

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
John Keith Mitzelfelt, Guilford

File No. 2010-101

FINDINGS AND CONCLUSIONS

The Complainant brought this Complaint pursuant to Connecticut General Statutes § 9-7b and alleged various violations of the campaign finance laws against individuals in relation to alleged political activity, as well as referendum activity pertaining to a June 16, 2010 budget referendum in the Town of Guilford. After an investigation of the Complaint, the Commission makes the following findings and conclusions:

1. On August 3, 2010, the Complainant filed the instant complaint alleging that a group called "The Property Owners Association of Guilford" (hereinafter "POAG") had demonstrated against a June 16, 2010 Guilford budget referendum without registering as a political committee with the Guilford Town Clerk, and without including an attribution on its leaflets or a June 4, 2010 e-mail containing advocacy for the aforementioned referendum.
2. Mr. Julian David Roberts was implicated in these alleged violations by Complainant as "president" of POAG, and identified as Respondent for purposes of this matter. Complainant and Respondent each date the creation of POAG back to May 2009.
3. Specifically, Complainant alleged that POAG, through an e-mail newsletter to its membership, encouraged individuals to gather and demonstrate in public against the June 16, 2010 referendum, and provided approximately twelve such individuals with signs in opposition to the budget on the day of the referendum.
4. The June 16, 2010 budget referendum in the Town of Guilford concerned proposed funding for architectural plans for a new High School in Guilford. According to the Guilford Town Clerk's office, no group known as "POAG" has registered with her office either prior to the June 16, 2010 referendum or during any time relevant to this complaint and investigation.
5. Complainant included a copy of a two-sided leaflet disseminated by POAG on June 5, 2010. The leaflet contains detailed information regarding POAG's concerns and policies pertaining to taxing and spending by the Town of Guilford. Furthermore, it contains a descriptive narrative about the group, contact information for the group and details regarding the group's purpose and goals. The leaflet indicates that: "There is no cost for membership, but donations are always welcome."

6. In addition, Complainant included a copy of a June 4, 2010 e-mail from POAG, which indicates that there would be a “*Rally downtown to show our opposition to the new H.S.*” on June 5, 2010 and that “*You can bring your own signs but don’t need to as we have plenty of signs to wave!*” Furthermore, the June 4th POAG e-mail includes the exhortation “*LETS STOP THEM NOW,*” and concludes “...thanks, Patrizia Di Lonardo (POAGCT secretary.)” Finally, the e-mail indicates that it is from “Property Owners of Guilford.”
7. Respondent by affidavit disclosed the following \$750 in receipts by PAOG from May 2009 to October 2010. Furthermore, Respondent disclosed a total of \$521.45 in expenditures by POAG during this time period, including \$262.00 for advertisements and \$200.00 for the development of a website for POAG. POAG therefore disclosed in its bank account expenditures that totaled \$521.45.
8. The Commission finds based on the facts detailed in paragraph 6 above, that POAG received and spent less than \$1,000.00 in the aggregate, pertaining advocacy pertaining to the referendum that is the subject of this complaint. Further, the Commission finds based on paragraphs 5 and 7 above, that POAG did not solicit funds to advocate for the referendum, but rather used treasury funds that it received between May 2009 to October 2010.
9. General Statutes § 9-605, at all times relevant to this complaint, provided in pertinent part:
 - (d) A group of two or more individuals who have joined solely to promote the success or defeat of a referendum question ***shall not be required to file as a political committee***, make such designations in accordance with subsections (a) and (b) of this section or file statements pursuant to section 9-608, ***if the group does not receive or expend in excess of one thousand dollars for the entire campaign and the agent of such individuals files a certification with the proper authority or authorities as required under section 9-603 before an expenditure is made.*** The certification shall include the name of the group, or the names of the persons who comprise the group, and the name and address of the agent which shall appear on any communication paid for or sponsored by the group as required by section 9-621. If the group receives or expends in excess of one thousand dollars, the agent shall complete the statement of organization and file as a political committee not later than three business days thereafter. . . .
10. The Commission finds that the leaflet that is the subject of this complaint and detailed in paragraph 5 above does not advocate for a position on a referendum. The Commission finds in fact that the aforementioned leaflet does not reference a referendum. Further, the Commission concludes that consistent with the leaflet’s lack of any reference to a referendum, its exhortation that “donations are always welcome,” does not in this context solicit additional funds to advocate for a referendum, but rather simply solicits support for POAG generally.

11. The Commission concludes based on the findings detailed in paragraphs 2 ,5, 7 and 8 above, that POAG should have filed a certification of exemption from forming a referendum committee pursuant to § 9-605 (d). However, despite this conclusion, the Commission declines to take further action in this instance, due to Public Act 10-187 which amended § 9-605, deleting (d) and its requirement of filing a certification of exemption.
12. The Commission next turns to the allegation pertaining to POAG disseminating leaflets and an e-mail without including an attribution on either its leaflets or its June 4, 2010 e-mail containing advocacy for the June 16, 2010 Guilford referendum.
13. At the time relevant to this complaint, General Statutes § 9-621 provided in pertinent part:

...

(c) No business entity, organization, **association**, committee, or group of two or more individuals who have joined solely to promote the success or defeat of a referendum question and is required to file a certification in accordance with subsection (d) of section 9-605, **shall make or incur any expenditure for any written, typed or other printed communication which promotes the success or defeat of any referendum question unless such communication bears upon its face the words "paid for by" and the following:** (1) In the case of a business entity, organization or association, the name of the entity, organization or **association and the name of its chief executive officer**; (2) in the case of a political committee, the name of the committee and the name of its campaign treasurer; (3) in the case of a party committee, the name of the committee; or (4) in the case of such a group of two or more individuals, the name of the group as it appears on the certification filed in accordance with subsection (d) of section 9-605, and the name and address of its agent. [Emphasis added.]

14. With regard to the POAG leaflet described in paragraph 5 above, the Commission finds, upon review, that while it references in detail POAG's positions regarding budget issues in the Town of Guilford, as well as provides a detailed description of POAG itself, along with relevant contact information, it does not advocate for the defeat or passage of the referendum that is relevant to this Complaint, and no attribution was therefore required. For the aforementioned reasons, the Commission dismisses the allegation in the Complaint pertaining to a lack of attribution for this leaflet, as it is not supported by the evidence.

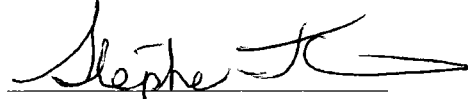
15. Turning to the June 4, 2010 e-mail, the Commission finds that the e-mail as detailed in paragraphs 1, 3 and 6 above does contain advocacy in opposition to the June 5, 2010 budget referendum in the Town of Guilford. Specifically, the e-mail proposed a downtown rally approximately 10 days prior to the referendum to “show our opposition to the new H.S.,” the funding related to which was the subject of the June 16, 2010 referendum.
16. The Commission concludes therefore based on the findings in paragraph 15 above that pursuant to General Statutes § 9-621, the June 4, 2010 e-mail by POAG required an attribution including the words “paid for by,” and the name of Respondent as president of POAG and therefore its “chief executive officer.”
17. The Commission notes that the June 4, 2010 e-mail read that it was “From: Property Owners of Guilford” and referenced POAG supporters, as well as the name of its secretary. The Commission finds therefore that there was clearly no attempt by POAG to hide or obscure the source of this e-mail.
18. The Commission in this instance, based on its findings and reasoning in paragraphs 15 through 17 above, and consistent with its prior decisions, exercises its prosecutorial discretion and declines to take further action where the value of the violations are *de minimis*. See *Complaint of Robert H. Kalechman*, Simsbury, File No. 2010-138, *Complaint of Elizabeth-Ann Edgerton*, Monroe, File No 2009-084 and *Complaint of Arthur Scialabba*, Norwalk, File No. 2009-039.
19. Additionally, the Commission notes that upon investigation evidence supports the conclusion that the June 4, 2010 e-mail achieved its intended effect of gathering individuals who opposed the June 16, 2010 referendum in public, the Commission nevertheless has no jurisdiction over public gatherings *per se*, and therefore declines to consider this incident further. Finally, while there is evidence that “vote no” signs were being held by individuals at the aforementioned public gathering, because General Statutes § 9-621 specifically exempts signs with a surface area of not more than 32 square feet from the attribution requirements, the Commission concludes that it is inapplicable to the aforementioned signs.
20. In consideration of the above findings and under these specific facts and circumstances, the Commission has determined to take no further action in this matter.

ORDER

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

That no further action be taken.

Adopted this 22nd day of June, 2011 at Hartford, Connecticut.

A handwritten signature in black ink, appearing to read "Stephen F. Cashman", written over a horizontal line.

Stephen F. Cashman, Chairperson
By order of the Commission