

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Zachary Sanders, Hartford

File No. 2014-135

FINDINGS AND CONCLUSIONS

The Complainant filed this Complaint pursuant to Connecticut General Statutes § 9-7b. The Complainant alleged that AFT Connecticut paid for and mailed a written communication in opposition to 2014 gubernatorial candidate Tom Foley and failed to properly include the required attribution language on the face of the communication in violation of General Statutes § 9-621 (a). After an investigation of the Complaint, the Commission makes the following findings and conclusions:

1. The American Federation of Teachers (AFT) Connecticut is a labor organization that represents teachers and public service workers in Connecticut and is an “organization” for purposes of General Statutes § 9-601 (7).
2. In October 2014 the AFT Connecticut mailed a flyer to its members opposing the election of gubernatorial candidate Tom Foley that included the exhortation “*Vote No On Tom Foley.*” The Communication did not include any language stating who paid for or approved the Communication.
3. General Statutes § 9-621 (a), governing attributions on political advertising, provides:
No individual shall make or incur any expenditure with the consent of, in coordination with or in consultation with any candidate, candidate committee or candidate’s agent, ***no group of two or more individuals acting together that receives funds or makes or incurs expenditures not exceeding one thousand dollars in the aggregate and has not formed a political committee shall make or incur any expenditure***, and no candidate or committee shall make or incur any expenditure including an organization expenditure for a party candidate listing, as defined in subparagraph (A) of subdivision (25) of section 9-601, for any written, typed or other printed communication, or any web-based, written communication, ***which promotes the success or defeat of any candidate’s campaign for nomination at a primary or election*** or promotes or opposes any political party or solicits funds to benefit any political party or committee ***unless such communication bears upon its face (1) the words “paid for by” and the following:*** (A) In the case of such an individual, the name and address of such

individual; (B) in the case of a committee other than a party committee, the name of the committee and its campaign treasurer; (C) in the case of a party committee, the name of the committee; or (D) *in the case of a group of two or more individuals that receives funds or makes or incurs expenditures not exceeding one thousand dollars in the aggregate and has not formed a political committee, the name of the group and the name and address of its agent, and (2) the words “approved by”* and the following: (A) In the case of an individual, group or committee other than a candidate committee making or incurring an expenditure with the consent of, in coordination with or in consultation with any candidate, candidate committee or candidate’s agent, the name of the candidate; or (B) in the case of a candidate committee, the name of the candidate. [Emphasis added.]

4. General Statutes § 9-601b , defining “expenditure”, provides in pertinent part:

...
(b) The term “expenditure” does not mean:

...
(2) *A communication made by any corporation, organization or association solely to its members*, owners, stockholders, executive or administrative personnel, or their families; ...
[Emphasis added.]

5. In determining whether or not an attribution was required on a communication pursuant to General Statutes § 9-621 (a), the Commission must first examine the foundational question of whether the Communication was an *expenditure* as defined by General Statutes § 9-601b (a).
6. Upon investigation, the Commission finds that AFT Connecticut paid for and distributed the flyer that is subject of this complaint. Further, in response to this complaint and investigation AFT Connecticut asserts that the flyer was mailed solely to members of AFT Connecticut. The Commission finds a lack of evidence to contradict this assertion.


7. General Statutes § 9-621 (a) requires attributions when certain persons make or incur an *expenditure* for certain political advertisements. However, Section 9-601b (b) (2) specifically exempts internal communications to members of an organizations from the definition of an expenditure.
8. The Commission concludes therefore that the flyer that was subject of this complaint did not require an attribution pursuant to § 9-621 (a) because it was not an “expenditure” to oppose a candidate, but rather in exception to the expenditure definition and therefore exempted from the attribution requirements for expenditures for written communication to oppose a candidate.
9. The Commission concludes for reasons detailed herein that AFT Connecticut did not violate General Statutes § 9-621 (a) by failing to include an attribution on a flyer produced and disseminated to its membership to oppose the candidacy of Tom Foley for governor at the 2014 election. Specifically, the Commission concludes that the aforementioned flyer was exempted from attribution requirements as an internal communication made by an organization to its members pursuant to § 9-601b (b) (2).
10. Because the Complainant’s allegation is not supported by the facts and law after investigation this complaint warrants dismissal.

ORDER

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

That the complaint is dismissed.

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



Anthony J. Castagno, Chairperson
By Order of the Commission