

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Ann Halibozek, Cromwell

File No. 2011-122

FINDINGS AND CONCLUSIONS

The Complainant brings this complaint pursuant to Connecticut General Statutes § 9-7b, alleging that the Cromwell Democratic Town Committee made expenditures for automated calls concerning the September 13, 2011 Democratic Primary and asking for support for the entire Democratic ticket in the municipal election of November 8, 2011 without including an attribution stating who paid for or approved the calls, as allegedly required by § 9-621(b) (3).

After the investigation of the Complainant's complaint, the Commission makes the following findings and conclusions:

1. The Cromwell Democratic Town Committee (the "CDTC") acknowledges that it made expenditures for automated calls concerning the September 13, 2011 Democratic Primary and asking for support for the entire Democratic ticket in the municipal election of November 8, 2011 (the "automated calls").
2. The automated calls did contain an attribution stating "Paid for and approved by the Cromwell Democratic Town Committee, Michael Gengler Treasurer" and did not contain the voices or stated approvals of any unnamed candidates.
3. The Commission has jurisdiction over two sections of the General Statutes governing attribution requirements for automated calls, §§ 9-621 (b) (3) and 9-621 (h) (4), which are addressed sequentially.
4. General Statutes § 9-621 (b) (3), governing required attributions for expenditures for automated calls made by candidates, candidate committee or exploratory committees established by a candidate, provides:

No candidate or candidate committee or exploratory committee established by a candidate shall make or incur any expenditure for automated telephone calls which promote the success of such candidate's campaign for nomination at a primary or election or the defeat of another candidate's campaign for nomination at a primary or election, unless the candidate's name and voice are contained in the narrative of the call, before the end of such call. [Emphasis added.]

5. General Statutes § 9-601 (1) defines “committee” as:

[A] party committee, political committee or a candidate committee organized, as the case may be, for a single primary, election or referendum, or for ongoing political activities, to aid or promote the success or defeat of any political party, any one or more candidates for public office or the position of town committee member or any referendum question.

6. General Statutes § 9-601 defines candidate, candidate committee and exploratory committee in §§ 9-601 (11), 9-601 (4) and 9-601 (5) respectively. These definitions are not inclusive of party committees.

7. General Statutes § 9-610 (2) defines “party committee” as:

[A] state central committee or a town committee. "Party committee" does not mean a party-affiliated or district, ward or borough committee which receives all of its funds from the state central committee of its party or from a single town committee with the same party affiliation. Any such committee so funded shall be construed to be a part of its state central or town committee for purposes of this chapter and chapter 157.

8. Based on the above, the Commission concludes that, as party committees, town committees are not governed by §§ 9-621 (b) (3).

9. General Statutes § 9-621 (h) (4), governing required attributions for expenditures for automated calls made by “entities”, provides:

[N]o entity shall make or incur an independent expenditure for automated telephone calls that promote the election or defeat of any candidate for nomination or election or promotes or opposes any political party or solicits funds to benefit any political party or committee, unless the narrative of the telephone call identifies the entity making the expenditure and its chief executive officer or equivalent....[Emphasis Added.]

10. General Statutes § 9-601 (19) defines “entity” as, “An organization, corporation, cooperative association, limited partnership, professional association, limited liability company, and limited liability partnership” and excludes “committees” from this listing.”

11. Although the term “organization” appears in the definition of “entity”, General Statutes § 9-601 (7) specifically excludes “party committees” from this term in defining “organization” as:

[A]ll labor organizations, (A) as defined in the Labor Management Reporting and Disclosure Act of 1959, as from time to time amended, or (B) as defined in subdivision (9) of section 31-101, employee organizations as defined in subsection (d) of section 5-270 and subdivision (6) of section 7-467, bargaining representative organizations for teachers, any local, state or national organization, to which a labor organization pays membership or per capita fees, based upon its affiliation or membership, and trade or professional associations which receive their funds exclusively from membership dues, whether organized in or outside of this state, *but does not mean a candidate committee, party committee or a political committee.*
[Emphasis Added.]

12. Based on the above, the Commission concludes that because a party committee, as defined by § 9-610 (2), is not an entity, as defined by § 9-601 (19), they are not governed by § 9-621 (h) (4).
13. As stated above, the Commission concludes that, as party committees, town committees are not governed by §§ 9-621 (b) (3) or 9-621 (h) (4), the statutes governing attributions for automated calls and that, as such, the CDTC could not have violated either provision.

ORDER

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

That the complaint be dismissed.

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


Stephen F. Cashman, Chairman
By Order of the Commission