

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint by Anna K. Davis,
Amston (Hebron)

File No. 2016-036

FINDINGS AND CONCLUSIONS

Complainant brings this Complaint pursuant to Connecticut General Statutes § 9-7b. Complainant alleged that Hebron Selectman Clara O'Brien violated General Statutes § 9-369b, in an editorial appearing in April 29, 2016 *Rivereast News Bulletin*. After its investigation of this complaint, the Commission makes the following findings and conclusions:

1. Complainant alleged that First Selectman O'Brien requested Hebron residents to vote "no" on an upcoming referendum and provided instructions on how to complete an exit poll through an April 29, 2016 *Rivereast News Bulletin* letter to the editor and thereby violated General Statutes § 9-369b.
2. More specifically, Complainant alleged that First Selectman O'Brien "...went beyond freedom of speech" and requested that "...[Selectman O'Brien's] comments and behavior be reviewed to ensure that her behavior is consistent with the state regulations around elections and what elected officials are allowed to do."
3. General Statutes § 9-369b, provides in pertinent part:
 - (a) (1) Except as provided in subsection (b) of this section, 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.... Except as provided in subsection (d) of this section, ***no expenditure of state or municipal funds shall be made to influence any person to vote for approval or disapproval of any such proposal or question.***
[Emphasis added.]
4. The Commission notes that individuals who are elected officials are not precluded, as elected officials, from sharing or expressing their opinions for or against a pending referendum by campaign finance statutes, but rather, General Statutes § 9-369b prohibits their authorizing or using public funds for that purpose. *See generally Complaint by Craig Powers, Woodstock, File No. 2009-050.* Therefore, the Commission's § 9-369b analysis, in this instance, turns on whether or not public funds were used by Selectman O'Brien to advocate for a "no" vote at the May 3, 2016 referendum in Hebron.

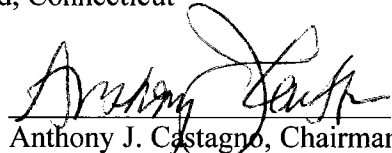
5. The Commission finds, and the Complainant does not dispute, that the printed communication that is the subject of this complaint and investigation was a letter to the editor that appeared in a newspaper. Moreover, the Complainant does not allege or specify that public funds were used by Selectman O'Brien in her complaint.
6. Selectman O'Brien, in response to this complaint, asserts that the subject of this complaint was *not* disseminated at public cost, but rather was prepared at her home, on a personal computer and disseminated as a letter to the editor to the *Rivereast News Bulletin* by email on a personal account. The commission finds, after investigation, a lack of evidence to contradict such claims.
7. The Commission finds insufficient evidence that public funds were used to produce or disseminate a letter to the editor by O'Brian in opposition to the May 3, 2016 referendum in Hebron or otherwise trigger the application of General Statutes § 9-369b and its prohibitions in this instance.
8. Complainant's allegation is therefore dismissed as it was not supported by the facts or the law after investigation.

ORDER

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

That the Complaint be dismissed.

Adopted this 13th day of July of 2016 at Hartford, Connecticut


Anthony J. Castagno, Chairman
By Order of the Commission