

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Nancy Dinardo
Trumbull

File No. 2012-144

FINDINGS AND CONCLUSIONS

Complainant Nancy Dinardo of Trumbull filed this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that Respondent David Rutigliano, candidate for the 123rd General Assembly seat in 2012, was promoting his business, Southport Brewing Company, while campaigning for the state representative seat. After an investigation of the allegations made in the Complaint, the Commission makes the following findings and conclusions:

1. Complainant alleged that restaurateur David Rutigliano was promoting his personal business during the course of his campaign for a seat in the Connecticut General Assembly in 2012.
2. Respondent was a candidate for the 123rd General Assembly seat. In January 2012, he formed a candidate committee to finance his campaign for that office. *See* SEEC Form 1a – Registration by Candidate (*DaveR for the 123*, January 12, 2012) (forming candidate committee on behalf of David Retigliano).
3. Respondent participated in the Citizens' Election Program and received a grant from the Citizens' Election Fund. *See* SEEC Form CEP 10 – Affidavit of Intent to Abide by Expenditure Limits and other Citizens' Election Program Requirements (*DaveR for the 123*, January 18, 2012) (evincing intent of candidate and treasurer to abide Citizens' Election Program rules); *see also* SEEC Form 30 – Itemized Campaign Finance Disclosure Statement (*DaveR for the 123*, October 4, 2012) (reflecting receipt of \$26,850 in grant funds from Citizens' Election Fund on July 23, 2012).
4. Complainant alleged that while speaking with potential voters during his campaign, Respondent would hand out coupons that entitled persons holding those coupons to free beer at his restaurant.
5. Respondent acknowledged handing out what he called "VIP cards," which did entitle the holder to a free beer at the Southport Brewing Company. Respondent said, however, that for more than 10 years, he has given VIP cards to individuals who expressed an interest in or complimented him on the restaurant. He also said that other employees at the restaurant distribute these VIP Cards. He stated that these VIP cards were not his business card and did not have his name on them.

6. Respondent stated that he likely distributed about 40 of the cards while he was going door-to-door during the campaign.
7. Respondent also said that the VIP cards that he distributed carried no exhortation to vote for him, either express or implied, and that cards were not given to individuals in an attempt to purchase their vote.
8. Respondent stated that he stopped handing out the cards after speaking with Jack Testani, chairman of the Trumbull Republican Town Committee, who suggested that Respondent's simultaneous promotion of his business while campaigning for public office could create problems.
9. Candidates may use the funds received by their candidate committees only to promote their own candidacy for the office for which the candidate committee was established. *See* General Statutes § 9-607 (g) (stating, in relevant part, that candidate committees may spend money solely to promote candidates that formed the individual committees).
10. Qualified candidate committees¹ also face additional limitations on how they can spend their money, which are laid out in regulations promulgated by the Commission. *See, e.g.,* Regulations, Conn. State Agencies § 9-706-1 (a) requiring that all candidate committee funds "shall be used only for campaign-related expenditures made to directly further the participating candidate's nomination for election or election to the office specified in the participating candidate's affidavit certifying the candidate's intent to abide by Citizens' Election Program requirements.")
11. No candidate committee may receive contributions from business entities nor may business entities make expenditures² on behalf of a candidate that are made in consultation with or the participation of the candidate or an agent of the candidate or candidate committee. *See* General Statutes § 9-613(a) (prohibiting contributions from business entities to candidate committees); General Statutes § 9-601c (defining "independent expenditure").
12. In addition, an individual may not pay or give any item of value to an elector to influence that elector to vote for or against a candidate. *See* General Statutes § 9-622 (1) (defining

¹ A "qualified candidate committee" is a candidate committee formed by a candidate who opted to participate in the Citizens' Election Program, which has qualified for a grant from the Citizens' Elections Fund. *See* General Statutes §9-700 (12).

² An expenditure is defined for campaign financing purposes as a "[a]ny purchase, payment, [or] distribution ... of ... anything of value, when made to promote the success ... of any candidate seeking ... election" General Statutes § 9-601 (a) (1) (defining expenditure for Connecticut's campaign financing regime).

“illegal practice” as any attempt to garner votes by giving entertainment or anything of value to electors).

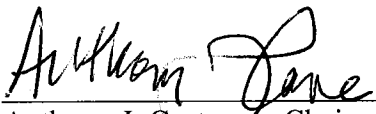
13. Respondent’s candidate committee did not make any expenditures to promote Respondent’s business. The VIP cards that Respondent distributed were printed by the restaurant and were handed out by Respondent himself, not paid campaign workers.
14. Potentially more problematic, however, are two issues this fact scenario raises: first, that by giving an elector a free beer one was attempting to purchase a vote for the candidate; and second, that the restaurant, a business entity, was making an expenditure to promote the candidate’s election in coordination with the candidate.
15. The investigation of this matter did not indicate that either of those scenarios were the case here. Respondent normally distributed the VIP cards to individuals who complimented his restaurant, and he continued that practice while he was a candidate. Once it was pointed out to him that mixing promotion of his business with promotion of his candidacy could be problematic, he stopped.
16. Any cost associated with the VIP cards were paid for by Respondent’s restaurant, including the printing of the cards and the cost of the “free beer” when a holder redeemed the card.
17. Whether Respondent’s distribution of these VIP cards while he was canvassing the district transforms the cost borne by the restaurant for the cards into an expenditure on behalf of his candidacy is a difficult question. But the results of the investigation, indicating that Respondent handed out approximately 40 cards, that the practice of distributing these VIP cards predated his candidacy, and that the cards neither referred to his candidacy nor him by name, as well as the Respondent’s cessation of the potentially questionable action once he was made aware of the issues that it raised lend credence to the Respondent’s claim that this was a lapse of judgment versus an attempt to garner support for his candidacy using business resources.
18. Given the substance of this complaint, however, the Commission directs the Respondent scrupulously to keep his business and political promotions separate in the future to avoid any similar complaints in the subsequent campaigns.

ORDER

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

That no further action be taken.

Adopted this 17th day of March, 2015 at Hartford, Connecticut.



Anthony J. Castagno, Chairperson
By Order of the Commission