

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of George Mills, Winsted

File No. 2014-115

FINDINGS AND CONCLUSIONS

The Complainant, George Mills of Winsted, CT, (hereinafter the "Complainant") filed this complaint against Marsha Sterling, of Winchester Center, CT (hereinafter the "Respondent"), pursuant to General Statutes § 9-7b. Although the Complainant does not specify which statute the Respondent allegedly violated, in the light most favorable to the Complainant, the allegation that the Respondent made a "threat" when she stated that "she could make things uncomfortable" if the Complainant did not vote for the Respondent implies an allegation of violation of General Statutes § 9-364a.

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

1. At all times relevant hereto, the Respondent was a candidate for Mayor of Winsted in a special election to be held on September 13, 2014.
2. In summary, the Complainant alleges that the Respondent called the Complainant and stated that "she could make things uncomfortable" if the Complainant did not cast a vote favorable to the Respondent.
3. The Respondent denies having any such conversation with the Complainant.
4. The Complainant has been unable to provide any substantiating evidence to support his claim. The Complainant reports no witnesses to this alleged conversation.
5. The Respondent has been fully cooperative with the investigation.
6. General Statutes § 9-364a provides:

Any person who influences or attempts to influence by force or threat the vote, or by force, *threat*, bribery or corrupt means, the speech, of any person in a primary, caucus, referendum convention or election; or wilfully and fraudulently suppresses or destroys any vote or ballot properly given or cast or, in counting such votes or ballots, wilfully miscounts or misrepresents the number thereof; and any presiding or other officer of a primary, caucus or convention who wilfully announces the result of a ballot or vote of such

primary, caucus or convention, untruly and wrongfully, shall be guilty of a class C felony [Emphasis added].

7. Under General Statutes § 9-7b, for potential violations of § 9-364a the Commission has only investigative authority and the ability to refer matters to the Chief State's Attorney. The Commission does not possess any direct administrative jurisdiction such as the ability to notice hearings under the Uniform Administrative Procedures Act or impose penalties after such hearings.¹
8. Statutes that contain criminal penalties should be strictly construed against the state.² Accordingly, the Commission has strictly construed § 9-364a to determine whether any individual's "vote" or "speech" were influenced.³
9. The Commission had applied the following dictionary definition of "threat" for purposes of § 9-364a: "1. any expression of an intention to inflict pain, injury, evil, or punishment. 2. An indication of impending danger or harm."⁴
10. The Commission has applied the following dictionary definition of "corrupt" for purpose of "corrupt means" under § 9-364a. "[I]mmoral and/or depraved" or "contrary to accepted moral principles."⁵
11. "In order to conclude that General Statutes § 9-364a was violated, the Commission must decide that, given the evidence, it is more likely than not that: 1) the Respondent voluntarily committed an act that influenced [any person's] speech and/or voluntarily committed an act that was intended to influence [any person's] speech regardless of whether [any person's] speech was actually influenced; and 2) that the Respondent did so by using force, threat, bribery or corrupt means."⁶
12. In this matter the evidence essentially amounts to a "He said. She said" dispute with no other evidence to support the Complainant's allegation.

¹ See *Complaint of Joseph Cardillo*, File No. 2010-030 at page 4. See, also *Complaint of Dianne M. Daniels, et. al. Norwich*, File No. 2013-128.

² See *State v. Ross*, 230 Conn. 183, 200 (1994); *State v. Russell*, 218 Conn. 273, 278 (1991); *State v. Torres*, 206 Conn. 346, 355 (1988); *In the Matter of a Complaint of Joseph Cardillo*, File No. 2010-030 at page 5. See, also, *Complaint of Dianne M. Daniels, et. al. Norwich*, File No. 2013-128.

³ See *Complaint of Joseph Cardillo*, File No. 2010-030 at page 5. See, also, *Complaint of Dianne M. Daniels, et. al. Norwich*, File No. 2013-128.

⁴ *American Heritage Dictionary, Second College Edition*, 1985. See *Complaint of Joseph Cardillo*, File No. 2010-030 at page 5. Citing *Picco v. Voluntown*, 295 Conn. 148 for the proposition that to ascertain the commonly approved usage of terms, the Commission can look to their dictionary definitions.

⁵ See *Complaint of Joseph Cardillo*, File No. 2010-030 at page 6.

⁶ *Id.* at page 5.

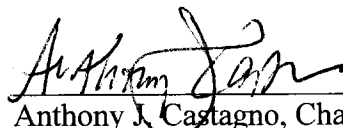
13. The Commission need not resolve any factual disputes between the Complainant and Respondent beyond those it deems necessary to make findings and conclusions to resolve questions within its jurisdiction.
14. The Commission considers the strength of the relevant evidence in determining whether to refer a matter to the Chief State's Attorney for potential criminal prosecution and hereby finds the evidentiary basis in this matter insufficient for such consideration.

ORDER

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

That the matter be closed without further action.

Adopted this 14 day of April, 2015 at Hartford, Connecticut.



Anthony J. Castagno, Chairman
By Order of the Commission