

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of Jonathan Pelto,
Storrs

File No. 2012-150

FINDINGS AND CONCLUSIONS

Complainant filed this complaint with the Commission pursuant to General Statutes §9-7b, alleging that the group Residents for a Better Bridgeport (hereinafter "RRFB") violated campaign finance laws by failing to report expenditures advocating a "yes" vote on the November 6, 2012 ballot question regarding the Board of Education in the City of Bridgeport.

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

1. Complainant alleged various reporting and disclosure violations by RFBB regarding expenditures to advocate for a "yes" vote regarding the November 6, 2012 ballot question regarding the Bridgeport Board of Education. At all times relevant to this complaint Lillian Wade (hereinafter "Respondent") was treasurer of RFBB.
2. Specifically, Complainant alleged that:
 - (1) RFBB failed to report a fundraising event regarding small donor contributions totaling \$672;
 - (2) RRFB failed to disclose the following expenditures:
 - a. For costs associated with the development and hosting of a website;
 - b. For costs associated with the production and dissemination of three direct mail pieces; and,
 - c. For costs associated with the production and dissemination of 4 video advertisements advocating for the ballot question.
 - (3) An "illegal use of municipal resources" by RFBB to advocate for the November 6, 2012 ballot question;
 - (4) There was an "illegal use of President Obama's photo" by RFBB to advocate for a ballot question; and,
 - (5) RFBB violated General Statutes § 9-621 by failing to provide disclaimers on the 4 video advertisements advocating for a ballot question.

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

(a)(1) ***Each treasurer of a committee***, other than a state central committee, ***shall file a statement, sworn under penalty of false statement with the proper authority*** in accordance with the provisions of section 9-603, (A) on the tenth calendar day in the months of January, April, July and October, provided, if such tenth calendar day is a Saturday, Sunday or legal holiday, the statement shall be filed on the next business day, (B) on the seventh day preceding each regular state election, ... and (C) ***if the committee has made or received a contribution or expenditure in connection with any*** other election, a primary or a ***referendum***, The statement shall cover a period to begin with the first day not included in the last filed statement. In the case of a candidate committee, the statement required to be filed in January shall be in lieu of the statement formerly required to be filed within forty-five days following an election.

...

(c)(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) ***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***, ... ***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***, A campaign treasurer shall not be required to report or retain any receipts or expenditures related to any de minimis donations described in subdivision (17) of subsection (b) of section 9-601a.

[Emphasis added.]

4. Complainant alleged in Allegation 1 that RFBB failed to report a fundraising event regarding small donor contributions totaling \$672.
5. The Commission finds that Respondent in response to this complaint denied that a fundraiser was held by RFBB pertaining to the small donor contributions as alleged. Upon investigation, the Commission finds that Respondent disclosed two fundraisers by RFBB on its October 30, 2012 *Itemized Campaign Finance Disclosure Statement* (SEEC Form 20) and was otherwise aware of such requirements pursuant to General Statutes § 9-608. Further the Commission finds insufficient evidence that Respondent neglected to comply with the aforementioned statute or otherwise contradicts the aforementioned assertion by Respondent.
6. The Commission finds, on balance, that Allegation 1 is *not* supported by the evidence and is unsubstantiated by the details provided within the complaint. The Commission therefore dismisses Allegation 1.
7. Complainant alleged in Allegation 2a that RRFB failed to disclose the expenditures for costs associated with the development and hosting of a website.
8. Upon investigation, the Commission finds that Respondent reported receipts pertaining to web development and hosting on the RFBB October 31, 2012 SEEC 20. More specifically, the Commission finds that the October 28th RFBB report disclosed a non-monetary receipt for “web development” valued in the amount of \$1,200.00 and received October 6, 2012 and an in-kind contribution from an individual in the amount of \$65.99 for a “web domain,” also received on October 6, 2012. Further, Respondent asserts that because the decision regarding a website was not created until October 4, 2012, that the October 28, 2012 report that covered the period for October 1, 2012 through October 28, 2012 was the correct financial statement on which to report the expenditure.
9. The Commission finds, for the reasons detailed in paragraph 8 above, that Respondent reported in-kind non-monetary receipts for the costs associated with the development and hosting of the RFBB website as required by General Statutes § 9-608, and therefore dismisses Allegation 2a, as it is not supported by the facts.
10. Complainant alleged in Allegation 2b that RRFB failed to disclose expenditures for costs associated with the production and dissemination of three direct mail pieces advocating for the November 6, 2012 ballot question.

11. The Commission finds after investigation that Respondent reported costs pertaining to direct mailing on the RFBB October 31, 2012 SEEC 20. Regarding such costs, the Commission finds that Respondent reported an October 15, 2012 expenditure in the amount of \$1,595.25 for "Advertising/Direct Mail" and an October expenditure in the amount of \$54,446.99 for "Advertising/Direct Mail." The Commission notes that the aforementioned expenditures, as reported, occurred during the time period covered by the October 31st RFBB itemized statement as required by General Statutes § 9-608. Finally, the Respondent in a written response to this complaint denied Allegation 2a.
12. The Commission finds, for the reasons detailed in paragraph 11 above, that Respondent reported expenditures for three direct mail pieces advocating for the November 6, 2012 ballot question regarding the Bridgeport Board of Education on behalf of RFBB as required by General Statutes § 9-608. The Commission therefore dismisses Allegation 2b, as it is not supported by the facts upon investigation.
13. Complainant alleged in Allegation 2c that RFBB failed to report expenditures pertaining to four video advertisements advocating for the Bridgeport Board of Education ballot question of November 6, 2012 as required by General Statutes § 9-608. The Respondent denied Allegation 2c.
14. The Commission finds, upon investigation, that Respondent reported on the RFBB October 31, 2012 SEEC 20 an October 27, 2012 expenditure in the amount of \$500.00 for "Advertising/Web." Respondent asserts that the aforementioned expenditure was pertaining to the four videos identified in the complaint and therefore denies Allegation 2c. The Commission finds no evidence to contradict this assertion.
15. The Commission finds, as detailed in paragraph 14 above, that the evidence does not support the finding of a violation of General Statutes § 9-608 as alleged in Allegation 2c, and therefore dismisses the allegation.
16. Complainant alleged in Allegation 3 that there was an "illegal use of municipal resources" by RFBB pertaining to advocating for the November 6, 2012 Bridgeport Board of Education ballot question in that teachers, public officials and municipal property were used for advocacy purposes, as prohibited by General Statutes § 9-369b.
17. General Statutes § 9-369b, provides in pertinent part:
 - (a) Except as provided in subsection (b) of this section, any municipality may, by vote of its legislative body, authorize the preparation and

printing of concise explanatory texts of local proposals or questions approved for submission to the electors of a municipality at a referendum. Thereafter, each such explanatory text shall be prepared by the municipal clerk, subject to the approval of the municipal attorney, and shall specify the intent and purpose of each such proposal or question. Such text shall not advocate either the approval or disapproval of the proposal or question. Except as provided in subsection (d) of this section, ***no expenditure of state or municipal funds shall be made to influence any person to vote for approval or disapproval of any such proposal or question.*** Any municipality may, by vote of its legislative body and subject to the approval of its municipal attorney, authorize the preparation and printing of materials concerning any such proposal or question in addition to the explanatory text if such materials do not advocate the approval or disapproval of the proposal or question. [Emphasis added.]

18. The Commission finds that RFBB and Respondent in response to the complaint asserted that they had no control over public officials or municipal resources and otherwise denied Allegation 3. Further, the Commission finds after investigation that Allegation 3 is unsubstantiated as it relates to Respondent and RFBB, in that there is insufficient evidence that RFBB was in a position to authorize the use of public funds to advocate a referendum or that municipal resources were used under these narrow circumstances to establish a violation of General Statutes § 9-369b.
19. The Commission therefore dismisses Allegation 3 for the reasons detailed in paragraph 18 above, as it pertains to RFBB and Respondent, and has determined that as alleged the allegation does not warrant further consideration by the Commission.
20. Complainant alleged the “illegal use of President Obama’s photo” by RFBB in connection with their advocacy regarding the ballot question of November 6, 2012.

21. The Commission, finds that the use of federal elected official's image in materials advocating for a ballot question does not *per se* trigger the Commission's jurisdiction pursuant to General Statutes § 9-7b. Rather, the Commission would have to consider whether such use was a permissible expenditure within the context of that committee's purpose and organization and the application of campaign finance laws and Title 9, Chapter 155.
22. Historically, the Commission has concluded that the mere appearance of another candidate in an advertisement paid for by another committee "*does not necessarily result in the conclusion that the communication was made for the purpose of influencing the nomination of [that] candidate. See Complaint of Devon Pfeifer, Fairfield File No. 2010-131 (where the Commission concluded that a state senate candidate's appearance and endorsement of the sponsoring committee's federal candidate was not promotional of the former candidate).*"
23. The commission finds in this instance, a lack of evidence that U.S. President Barak Obama's image was used by RFBB in the three mailings that are subject to this complaint and investigation as alleged and therefore under these limited circumstances dismisses Allegation 4 for the reasons detailed in paragraphs 21 and 22 above.
24. Complainant alleged in Allegation 5 that RFBB and Respondent violated General Statutes § 9-621 by failing to provide disclaimers on the 4 video advertisements advocating for a ballot question.
25. General Statutes § 9-621, provides 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 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 business entity, organization or association and the name of its chief executive officer or equivalent; (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 and the name and address of its agent.
[Emphasis added.]

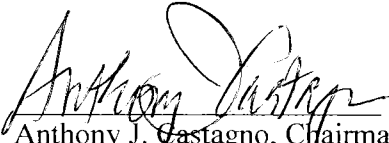
26. General Statutes § 9-621(c) provides that an attribution or disclaimer is required when a group of two or more individuals make an expenditure for “*any written, typed or other printed communication*” that promotes the success or defeat of a referendum or ballot question. Respondent admits that the four video advertisements that are subject of this complaint lack attributions but denies that such requirements apply to *videos* advocating for a ballot question or referendum.
27. Upon investigation, the Commission concludes that the attribution requirements of §9-621 (c), which apply to the making of expenditure for *any written, typed or other printed communications*, does not apply when the expenditure is for *video* advertising that advocates for a ballot question as in this instance.
28. The Commission, for the reasons detailed in paragraphs 24 and 25 above, concludes therefore that General Statutes § 9-621(c) did *not* apply to expenditures by RFBB pertaining to four videos promoting the November 6, 2012 ballot question regarding the Bridgeport Board of Education and therefore Allegation 5 is not supported by the facts or law in these circumstances, and therefore dismisses the allegation.
29. Consistent with the facts and reasoning detailed herein the Commission dismisses this matter.

ORDER

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

That the matter is dismissed.

Adopted this 15th day of May, 2013 at Hartford, Connecticut


Anthony J. Castagno, Chairman
By Order of the Commission