

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Mary Ann Jacob, Newtown

File No. 2017-043

FINDINGS AND CONCLUSIONS

The Complainant, Mary Ann Jacob, brings this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that person or group was making phone calls that disparaged her as a candidate and did not disclose who was funding the call. The following are the Commission's findings and conclusions concerning this matter:

1. At all times relevant hereto, the Complainant was a candidate for Mayor of the Town of Newtown.
2. The Complainant alleges that in the period beginning August 11, 2017, some unidentified person or group was making calls to citizens of Newtown. Such calls allegedly made false and unflattering claims about the Respondent's political positions and did not disclose the person or group making or funding the call.
3. Spending money to disseminate unflattering claims about a candidate for public office in Connecticut, even if they are demonstrably untrue, is not, absent other facts, a violation of a Connecticut's campaign finance law.
4. However, spending money to disseminate information that opposes a clearly identified candidate for public office is an expenditure as defined by General Statutes § 9-601b. By making such an expenditure, the spender subjects themselves to the subject matter jurisdiction of the Commission pursuant to General Statutes § 9-7b.
5. If a candidate, through their candidate committee or other lawful funding source, makes an expenditure, they, usually through their campaign treasurers, are required to report such expenditure on periodic financial disclosure statements. General Statutes § 9-608.¹ Committees that make coordinated expenditure with candidates are subject to the same requirements. *Id.*

¹ Certain candidates may be exempted from this financial disclosure requirement if they have not formed a candidate committee and have not raised or spent more than \$1,000. General Statutes § 9-608 (b).

6. Moreover, if a person or group makes an independent expenditure supporting or opposing a candidate for public office, they too must disclose such expenditure on periodic financial disclosure statements. See General Statutes §§ 9-601d and 9-608.

7. Finally, General Statutes § 9-621 (h) (4) provides:

In addition to the requirements of subdivision (1) of this subsection, no person shall make or incur an independent expenditure for telephone calls, unless the narrative of the telephone call identifies the person making the expenditure and during the ninety-day period immediately prior to the primary or election for which the independent expenditure is made, such communication shall state 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.

8. Accordingly, if calls were made opposing the Complainant, whoever paid for such calls would be required to detail such expenditure in a financial disclosure statement filed pursuant to General Statutes § 9-608.

9. Furthermore, if such call were made and paid for independent of the candidate within 90 days before an election, the callers would be required to include specific information about the individual or group making the expenditure for the call.

10. As all of the calls in question occurred after August 11, 2017, and as the Mayoral election for the Town of Newtown was on November 7, 2017, all such calls would have been within 90 days of an election.

11. A review of all of the financial disclosure statements made in connection with Newtown Mayor's race revealed only one committee that paid for phone calls concerning this race, the Complainant's opponent's candidate committee Dan Rosenthal for Newtown.

12. The investigation further revealed that the phone calls paid for by Dan Rosenthal for Newtown occurred during the same time period as those noted in the Complaint.

13. The Dan Rosenthal for Newtown candidate committee and their political consultant state that the calls were for the purpose of voter identification and did not promote Mr. Rosenthal or oppose the Complainant. Statements by call recipients independently obtained by

Commission investigators support the Dan Rosenthal for Newtown candidate committee's assertion in that regard.

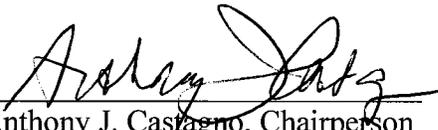
14. The Dan Rosenthal for Newtown candidate committee and their political consultant further state that the calls were made by volunteers and no one was paid to make calls.
15. After an extensive investigation of this matter, the Commission could identify no other person or group making expenditures for phone calls concerning the Newtown Mayor's race in 2017, nor could it independently confirm the content or source of the calls that were allegedly disparaging about the Complainant.
16. Accordingly, as the expenditures for phone calls by the Dan Rosenthal for Newtown candidate committee were properly reported in accordance with General Statutes § 9-608, and because the Commission could identify no other potential respondent, the Commission shall take no further action on this matter, but reserves the right to reopen this case should new evidence become available.

ORDER

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

That the Commission take no further action with regard to this Complaint.

Adopted this 23 day of MARCH, 2018 at Hartford, Connecticut.



Anthony J. Castagno, Chairperson
By Order of the Commission