

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of Mel Thompson,
Derby

File No. 2010-078

FINDINGS AND CONCLUSIONS

The Complainant filed this complaint with the Commission pursuant to General Statutes §9-7b, alleging that Anita Dugatto and Sam Rizzitelli improperly transferred Derby Democratic Town Committee funds to Attorney Elio Morgan for his legal services. Specifically, the Complainant maintains that the “expenditure had and has nothing to do with ‘campaign or committee services of attorneys’” and was a violation of election laws.

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

1. Dr. Anita Dugatto was the legally designated treasurer of the Derby Democratic Town Committee (hereinafter “DDTC”) at all times relevant to this complaint. Pursuant to General Statutes § 9-606 (a) (2), as treasurer, Dr. Dugatto was responsible for authorizing making and reporting all expenditures for the DDTC in accordance with the requirements of General Statutes § 9-608.
2. Complainant, alleged that the DDTC by making expenditures to pay for legal representation of two committee members violated campaign finance laws. At all times relevant to this complaint Dr. Dugatto and Mr. Samuel M. Rizzitelli were members of the DDTC.
3. Specifically, Complainant alleged that the payment of attorneys fees by the DDTC to Attorney Elio Morgan for the representation of Dr. Dugatto and Mr. Rizzitelli, in the lawsuit *Mel Thompson v. Sam Rizzitelli, et al, Defendants*, F.Supp.2d, 2011 WL 1215190 (D.Conn.) was an impermissible expenditure pursuant to campaign finance laws. The aforementioned lawsuit was brought by Complainant as plaintiff against Dr. Dugatto, Mr. Rizzitelli and the DDTC.
4. In a March 29, 2011 opinion, in the *Thompson* suit referenced in paragraph 3 above, the court detailed the “factual allegations” of Thompson, who “...claim[ed] **through their involvement with the DDTC**, each of the individual defendants participated in a conspiracy to intimidate and exclude him from DDTC meetings.” *See Thompson*, at 1, emphasis added (denying dismissal of claims against individuals in their official capacity).

5. General Statutes § 9-601b provides in relevant part as follows:

(a) As used in this chapter and chapter 157, the term ***“expenditure” means:***(1) ***Any*** purchase, ***payment***, . . . distribution, loan, advance, deposit or gift of money or anything of value, when made ... ***on behalf of any political party***.
[Emphasis added.]

6. General Statutes § 9-607 provides in pertinent part that:

(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, ...***

(2) Unless otherwise provided by this chapter, ***any campaign treasurer, in accomplishing the lawful purposes of his committee, may pay the expenses of:*** ... (P) campaign or ***committee services of attorneys***, accountants, consultants or other professional persons for campaign activities, obtaining or contesting ballot status, nomination, or election, and compliance with this chapter; ...
[Emphasis added.]

7. While the Commission has a *long* history of determining whether expenditures for “professional services” are permissible and therefore may be paid by a committee treasurer, the Commission has nevertheless narrowly applied its analysis to fact specific circumstances. *See* AO No. 80-10 (Commission concluded in 1980, relying on a 1976 Commission decision, that paying expenses for a lawsuit challenging ballot access by candidate committee was permissible) and *Complaint of Joseph Sobel*, New Milford, File No. 96-141 (Commission concluded that the payment of services for a *private investigator* was a *permissible expense* for professional services).

8. Specifically, with regard to the payment of services of attorneys, the Commission has limited its determination that such expenditures were permissible to include drafting of ordinances for referendum committees, bringing certain legal challenges, as well as defending legal challenges relating to the activities of that committee. *See Complaint by James Wright*, Lisbon, File No. 87-111 (Commission concluded that the payment of legal fees by a referendum committee for purposes of drafting an ordinance that was adopted at a referendum and then defending that ordinance) and *Complaint of Krista J. Dunn*, Norwich, File No. 2000-134 (Commission concluded that making expenditures for legal fees for an election contest affecting the candidacy of one of the slate of candidates was a permissible expenditure of such committee).

9. Complainant alleges that the payment by the DDTC of legal fees for Dr. Dugatto and Mr. Rizzitelli to Attorney Morgan were impermissible expenditures. General Statutes § 9-607 provides that "the lawful purposes" of a party committee include the payment of expenditures for "...campaign or committee services of attorneys." General Statutes § 9-607 (g) (1) (A) (iii) & (2) (P). Furthermore, as detailed in paragraphs 7 and 8 above, the Commission has found that the payment of attorneys fees, including for legal defense, is a permissible expenditure pursuant to the aforementioned statute. Finally, the court determined in *Thompson*, as detailed in paragraph 4 above, that the lawsuit was against the defendants "through their involvement with the DDTC," or under these circumstances, as members of the DDTC.
10. The Commission concludes, for the reasons detailed in paragraph 9 above, that the expenditure by the DDTC to Attorney Morgan for legal defense of Dr. Dugatto and Mr. Rizzitelli as defendants in a lawsuit brought by Complainant against the aforementioned defendants for their actions as DDTC members, is a permissible expenditure pursuant to General Statutes § 9-607 (g) (2) (P).
11. The Commission concludes, for the reasons described herein, that because General Statutes § 9-607 was not violated as alleged by Complainant, that this complaint should therefore be dismissed.

ORDER

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

That the matter be dismissed.

Adopted this 15th day of February, 2012, at Hartford, Connecticut



Stephen F. Cashman, Chairman
By Order of the Commission