
William Paecht, Seymour

File No. 2010-051

FINDINGS AND CONCLUSIONS

Complainant brings this complaint pursuant to Connecticut General Statutes § 9-7b, alleging that the Seymour Democratic Town Committee (hereinafter SDTC) sold \$50 tickets to a February 5, 2010 “testimonial affair,” honoring Town of Seymour First Selectman Paul F. Roy. After investigation, the Commission makes the following findings and conclusions:

1. Respondent Roy is the First Selectman of the Town of Seymour, and was so at all time relevant to this complaint and investigation. Rosalie T. Averill is treasurer of the SDTC, and was so at all times relevant to this complaint and investigation.

2. Complainant alleged that Respondents Roy and Averill violated Campaign Finance Law in that:

(1) The SDTC February 5, 2010 event was a “testimonial affair” for Respondent Roy because the money was raised by the SDTC for the SDTC, rather than for the committee of the “honoree,” as required by General Statutes 9-609 (b);

(2) Seymour municipal employees were solicited to buy tickets to the SDTC event by their supervisors in violation of § 9-622(12); and,

(3) The SDTC failed to fully report and disclose the February 5, 2010 event as a “fundraiser” on its April 2010, financial disclosure statement.

3. The printed invitation for the aforementioned was as follows:

***YOU ARE CORDIALLY INVITED TO THE – VICTORY
CELEBRATION IN HONOR OF SEYMOUR FIRST
SELCTMAN PAUL F. ROY – FRIDAY, FEBRUARY 5, 2010
6:30 P.M. TO 10:00 P.M. – John J. Sullivan’s – 557 Wakelee
Avenue Ansonia, CT 06401 – Buffet Dinner – D.J. –
\$50 per person/cash bar – Paid for by Seymour Democratic
Town Committee, Rosalie Averill, Treasurer***

4. General Statutes § 9-607, provides in pertinent part:

(g)(1) As used in this subsection, (A) ***"the lawful purposes of his committee" means: ... (iii) for a party committee, the promoting of the party, the candidates of the party and continuing operating costs of the party,*** and (B) "immediate family" means a spouse or dependent child of a candidate who resides in the candidate's household.

(2) Unless otherwise provided by this chapter, any campaign treasurer, in accomplishing the lawful purposes of his committee, may pay the expenses of: (A) Advertising in electronic and print media; ***(B) any other form of printed advertising or communications including "thank you" advertising after the election; ... (W) hiring of halls, rooms, music and other entertainment for political meetings and events;*** (X) reasonable compensation for public speakers hired by the committee; (Y) transporting electors to the polls and other get-out-the-vote activities on election day; and (Z) any other necessary campaign or political expense.
[Emphasis added.]

5. General Statutes § 9-609, provides in pertinent part:

...

(b) As used in this subsection, "testimonial affair" means ***an affair held in honor of an individual who holds, or who is or was a candidate for nomination or election to, an office subject to this chapter.*** No testimonial affair shall be held without the consent of such person. No testimonial affair shall be held for a candidate, or for an individual who holds any such office during the term of such office, except to raise funds on his behalf for purposes authorized in this chapter. A testimonial affair which is held by an organization duly organized for charitable purposes shall be exempt from the provisions of this chapter. A testimonial affair which is held for an individual upon his retirement from public office shall also be exempt from the provisions of this chapter unless a deficit exists from any such individual's campaigns for election or nomination to an office subject to this chapter. Any fund-raising affair for any candidate or individual who holds any such office for any purposes other than those authorized in this chapter shall be prohibited. ***Any person who organizes such a fund-raising affair shall be in violation of this section.***
[Emphasis added.]

6. The Commission, in its Party Committee Guide, advises that: *Party committees must also be mindful when expending funds for a testimonial affair. A testimonial affair is an event held in honor of a candidate or in honor of an individual who holds elective office during the term of office. (See A Guide for Party (Town and State Central) Committees provides at page 26).*
7. With regards to the allegation that the SDTC held a prohibited “testimonial affair,” the Respondents deny that the February 5, 2010 event was a testimonial affair, but rather assert that it was a “victory celebration” by the SDTC to celebrate Respondent Roy’s then recent election, as a Democrat, to the Office of First Selectman.
8. The Commission finds, consistent with the assertion in paragraph 7, that indicia pertaining to the event relates to a post election party and not a testimonial affair. Specifically, the Commission finds that the invitation itself invited potential attendees to a “victory celebration,” and records indicate that that no funds or purses were raised to honor any specific individual, but rather many other elected municipal and state officials and employees were thanked for their service and congratulated at this event.
9. The Commission finds, as detailed in the preceding paragraph above, that the SDTC February 5, 2010 event was a permissible post election party promoting a town committee. The Commission concludes therefore that the expenditures by SDTC to promote itself by hosting such an event were permissible expenditures pursuant to General Statutes § 9-607 (g)(1)(iii) and (2).
10. Accordingly, the Commission finds that the February 5, 2010 SDTC event that is the subject of this complaint was not a “testimonial affair” prohibited by of General Statutes § 9-609, and therefore no violation of that statute occurred.
11. Regarding the allegation that municipal employees were solicited by their supervisors to attend the SDTC February 5, 2010 event, Complainant provided a newspaper article and a video of a Seymour Town Council meeting where the receipt of invitations by employees for the event through municipal mail was discussed.
12. Complainant did not identify any individual or individuals who may have been responsible for the alleged prohibited solicitations pursuant to General Statues § 9-622(12).

13. General Statutes § 9-622, provides in pertinent part:

The following persons *shall be guilty of illegal practices* and shall be punished in accordance with the provisions of section 9-623:

(12) *Any municipal employee who solicits a contribution on behalf of, or for the benefit of*, any candidate for state, district or municipal office, any political committee or *any political party, from (A) an individual under the supervision of such employee*, or (B) the spouse or a dependent child of such individual; ...
[Emphasis added.]

14. The Commission finds that Respondents Roy and Averill deny soliciting employees under their supervision to attend the event which is subject of this complaint, and responsibility for the SDTC invitations being circulated through the municipal mail department. Further, the Commission finds that upon hearing of the aforementioned incident, Respondent Roy nevertheless issued a written apology for the same on January 20, 2010.
15. Upon investigation of the invitations described in paragraphs 10 and 12 above, the Commission finds that those witnesses identified both as town employees and those in attendance at the February 5, 2010 event, and interviewed by the Commission, denied receiving the invitations by municipal mail or being solicited by supervisors to purchase tickets for the event.
16. The Commission considers any allegations that municipal employees solicited employees under their supervision by a supervisor to make a contribution for the benefit of a political party in violation of General Statutes § 9-622(12) of the most serious nature. However, the Commission finds upon investigation, and based on the facts described in paragraphs 14 and 15 above, that there is insufficient evidence to establish a violation of § 9-622(12). The Commission therefore dismisses this allegation for lack of sufficient evidence.

17. General Statutes § 9-608, provides in pertinent part:

(c) Content of statements. (1) Each statement filed under subsection (a), (e) or (f) of this section shall include, but not be limited to: *(A) An itemized accounting of each contribution, if any, including the full name and complete address of each contributor and the amount of the contribution*; (B) in the case of anonymous contributions, the total amount received and the denomination of the bills; *(C) an itemized accounting of each expenditure*, if any, including the full name and complete address of each payee, including secondary payees whenever the primary or principal payee is known to include charges which the primary payee has already paid or will pay directly to

another person, vendor or entity, *the amount and the purpose of the expenditure*, the candidate supported or opposed by the expenditure, whether the expenditure is made independently of the candidate supported or is an in-kind contribution to the candidate, and a statement of the balance on hand or deficit, as the case may be; ... and (J) for each individual who contributes in excess of four hundred dollars in the aggregate to or for the benefit of any candidate's campaign for nomination at a primary or election to the office of chief executive officer of a town, city or borough, a statement indicating whether the individual or a business with which he is associated has a contract with said municipality that is valued at more than five thousand dollars. Each campaign treasurer shall include in such statement *(i) an itemized accounting of the receipts and expenditures relative to* any testimonial affair held under the provisions of section 9-609 or *any other fund-raising affair*, which is referred to in subsection (b) of section 9-601a, and (ii) the date, location and a description of the affair.

[Emphasis added.]

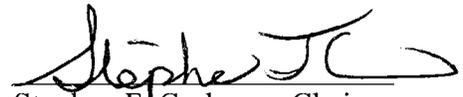
18. The Commission finds that Respondent Averill had sought and received advice from Commission staff on multiple occasions regarding her duties and responsibilities as SDTC treasurer and with filing requirements. Specifically, the Commission finds that Respondent Averill sought and received advice from Commission staff regarding processing and reporting specific receipts pertaining to the SDTC February 5, 2010 event, and disclosing and reporting the same in SDTC financial reports.
19. The Commission further finds that pertaining to the February 5, 2010 SDTC event delineated herein, Respondent Averill disclosed expenditures for the event in Section P and contributions received for the event in Section B on the SDTC April 2010 *Itemized Campaign Finance Disclosure Statement* (Form 20). The Commission finds that expenditures for entertainment, advertising and the use of the restaurant pertaining to the February 5, 2010 event were also disclosed and detailed on the SDTC April 2010 filing.
20. The Commission concludes that based on its findings in paragraphs 7 through 9 above, that the February 5, 2010 event was *not* a testimonial affair and therefore Respondent Averill was not required by § 9-608 to report the event as such.

ORDER

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

That the Complaint be dismissed.

Adopted this 26th day of January of 2011 at Hartford, Connecticut

A handwritten signature in black ink, appearing to read "Stephen F. Cashman". The signature is stylized with a large, sweeping initial "S" and a long horizontal stroke at the end.

Stephen F. Cashman, Chairman
By Order of the Commission