

**STATE OF CONNECTICUT**  
**STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Benjamin Ancona, Newington

File No. 2013-140

**FINDINGS AND CONCLUSIONS**

The Complainant brings this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that Dannel P. Malloy, both individually and in coordination with agents, accepted contributions and made expenditures promoting his candidacy for re-election as governor in 2014, some of which were impermissible and all of which were not disclosed.<sup>1</sup>

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

1. At all relevant times Respondent Dannel P. Malloy was the incumbent governor in the November 4, 2014 General Election.
2. At all relevant times, the Respondent was not a declared candidate for re-election and did not maintain a candidate committee in support of such re-election or an exploratory committee.
3. The gravamen of the Complainant here amounts to three cognizable allegations against the Respondent:
  - a. That the business entity Global Strategy Group (“GSG”), through the public statements of its employee Roy Occhiogrosso, has been actively working to promote the Respondent’s re-election and produced a media communication, with the consent and coordination of the Respondent, which was a contribution made for the purpose influencing the re-election of the Respondent and which triggered the Respondent’s duty to register a candidate committee and to report the contribution;
  - b. That the Respondent made private statements indicating that he planned on running for re-election and that such statements triggered his responsibility to form a candidate committee, which he failed to do within the statutory period; and

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<sup>1</sup> The following are the Commission’s findings and conclusions based on those portions of the Complainant’s statement of complaint which the Commission could reasonably construe as alleging facts amounting to a specific violation of those laws within the Commission’s jurisdiction. Any statements within the Complaint not addressed herein either did not specifically allege a violation or alleged facts which if proven true would not have amounted to a violation within the Commission’s jurisdiction.

- c. That the Respondent solicited contributions on behalf of the entities “Connecticut Coalition for Achievement Now” (“ConnCAN”) and Prosperity for Connecticut by attending fundraisers on such groups’ behalf.

#### **RELEVANT STATUTES**

4. General Statutes § 9-601 (11) (Rev. to June 18, 2013) defines the term “candidate” under Chapters 155 and 157 and reads, in pertinent part:

“Candidate” means an individual who seeks nomination for election or election to public office whether or not such individual is elected, and for the purposes of this chapter and chapter 157, an individual shall be deemed to seek nomination for election or election if such individual has (A) been endorsed by a party or become eligible for a position on the ballot at an election or primary, or (B) *solicited or received contributions, made expenditures or given such individual’s consent to any other person to solicit or receive contributions or make expenditures* with the intent to bring about such individual’s nomination for election or election to any such office. . . . (Emphasis added.)

5. “Expenditure” is defined in General Statutes § 9-601b (Rev. to June 18, 2013), as follows, in pertinent part:

(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 for the purpose of influencing the nomination for election, or election, of any person or for the purpose of aiding or promoting the success or defeat of any referendum question or on behalf of any political party; . . .

(2) Any advertisement that (A) refers to one or more clearly identified candidates, (B) is broadcast by radio or television other than on a public access channel, or appears in a newspaper, magazine or on a billboard, and (C) is broadcast or appears during the ninety-day period preceding the date of a primary or an election, other than a commercial advertisement that refers to an owner, director or officer of a business entity who is also a candidate and that had previously been broadcast or appeared when the owner, director or officer was not a candidate; or

(3) The transfer of funds by a committee to another committee. . . .  
(Emphasis added.)

6. “Contribution” is defined in General Statutes § 9-601a (Rev. to June 18, 2013), as follows, in pertinent part:

(a) As used in this chapter and chapter 157, the term “contribution” means:

(1) Any gift, subscription, loan, advance, payment or deposit of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person or for the purpose of aiding or promoting the success or defeat of any referendum question or on behalf of any political party;

(2) A written contract, promise or agreement to make a contribution for any such purpose;

(3) The payment by any person, other than a candidate or campaign treasurer, of compensation for the personal services of any other person which are rendered without charge to a committee or candidate for any such purpose;

(4) An expenditure that is not an independent expenditure; . . . (Emphasis added.)

7. “Solicit” is defined in General Statutes § 9-601 (26) (Rev. to June 18, 2013), as follows, in pertinent part:

(26) “Solicit” means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. “Solicit” does not include (i) making a contribution that is otherwise permitted under this chapter, (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office, or (iv) serving

as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this subdivision.

8. "Independent Expenditure" is defined in General Statutes § 9-601c (Rev. to June 18, 2013), as follows, in pertinent part:

(a) As used in this chapter and chapter 157, the term "independent expenditure" means an expenditure, as defined in section 9-601b, that is made without the consent, coordination, or consultation of, a candidate or agent of the candidate, candidate committee, political committee or party committee.

(b) When the State Elections Enforcement Commission evaluates an expenditure to determine whether such expenditure is an independent expenditure, there shall be a rebuttable presumption that the following expenditures are not independent expenditures:

(1) An expenditure made by a person in cooperation, consultation or in concert with, at the request, suggestion or direction of, or pursuant to a general or particular understanding with (A) a candidate, candidate committee, political committee or party committee, or (B) a consultant or other agent acting on behalf of a candidate, candidate committee, political committee or party committee;

(2) An expenditure made by a person for the production, dissemination, distribution or publication, in whole or in substantial part, of any broadcast or any written, graphic or other form of political advertising or campaign communication prepared by (A) a candidate, candidate committee, political committee or party committee, or (B) a consultant or other agent acting on behalf of a candidate, candidate committee, political committee or party committee;

(3) An expenditure made by a person based on information about a candidate's, political committee's, or party committee's plans, projects or needs, provided by (A) a candidate, candidate committee, political committee or party committee, or (B) a consultant or other agent acting on behalf of a candidate, candidate committee, political committee or party committee, with the intent that such expenditure be made;

(4) An expenditure made by an individual who, in the same election cycle, is serving or has served as the campaign chairperson, campaign treasurer or

deputy treasurer of a candidate committee, political committee or party committee benefiting from such expenditure, or in any other executive or policymaking position, including as a member, employee, fundraiser, consultant or other agent, of a candidate, candidate committee, political committee or party committee;

(5) An expenditure made by a person whose officer, director, member, employee, fundraiser, consultant or other agent who serves the person in an executive or policymaking position also serves as or has served in the same election cycle as the candidate or the campaign chairperson, campaign treasurer or deputy treasurer of a candidate committee, political committee or party committee benefiting from such expenditure, or in any other executive or policymaking position of the candidate committee, political committee or party committee;

(6) An expenditure made by a person for fundraising activities (A) with or for a candidate, candidate committee, political committee or party committee, or a consultant or other agent acting on behalf of a candidate, candidate committee, political committee or party committee, or (B) for the solicitation or receipt of contributions on behalf of a candidate, candidate committee, political committee or party committee, or a consultant or other agent acting on behalf of a candidate, candidate committee, political committee or party committee;

(7) An expenditure made by a person based on information about a candidate's campaign plans, projects or needs, that is directly or indirectly provided by a candidate, the candidate's candidate committee, a political committee or a party committee, or a consultant or other agent acting on behalf of such candidate, candidate committee, political committee or party committee, to the person making the expenditure or such person's agent, with an express or tacit understanding that such person is considering making the expenditure;

(8) An expenditure made by a person for a communication that clearly identifies a candidate during an election campaign, if the person making the expenditure, or such person's agent, has informed the candidate who benefits from the expenditure, that candidate's candidate committee, a political committee or a party committee, or a consultant or other agent acting on behalf of the benefiting candidate or candidate committee, political committee, or party committee, concerning the communication's contents, or of the intended audience, timing, location or mode or frequency

of dissemination. As used in this subdivision, a communication clearly identifies a candidate when that communication contains the name, nickname, initials, photograph or drawing of the candidate or an unambiguous reference to that candidate, which includes, but is not limited to, a reference that can only mean that candidate; and

(9) An expenditure made by a person or an entity for consultant or creative services, including, but not limited to, services related to communications strategy or design or campaign strategy, to be used to promote or oppose a candidate's election to office if the provider of such services is also providing consultant or creative services to such candidate, such candidate's candidate committee, or to any opposing candidate in the same primary or election, or to such opposing candidate's candidate committee. For purposes of this subdivision, communications strategy or design does not include the costs of printing or costs for the use of a medium for the purpose of communications.

9. General Statutes § 9-604 reads, in pertinent part:

(a) Each candidate for a particular public office or the position of town committee member shall form a single candidate committee for which he shall designate a campaign treasurer and a depository institution situated in this state as the depository for the committee's funds and shall file a committee statement containing such designations, not later than ten days after becoming a candidate, with the proper authority as required by section 9-603. . . .

(b) The formation of a candidate committee by a candidate and the filing of statements pursuant to section 9-608 shall not be required if the candidate files a certification with the proper authority required by section 9-603, not later than ten days after becoming a candidate, and any of the following conditions exist for the campaign: . . . (2) the candidate finances the candidate's campaign entirely from personal funds and does not solicit or receive contributions, provided if said candidate personally makes an expenditure or expenditures in excess of one thousand dollars to, or for the benefit of, said candidate's campaign for nomination at a primary or election to an office or position, said candidate shall file statements according to the same schedule and in the same manner as is required of a campaign treasurer of a candidate committee under section 9-608; (3) the candidate does not receive or expend funds in excess of one thousand dollars; . . . (Emphasis added.)

10. General Statutes § 9-608 (Rev. to June 18, 2013) reads, 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 . . . (Emphasis added.)

11. General Statutes § 9-623 (Rev. to June 18, 2013) reads, in pertinent part:

...

(b) (1) If any campaign treasurer fails to file any statement required by section 9-608, or if any candidate fails to file either (A) a statement for the formation of a candidate committee as required by section 9-604, or (B) a certification pursuant to section 9-603 that the candidate is exempt from forming a candidate committee as required by section 9-604, within the time required, the campaign treasurer or candidate, as the case may be, shall pay a late filing fee of one hundred dollars.

...

(4) The penalty for any violation of section 9-603, 9-604 or 9-608 shall be a fine of not less than two hundred dollars or more than two thousand dollars or imprisonment for not more than one year, or both. (Emphasis added.)

12. General Statutes § 9-602 (Rev. to June 18, 2013) reads, in pertinent part:

(a) Except with respect to an individual acting alone, or with respect to a group of two or more individuals acting together that receives funds or makes or incurs expenditures not exceeding one thousand dollars in the aggregate, *no contributions may be made, solicited or received and no expenditures may be made, directly or indirectly, in aid of or in opposition to the candidacy for nomination or election of any individual or any party or referendum question, unless (1) the candidate or chairman of the committee has filed a designation of a campaign treasurer and a depository institution situated in this state as the depository for the committee's funds,* . . . . (Emphasis added.)

13. General Statutes § 9-622 reads, in pertinent part:

The following persons shall be guilty of illegal practices and shall be punished in accordance with the provisions of section 9-623:

...

(10) Any person who solicits, makes or receives a contribution that is otherwise prohibited by any provision of this chapter; . . .

**COUNT ONE: Alleged Expenditures by Global Strategies Group and/or Roy Occhiogrosso Amounting to Unreported Contributions to the Respondent**

14. Turning to the Complainant's first allegation, he alleges, in pertinent part:

[Roy] Occhiogrosso and GSG [Global Strategies Group] have been acting as alter-egos for a Malloy campaign operation, as evidenced by GSG's recent conducting of a poll for ConnCAN. On February 13, 2013, GSG released a memorandum to the public about a poll it conducted for ConnCAN, an education advocacy group. According to the memorandum, the poll found that:

Voters see the Governor [Malloy] as a strong advocate for education reform. Voters give the Governor favorable ratings (54% favorable/36% unfavorable) and believe he is doing a good job when it comes to education. A majority of voters (54%) approve of the job he is doing when it comes to Connecticut's public schools. Parents are especially supportive of the Governor's efforts and rate his performance on schools favorably by a margin of nearly 2 to 1 (60% approve/31% disapprove).

According to the memorandum, the ConnCAN poll was conducted between January 23 and January 27, 2013, only a couple of weeks after Occhiogrosso left the Malloy administration and rejoined GSG as Managing Director. GSG publicly releasing a polling memorandum with selective favorable information about Malloy demonstrates that the poll was designed to collect political information for the purpose of influencing Malloy's reelection.

Malloy's political ties with ConnCAN and at least one of its major contributors are well-known. Jonathan Pelto, the Democratic former Deputy Majority Leader of the Connecticut House, wrote on February 13, 2013:

Last Spring, within 24 hours of Malloy's "education reform" bill becoming a Public Act, one of ConnCAN's founders held an extremely lucrative fundraiser for a political action committee called Prosperity for Connecticut. The PAC appears to be affiliated with Governor Malloy and the Governor has attended all, or most, of the

PAC's fundraising events, including a series of fundraising parties in Washington D.C. and New York City.

GSG's conducting the poll, ConnCAN's paying for the poll, and GSG's publicizing of its results, raise serious ethical and campaign finance-related questions for Malloy, Occhiogrosso and GSG. Considering the proximity in time from Occhiogrosso's departure from the Malloy administration and his starting at GSG, there is a substantial likelihood that the poll and Occhiogrosso and GSG's activities around that time were known to Malloy and done with his consent. In fact, it is likely that Occhiogrosso spent time and state resources communicating with Conn CAN or GSG about the poll while he was still working in the Malloy administration. It is very likely Malloy or Occhiogrosso communicated with one or more of ConnCAN's major contributors about ConnCAN paying for the poll and that Malloy received information about the poll prior to the poll's public release and before his budget speech. (Brackets added by the Complainant.)

15. The Complainant asserts that GSG's alleged release of a memorandum to the press in February 2013, citing the ConnCAN poll, constituted an expenditure by GSG and was done with the consent, coordination, or consultation of the Respondent such that it also constituted a reportable contribution to the Respondent's alleged candidacy. The Complainant submits that in addition to the poll itself, the prior campaign and working relationship between Mr. Occhiogrosso and the Respondent, as well as Mr. Occhiogrosso's social media activities and responses to press inquiries about the Respondent after Mr. Occhiogrosso left state employ and joined GSG constitute sufficient evidence to prove that a coordinated expenditure occurred.
16. Turning to the facts relevant to this allegation, as an initial matter, is important to note that the investigation revealed that it was Connecticut Coalition for Achievement Now ("ConnCAN") that commissioned the poll at issue here and bore the costs associated with it—not GSG as alleged by the Complainant. ConnCAN hired GSG as a vendor to help it develop and implement the poll as well as assist ConnCAN in promoting the results.
17. By way of background, ConnCAN is an entity, as that term is defined in General Statutes § 9-601 (19), which files as a nonprofit charitable organization for tax purposes under Section 501 (c) (3) of the United State Internal Revenue Code (26 U.S.C. 501 (c) (3)).
18. According to ConnCAN's website, its mission, in part, is "leading a movement to improve education outcomes for Connecticut's kids. We bring advocates, policy makers, parents and educators together to change the system and give all kids access to great public schools."<sup>2</sup>

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<sup>2</sup> <http://www.conncan.org/about-us/our-mission>