

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint by Edward Schwing,
Haddam

File No. 2015-177

AGREEMENT CONTAINING A CONSENT ORDER

The parties, Sue Twachtman of the Town of Higganum, County of Middlesex, State of Connecticut (hereinafter "Respondent"), and the undersigned authorized representative of the State Elections Enforcement Commission, enter into this agreement as authorized by Connecticut General Statutes § 4-177 (c) and Regulations of Connecticut State Agencies § 9-7b-54. In accordance with those provisions, the parties agree that:

1. Complainant alleged that on or about October 27, 2015 Amy Jacques Purdy and Sue Twachtman (hereinafter "Respondents") sent an email to approximately forty (40) of their friends of the Town of Haddam that opposed incumbent First Selectman Melissa Schlag for re-election at the November 3, 2015 municipal election but failed to include the attribution "paid for by" as required by General Statutes § 9-621.
2. Further, Complainant alleged that pursuant to §9-621 (h) (1) the email also needed to include the statement: "This message was made independent of any candidate or political party."
3. By way of background, Respondents have no prior history with the Commission. Any resolution of this matter between the Commission and Respondent Jacques Purdy is treated under a separate document.
4. The email that is subject to this complaint is excerpted in part below:

Dear Friends, -- We write this important letter in strong bipartisan support of a leadership change to Haddam's First Selectman based on our experiences while serving on the Board of Education (BOE), and because we value education and quality of life in Haddam.

As BOE members for many years (Sue- 4, Amy- 12), both having served as Chairman, we have a unique perspective that has enabled us to observe a significant and disturbing uptick in divisiveness and anti-school sentiment from a small but vocal group in Haddam beginning shortly after Melissa Schlag was elected 2 years ago. ... And in a small town where every vote matters, these effects had a negative impact. ... Melissa Schlag has openly communicated that she personally blames the BOE for Haddam's high taxes. ...

Make no mistake. The schools will be negatively impacted with 2 more years of Melissa Schlag. Her unwarranted, disparaging remarks will continue to foster distrust in the Board by those who don't know any better, or who don't care to listen to anyone but the loudest voice and those who have an "in" at the Haddam Bulletin. Budgets will be much harder to pass and facilities will be harder to maintain, as we have experienced this year...

This election is critically important for our school district and our quality of life moving forward. We hope you'll join us in ushering in a much-needed change on Election Day.

*Warm regards, -- Sue Twachtman, Parent, Taxpayer and Republican --
Amy Jacques-Purdy, Parent, Taxpayer and Democrat*

5. General Statutes § 9-621, provides 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.

[Emphasis added]

6. General Statutes § 9-602, provides 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, other than independent 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 treasurer and a depository institution situated in this state as the depository for the committee's funds, or (2) ***the candidate has filed a certification in accordance with the provisions of section 9-604.*** In the case of a political committee, the filing of the statement of organization by the chairman of such committee, in accordance with the provisions of section 9-605, shall constitute compliance with the provisions of this subsection.

[Emphasis added.]

7. General Statutes § 9-604, provides 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 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: (1) The candidate is one of a slate of candidates whose campaigns are funded solely by a party committee or a political committee formed for a single election or primary and expenditures made on behalf of the candidate's campaign are reported by the committee sponsoring the candidate's candidacy;*

...

[Emphasis added.]

8. General Statutes § 9-621, provides in pertinent part:

(a) 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, ... 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 as a disclaimer (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 treasurer; (C) in the case of a party committee, the name of the committee;* ...

(h) (1) No person shall make or incur an independent expenditure for any written, typed or other printed communication, including

on a billboard, or any web-based, written communication, unless such communication bears upon its face, as a disclaimer, the words “Paid for by” and the name of such person and the following statement: “This message was made independent of any candidate or political party.” In the case of a person making or incurring such an independent expenditure during the ninety-day period immediately prior to the primary or election for which the independent expenditure is made, such communication shall also bear upon its face the names of the five persons who made the five largest aggregate covered transfers to the person making such communication during the twelve-month period immediately prior to such primary or election, as applicable. The communication shall also state that additional information about the person making such communication may be found on the State Elections Enforcement Commission’s Internet web site.
[Emphasis added.]

9. As a preliminary matter, the Commission concludes that the email that is subject of this complaint and investigation and excerpted above was an “expenditure” to support or oppose a candidate pursuant to General Statutes § 9-601b.
10. Upon investigation, the Commission finds that Respondents were each endorsed incumbent members of the Regional School District Number 17 (hereinafter “RSD #17) Board of Education running for re-election at the November 3, 2015 election and at all times relevant to this complaint.
11. Further, the Commission finds that each Respondent filed a *Certification of Exemption from Forming a Candidate Committee* (SEEC Form 1B) designating their respective town committees as their funding vehicles as candidates for re-election to the RSD #17 Board of Education *prior* to distributing the email communication on or about October 27, 2015.
12. Additionally, the Commission finds, and Respondent Jacques Purdy admits, that Respondents acted together to draft and distribute the email communication that is subject of this complaint. Finally, the Commission finds that neither town committee designed, approved and may not have been aware of Respondents’ email opposing the re-election of Melissa Schlag as First Selectman at the Haddam November 3, 2015 election prior to its delivery.
13. The Commission finds that because Respondents made the email communication together while candidates for election to the RSD #17 Board of Education at the November 3, 2015 election the expenditure could not have been an “independent expenditure” pursuant to General Statutes § 9-601c (a). Consequently, the Commission concludes that Respondents were *not*

required to include the independent expenditure statement on the email pursuant to § 9-621 (h) (1).

14. Nevertheless, the Commission finds that the email should have had the words “paid for by” and the name of the town committee that Respondent designated by filing Form 1B as her sole funding vehicles at the November 3, 2015 election pursuant to General Statutes § 9-621.
15. The Commission concludes therefore that General Statutes § 9-621 required Respondent in making an expenditure in support or opposition to a candidate for election to include the disclaimer as required by that section.
16. The Commission finds, as detailed herein, that Respondent Twachtman as a candidate for RSD #11 Board of Education at the November 3, 2015 election filed a SEEC Form 1B candidate exemption pursuant to General Statutes § 9-602 and § 9-604 and identified a town committee as her sole funding vehicle.
17. The Commission concludes that Respondent Twachtman pursuant to General Statutes § 9-602 and § 9-604 was restricted from making expenditures in support of her campaign because she had filed a SEEC Form 1B candidate committee exemption designating her respective town committee as her sole funding vehicle for the November 3, 2015 election.
18. Therefore, the Commission concludes that Respondent Twachtman by making an expenditure in support of her campaign for re-election to the RSD #11 Board of Education at the November 3, 2015 election after designating a town committee her sole funding vehicle for her campaign did not satisfy the requirements of General Statutes § 9-602 and § 9-604.
19. While Respondent recognizes the Commission’s authority to interpret and apply the law, Respondent firmly believed that her actions in this instance were permissible and did not believe the subject email was used to promote her candidacy for re-election to the Board of Education. In addition, the email did not oppose any candidates running against the Respondent for a seat on the Board of Education. Further, Respondent asserts that the subject email was designed to address the legitimate concerns regarding the Board of Education and its budget and did not mention the Board of Education election.
20. The Respondent admits all jurisdictional facts and agrees that this agreement and Order shall have the same force and effect as a final decision and order entered into after a full hearing and shall become final when adopted by the Commission.
21. The Respondent waives:
 - a. Any further procedural steps;

- b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, separately stated; and
- c. All rights to seek judicial review or otherwise to challenge or to contest the validity of the Order entered into pursuant to this Agreement.

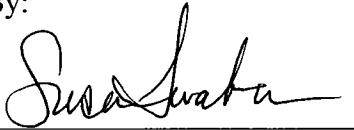
- 22. Upon the Respondent's agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against the Respondent.
- 23. It is understood and agreed by the parties to this agreement that the Commission will consider this Agreement at its next available meeting and, if the Commission rejects it, the Agreement will be withdrawn and may not be used as an admission by either party in any subsequent hearing, if one becomes necessary.

ORDER

IT IS HEREBY ORDERED THAT Respondent Twachtman will henceforth strictly comply with the requirements of General Statutes § 9-602, § 9-604 and § 9-621.

The Respondent:

By:

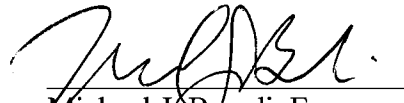


Sue Twachtman
1447 Lt. Shubael Road
Higganum, Connecticut

Dated: 1/4/17

For the State of Connecticut:

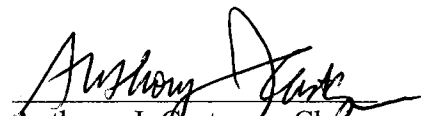
By:



Michael J. Brandi, Esq.
Executive Director and General Counsel and
Authorized Representative of the
State Elections Enforcement Commission
20 Trinity Street, Suite 101
Hartford, Connecticut

Dated: 1/6/17

Adopted this 18th day of January, 2017 at Hartford, Connecticut by vote of the Commission.



Anthony J. Castagno, Chairman
By Order of the Commission

RECEIVED
STATE ELECTIONS

JAN 0 3 2017

ENFORCEMENT COMMISSION