

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Thomas N. Brummett
Canterbury

File No. 2014-090

FINDINGS & CONCLUSIONS

Complainant Thomas N. Brummett of Canterbury filed this complaint on July 31, 2014 per Connecticut General Statutes § 9-7b alleging that the candidate committee of Doug Dubitsky, a candidate for the 47th General Assembly seat in the 2014 election cycle, had violated Connecticut's campaign finance statutes by promoting his candidacy during a television broadcast on public access television. After investigating the allegations raised in the complaint the Commission makes the following findings and conclusions:

1. Respondent Dubitsky was a candidate for the 47th General Assembly seat in the 2014 election cycle.¹ He registered his candidate committee, *Doug for CT*, on February 11, 2014, naming Andrew Rosenberg as its treasurer.²
2. The Dubitsky candidate committee was a qualified candidate committee in the 2014 election cycle, receiving grant monies totaling \$37,979.³
3. Both Dubitsky and Rosenberg were named as respondents in this matter.
4. Complainant filed this complaint with the Commission, alleging that the candidate had promoted his candidacy on a public access cable program broadcast on July 30, 2014, violating Connecticut's campaign finance statutes.⁴
5. The Commission's Campaign Disclosure & Audit Unit examined the financial disclosure reports and supporting documentation provided by the *Doug for CT* candidate committee following the committee's selection as part of the post-election random audit process.

¹ See SEEC Form 1 – Registration by Candidate (*Doug for CT*, Feb. 11, 2014) (creating candidate committee for 2014 election cycle on behalf of Doug Dubitsky).

² *Id.*

³ See Final Summary of Examination – *Doug for CT* (State Elections Enforcement Comm'n, Dec. 15, 2015).

⁴ See Complaint of Thomas Brummett, Canterbury, File No. 2014-090 (State Elections Enforcement Comm'n, rec'd July 31, 2014)

6. The Final Summary of Examination, which will be presented to the Commission at its December 2015 meeting, reflected no significant problems that would require additional investigation by the Commission's Enforcement Unit.⁵
7. Dubitsky responded to the complaint and acknowledged that he hosts a public access program produced through the facilities of Charter Communications. Dubitsky stated that he had hosted the show for about four years, and it covers a variety of political subjects, news, and current events.⁶
8. Charter Communications offers its public access programming to subscribers in the communities it serves and allows members of the community to use the cable provider's transmission and recording equipment. According to Michael Nelson, public access coordinator for Charter Communications, political candidates and others may use the facilities equally:

All residents have equal access to the channel and production facilities. They are free to invite anyone they want to be on their shows and cover topics from their point of view. Unlike traditional commercial broadcast media, public access producers typically only have on the candidates that they agree with from the local races. The channel tends to have a wide variety of shows from different political and religious viewpoint on the channel.⁷

9. Charter Communications allows candidates to use their facilities to create public access programming as long as the candidates do not engage in fundraising, which would be considered advertising and is not allowed on the public access channel.⁸
10. Connecticut's campaign finance statutes exempt from the definition of contribution the use of equipment to produce and transmit a public access program provided unless the "major purpose of providing such facilities, equipment, support and time is to influence the nomination or election of a candidate."⁹
11. The Commission has previously considered a candidate's use of public access programming to promote his candidacy. In that case, the matter was dismissed because the statute

⁵ See Final Summary of Examination – *Doug for CT* (State Elections Enforcement Comm'n, Dec. 15, 2015).

⁶ See Letter from Doug Dubitsky to Scott Branfuhr, Legal Investigator (Sept. 3, 2014).

⁷ Email from Michael Nelson to Scott Branfuhr, Legal Investigator (Oct. 6, 2014) (responding to questions regarding investigation of Brummett complaint).

⁸ See Email from Michael Nelson to Scott Branfuhr, Legal Investigator (Oct. 6, 2014) (responding to questions regarding investigation of Brummett complaint).

⁹ General Statutes § 9-601a (b)(14) (exempting "community access programming" from definition of "contribution").

specifically exempted such public access programming from the definition of contribution and because the cable company allowed other candidates access to the programming if they requested it.¹⁰

12. Similar circumstances apply in this case. The cable provider, Charter Communication, allows all candidates to use their public access facilities to create and broadcast programming. The company did not provide the facilities and broadcast time to the candidate to promote his candidacy, which would have made that action a contribution under the statute. Instead, they provided the facilities and broadcast capabilities to Dubitsky to the same extent they would have provided them to other candidates upon request.

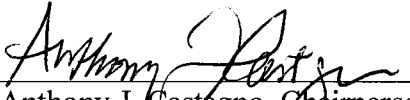
13. The Commission will dismiss this matter.

ORDER

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

That this matter will be dismissed.

Adopted this 15th day of December, 2015 at Hartford, Connecticut.



Anthony J. Castagno, Chairperson
By Order of the Commission

¹⁰ See In the Matter of a Complaint by Ronald Bonola, Rocky Hill, SEEC File No. 2001-136 (State Elections Enforcement Comm'n, July 18, 2001) (dismissing case where cable company allowed candidate to use facilities to promote his candidacy).