

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Norman Needleman
Town of Essex

File No. 2016-065

FINDINGS AND CONCLUSIONS

Complainant Norman Needleman brought this complaint pursuant to General Statutes § 9-7b, alleging that Respondent Art Linares had used constituents' email addresses obtained from his state administered email account to solicit contributions to his candidate committee in 2016. After investigating the allegations in the complaint, the Commission makes the following findings of fact and conclusions of law:

1. Complainant alleged that Respondent improperly used his access to constituents' email addresses to solicit contributions to his candidate committee in the 2016 election cycle. Specifically, Complainant charged that by using the email addresses for constituents who had contacted him via the email address that was supplied to him as a member of the Connecticut State Senate, Respondent had violated several state statutes, including General Statutes §§ 1-84 (c) and 1-85, "as well as S.E.E.C. laws and regulations regarding the public financing and clean elections laws."¹
2. Respondent formed a candidate committee on February 4, 2016 to seek re-election to the 33rd Senate district.² The candidate committee opted to participate in the Citizens' Election Program³ and applied for a grant from the Citizens' Election Fund.⁴
3. The complaint specifically cited two statutes that he believed Respondent violated with his use of the constituents' email addresses: General Statutes § 1-84 (c) – prohibiting a public official from divulging confidential information acquired as the result of the official's

¹ See Affidavit of Complaint – Norman Needleman, Essex (State Elections Enforcement Comm'n, Rec'd Aug. 12, 2016) (stating allegations against Linares for using his constituents' email addresses to solicit campaign contributions).

² See Registration by Candidate, SEEC Form 1 (Art Linares, Rec'd Feb. 4, 2016) (creating *Re-Elect Art Linares* candidate committee for 2016 election cycle).

³ See Affidavit of Intent to Abide by Expenditure Limits and Other Citizens' Election Program Requirements, SEEC Form CEP 10, (*Re-Elect Art Linares*, Rec. Aug. 17, 2016) (reflecting intention of candidate and treasurer for candidate committee to participate in Citizens' Election Program).

⁴ See Citizens' Election Program Application for Public Grant Dollars, SEEC Form CEP 15, (*Re-Elect Art Linares*, Rec. Aug. 17, 2016) (applying for public grant from Citizens' Election Fund).

duties,⁵ and; General Statutes § 1-85 – requiring a public official to refrain from taking official action in a matter in which the official has a financial interest.⁶

4. The Commission has a limited jurisdiction to address only those matters that violate specified statutory provisions.⁷ Neither of the specific statutory provisions cited by complainant, namely General Statutes §§ 1-84 and 1-85, fall within the jurisdiction of the Commission.
5. The Commission does administer the Citizens' Election Fund and authorizes any grants issued from that account.⁸
6. As part of its validation process for the grant application submitted by the Linares candidate committee, the Commission investigated the allegations in this complaint.⁹
7. That investigation showed that the email addresses utilized by the Linares candidate committee to solicit contributions were obtained via a request under the Freedom of Information Act made by Sue Ann Penna, a volunteer with the Linares campaign.¹⁰ The relevant list was supplied by the Senate Republican Caucus to Penna in response to her FOIA request.
8. After completing the validation process, the Commission approved a grant for the Linares candidate committee.¹¹
9. General Statutes § 9-610 (d) includes two different prohibitions on the use of public funds to promote the candidacy of a public official. First, § 9-610 (d) (1) prevents an incumbent

⁵ See General Statutes § 1-84 (c) (prohibiting use of confidential information by public officials).

⁶ See General Statutes § 1-85 (requiring public officials to refrain from taking action on matters in which they have substantial conflict).

⁷ See General Statutes § 9-7b (a) (1) (delineating duties and powers of State Elections Enforcement Commission, including statutes for which it has enforcement authority).

⁸ See General Statutes § 9-706 (d) (empowering Commission to review and approve grant applications and authorized payments of grant funds to qualified candidate committees).

⁹ The Needleman complaint was received by the Commission on August 12, 2016. The Linares candidate committee applied for grant from the Citizens' Election Fund on August 17, 2016.

¹⁰ See Email from Sue Ann Penna to Debra Adams (March 23, 2016) (requesting "Senator Art Linares' email mailing list from November 2014 to present").

¹¹ See Minutes of Special Meeting, September 8, 2016 (State Elections Enforcement Comm'n, Sept. 8, 2016) (approving grant for *Re-Elect Art Linares*).

within the three months preceding an election from using public funds “to mail or print flyers or other promotional materials” that are intended to promote the candidacy of the incumbent. Second, § 9-610 (d) (2) bans any individual from authorizing the use of public funds during the 12-months preceding an election for any promotional campaign or advertisement that “features the name, face or voice of a candidate for public office” or promotes the nomination or election of a candidate.¹²

10. Neither of the prohibitions created in General Statutes § 9-610 (d) would apply in this case. No public funds were used to print or mail promotional materials promoting Linares as prohibited by § 9-610 (d) (1), and no public funds were used to create a promotional or advertising campaign featuring Linares, as prohibited by § 9-610 (d) (2).
11. From the Commission’s validation process and subsequent investigation of this matter, nothing was found to indicate the receipt and use of the email list violated Connecticut’s campaign finance statutes.
12. Utilizing resources that are otherwise available to the public and that are obtained through valid means from a government entity does not violate Connecticut’s campaign finance statutes.
13. As there was no violation of Connecticut’s campaign finance statutes, the complaint against the Linares candidate committee will be dismissed.

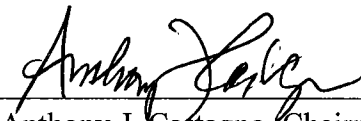
¹² See General Statutes § 9-610 (prohibiting use of public funds to promote candidacy of public official).

ORDER

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

That the Complaint be dismissed.

Adopted this 19th day of April of 2017 at Hartford, Connecticut.



Anthony J. Castagno, Chairman
By Order of the Commission