

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

In the Matter of a Complaint by Clare D'Appollonio,  
Windham

File No. 2015-148

**FINDINGS AND CONCLUSIONS**

The Complainant brings this complaint pursuant to General Statutes § 9-7b and asserts that Mr. Stephen Dunn violated General Statutes § 9-236 by remaining within 75 feet of the entry of a polling place during the hours of voting at the May 5, 2015 Regional District # 11 Board of Education (hereinafter "RD #11") budget referendum. Further, Complainant alleged that Mr. Dunn violated §9-369b by using public funds to produce printed materials to advocate approval for that referendum and violated § 9-621 by failing to provide a disclaimer on such printed materials that advocated approval of the May 5<sup>th</sup> referendum.

1. The Complainant alleged that pertaining to the May 5, 2015 RD #11 budget referendum Mr. Stephen Dunn violated campaign finance and elections laws in that:
  - (1) He violated General Statutes § 9-369b by using public funds to produce printed materials that advocated approval of the May 5, 2015 RD #11 budget referendum;
  - (2) He violated General Statutes § 9-621 by failing to provide his complete address on printed communications that advocated approval of the May 5, 2015 RD #11 budget referendum; and,
  - (3) He violated General Statutes § 9-236, by remaining within 75 feet of the entry of the Town of Hampton polling place at the May 5, 2015 RD #11 budget referendum.
2. By way of background, Stephen Dunn at all times relevant to this complaint was the Chairman of RD #11, which includes the towns of Chaplin, Hampton and Windham. Further, Mr. Dunn has no prior history with the Commission. Mr. Dunn fully cooperated in response to this complaint and investigation.
3. General Statutes § 9-369b, provides in pertinent part:
  - (a)(1) Except as provided in subdivision (2) of this subsection, 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. In a municipality that has a town

meeting as its legislative body, the board of selectmen shall, by majority vote, determine whether to authorize an explanatory text or the dissemination of other neutral printed material. ... ***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.]

4. 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, as a disclaimer, 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, and in the case such communication is made during the ninety-day period immediately prior to the referendum, such communication shall also bear on its face the names of the five persons who made the five largest aggregate covered transfers to such business entity, organization or association during the twelve-month period immediately prior to such referendum. The communication shall also state that additional information about the business entity, organization or association making such communication may be found on the State Elections Enforcement Commission’s Internet web site; (2) in the case of a political committee, the name of the committee and the name of its 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.]

5. General Statutes § 9-236, provides in pertinent part:

(a) On the day of any primary, referendum or election, ***no person shall*** solicit on behalf of or in opposition to the candidacy of another or himself or on behalf of or in opposition to any question

being submitted at the election or referendum, or *loiter* or peddle or offer any advertising matter, ballot or circular to another person *within a radius of seventy-five feet* of any outside entrance in use as an entry to any polling place or in any corridor, passageway or other approach leading from any such outside entrance to such polling place or in any room opening upon any such corridor, passageway or approach. ... The moderator shall evict any person who in any way interferes with the orderly process of voting.

...

(3) The moderator and the moderator's assistants shall meet at least twenty minutes before the opening of a primary, referendum or an election in the voting district, and shall cause to be placed by a police officer or constable, or such other primary or election official as they select, a suitable number of distance markers. ***Such moderator or any police officer or constable shall prohibit loitering and peddling of tickets within that distance.***

...

(c) ***No person*** except those permitted or exempt under this section or section 9-236a and primary or election officials and party checkers appointed under section 9-235 ***shall be allowed within any polling place except for the purpose of casting his vote.*** ... An elector may be accompanied into any polling place by one or more children who are fifteen years of age or younger and supervised by the elector if the elector is the parent or legal guardian of such children. Any person who violates any provision of this section or, while the polls are open for voting, removes or injures any such distance marker, shall be fined not more than fifty dollars or imprisoned not more than three months, or both. [Emphasis added.]

6. Allegation One: *Stephen Dunn violated General Statutes § 9-369b by using public funds to produce printed communications that advocated approval of the May 5, 2015 RD #11 budget referendum.*
7. Complainant alleged that a RD #11 Board member witnessed Stephen Dunn in the school library after the RD #11 May 4, 2015 District meeting making photocopies and that a copy of the flyer that is subject of this complaint subsequently appeared on the Facebook page of an individual who had been seen with Mr. Dunn at about the time of the aforementioned incident on the evening of May 4<sup>th</sup>, the evening before the May 5, 2015 RD # 11 referendum in Chaplin, Hampton and Windham.

8. The Commission finds, in response to this complaint and investigation, Stephen Dunn denied that he used a school photocopier, supplies, funds or other public resources to produce any flyer regarding the referendum as alleged and explained that he paid for the flyers advocating for the May 5, 2015 referendum with his own funds and used volunteers to disseminate them. Further, the Commission finds that Mr. Dunn provided receipts from a printing company indicating that he purchased 750 flyers for a total cost of \$63.81.
9. The Commission finds, for the reasons detailed above, that any inference that Stephen Dunn was using the photocopier in the school library on May 4, 2015 to reproduce printed materials to advocate support of the May 5<sup>th</sup> RD #11 budget referendum is circumstantial at best. Further, the Commission finds it more probable than not that expenditures for the printed materials that are subject of this complaint were made by Mr. Dunn as represented by his explanations in response to this complaint and the receipts he provided to support his claims.
10. The Commission finds therefore that the evidence after investigation does not support the inference or finding that public funds, materials or other resources, were used in connection with the printed materials that advocated support of the May 5, 2015 RD #11 budget referendum as alleged and concludes General Statutes § 9-369b does not apply under these facts and circumstances. The Commission therefore dismisses Allegation One.
11. *Allegation Two: Stephen Dunn violated General Statutes § 9-621 by failing to provide his complete address printed materials that advocated approval of the May 5, 2015 RD #11 budget referendum.*
12. The Commission notes that the flyer that is subject of this complaint includes at the bottom of the page the following: "Paid for by Steve Dunn, Hampton, CT." Further, the printed materials have the heading "VOTE YES MAY 5."
13. The Commission finds that Stephen Dunn claims that he made expenditures on his own to produce the printed materials that are subject of this complaint. Further, the Commission finds that Mr. Dunn asserts that with the exception of volunteers to deliver the printed materials he did not receive reimbursement for his expenditures for the materials. After investigation, the Commission finds a lack of evidence to support the allegations in the complaint.

14. General Statutes § 9-621 (c) requires an attribution if a “group of two or more individuals” incurs an expenditure for a printed communication that promotes the success or defeat of a referendum.
15. The Commission concludes therefore that printed communications that support or oppose a referendum that are produced and disseminated by an *individual* who is wholly responsible for their cost and is not otherwise reimbursed for any such expenditures, do *not* require an attribution pursuant to General Statutes § 9-621.
16. The Commission notes that Mr. Dunn provided a disclaimer, as detailed herein, that plainly indicated his intention to claim his speech regarding the flyer in question.
17. The Commission finds, for the reasons detailed herein, that Stephen Dunn made expenditures as an *individual* to produce the flyer that advocated approval of the May 5, 2015 RD #11 budget referendum and *not* did not act as a “*group of two or more individuals*.” The Commission concludes therefore that the requirements of General Statutes §9-621 (c) did *not* apply to the printed communication that is subject of this complaint and therefore dismisses Allegation Two.
18. Allegation Three: *Stephen Dunn violated General Statutes § 9-236, by remaining within 75 feet of the entry of a polling place at the May 5, 2015 RD #11 budget referendum.*
19. Complainant alleged that Mr. Dunn violated General Statutes § 9-236 by remaining at the entrance of the polls and impeding the progress of those individuals attempting to enter and requiring people to “pass around or between him and those with whom he was speaking to enter the polls.”
20. Upon investigation, the Commission finds that Mr. Dunn denies Allegation Three. Further, Mr. Dunn after voting at the May 6, 2015 RD # 11 referendum at the polling place in Hampton he exited the polling place with his son and stopped to speak with a friend and inquire as to the health of her husband. While he admits this was within the 75-foot area proscribed by General Statutes §9-236, he asserts that he did not stay within 75 feet of the entrance of the polling place for any length of time approximating “10 minutes,” and more likely remained for mere moments.
21. Upon investigation, the Commission finds credible evidence that Mr. Dunn at approximately 3:45 P.M. was witnessed within the 75-foot limit to the entrance to the polling place in Hampton as provided by General Statutes §9-236 at the May 5, 2015 referendum. Further, witnesses indicated that Mr. Dunn “...stopped halfway up to speak with a voter, and remained some time.” Additionally, the Commission finds that

records from the May 5, 2015 polling place in Hampton indicate that Mr. Dunn is checked off as having voted in person at the RD # 11 budget referendum.


22. The Commission finds insufficient and inconclusive evidence regarding the duration Mr. Dunn remained within 75 feet from the entrance of a polling place in Hampton where records indicate that he voted at the May 5, 2015 RD #11 budget referendum. Further, the Commission finds that accusations that Mr. Dunn exchanged greetings for “some time” on a ramp within the 75 foot area in violation of General Statutes §9-236, are inconclusive and do not substantiate the finding that Mr. Dunn was “loitering” for purposes of § 9-236 and therefore violated that section. The Commission therefore dismisses Allegation Three as unsupported by the facts after investigation.
23. The Commission finds that Complainant’s various allegations regarding campaign and election laws violations by Stephen Dunn pertaining to his production and dissemination of a flyer advocating approval of the May 5, 2015 referendum and activities within the entrance to the polling place in Hampton during that RD #11 May 5, 2015 budget referendum remain unsubstantiated after review and investigation.

### ORDER

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

That the case be dismissed.

Adopted this 10<sup>th</sup> day of February of 2016 at Hartford, Connecticut

  
Anthony J. Castagno, Chair  
By Order of the Commission