

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

In the Matter of a Complaint by  
Timothy J. Sullivan, Barkhamsted

File No. 2017-079

**FINDINGS AND CONCLUSIONS**

Complainant brought this complaint pursuant to General Statutes § 9-7b alleging that candidate Christopher L. Mattei made public declarations of his intention to run for the office of Governor while in exploratory committee for an undetermined statewide office and failed to form a candidate committee as required under General Statutes § 9-604 (c). The Complainant alleged that once Mr. Mattei made those declarations he was obligated to transition from exploratory committee into a candidate committee for Governor. According to the Complainant, by failing to transition from exploratory committee to candidate committee within the timeframe contemplated by the statute, Mr. Mattei and his treasurer Douglas Spencer violated General Statutes § 9-608 (f).

After the investigation of the complaint, the Commission makes the following findings and conclusions:

1. Respondent Christopher L. Mattei registered an exploratory committee to run for an undetermined statewide office on April 18, 2017. The registration statement excluded the office of State Treasurer from the list of potential offices he might seek.
2. Complainant alleged that Mr. Mattei, who claimed to be exploring a campaign for statewide office, had “*in fact publicly declared himself a candidate for [Governor] on multiple occasions, and has actively campaigned for that office.*” Complainant alleged that a July 10, 2017 *Boston Herald* op-ed that was posted on the Twitter account, Facebook page and website of “Mattei for Connecticut,” was favorable to a gubernatorial run for Mr. Mattei and therefore its re-posting amounted to a “public declaration” of an intent to seek a particular of office by Mr. Mattei.
3. Further, Complainant alleged that Respondent Mattei “failed to dissolve his exploratory committee within 15 days of these declarations as required by [General Statutes § 9-604 (C)].” Additionally, Complainant alleged that Mattei for Connecticut’s treasurer, Respondent Douglas Spencer, failed to file a notice of dissolution within 15 days of the first of these declarations as required by § 9-608 (f).

4. By way of background, Respondent Mattei filed an *Exploratory Committee Registration* (SEEC Form 4) establishing *Mattei for Connecticut* (hereinafter “Exploratory Committee”) with the Commission on April 18, 2017. He designated Respondent Spencer his treasurer. Respondent Mattei indicated that the Exploratory Committee was for statewide offices only, and not for State Treasurer. Further, Respondent Spencer also signed the aforementioned SEEC Form 4 as treasurer of the Committee.
5. General Statutes § 9-601, provides in pertinent part, that as used in Chapter 155 and Chapter 157:
  - (a)(11) **“Candidate” means an individual who seeks nomination for election or election to public office** whether or not such individual is elected, and for the purposes of this chapter and chapter 157, **an individual shall be deemed to seek nomination for election or election if such individual has** (A) been endorsed by a party or become eligible for a position on the ballot at an election or primary, or (B) **solicited or received contributions**, other than for a party committee, **made expenditures** or given such individual's consent to any other person, other than a party committee, to solicit or receive contributions or make expenditures **with the intent to bring about such individual's nomination for election or election to any such office**. “Candidate” also means a slate of candidates which is to appear on the ballot in a primary for the office of justice of the peace. For the purposes of sections 9-600 to 9-610, inclusive, and section 9-621, “candidate” also means an individual who is a candidate in a primary for town committee members.  
[Emphasis added.]
6. General Statutes § 9-602 in pertinent part, provides:
  - (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.

***(b) No contribution in aid of or in opposition to the candidacy of any person or to any party or referendum question shall be made at any time, except to the committee's treasurer whose designation is on file with the proper authority, a solicitor or a candidate who is exempt from the requirement to form a candidate committee and has filed a certification.***

***(c) An individual who is designated as treasurer of a committee shall be responsible for all duties required of him under this chapter until the committee is terminated.*** The treasurer shall be relieved of such duties upon his permanent incapacity, resignation or replacement, provided a statement to that effect is filed with the proper authority, as provided in section 9-603. In the event of the death of the treasurer or after a statement has been filed concerning the treasurer's incapacity, resignation or replacement, if a deputy treasurer has been designated, the deputy treasurer shall be responsible for all duties required of the treasurer under this chapter until the candidate or chairman of the committee files with the proper authority a designation of a successor treasurer. If a deputy treasurer has not been designated, the candidate or chairman shall designate a successor treasurer and file such designation with the proper authority not more than ten days after the death of the treasurer or the filing of the statement of his incapacity, resignation or replacement.

[Emphasis added.]

7. General Statutes § 9-604, provides in pertinent part:

(c) The chairman of a political committee formed to support a single candidate for public office shall, not later than seven days after filing a statement of organization with the proper authority under section 9-603, send the candidate a notice, by certified mail, of such filing. If a candidate (1) does not, within fourteen days after receiving such notice, disavow such committee, in writing, to the proper authority under section 9-603, or (2) disavows such committee within such period, but, at any time before such disavowal, accepts funds from the committee for his campaign, such committee shall be deemed to have been authorized by such candidate and shall constitute a candidate committee for the purposes of this chapter. No candidate shall establish, agree to or assist in establishing, or give his consent or authorization to establishing a committee other than a single candidate committee to promote his candidacy for any public office except that a candidate may establish an exploratory committee. ***The candidate shall designate on the statement of organization for the exploratory***

*committee the type of office to which the candidate is determining whether to seek nomination or election, as follows: (A) The General Assembly, (B) a state office, or (C) any other public office. The candidate may also certify on the statement of organization that the candidate will not be a candidate for the office of state representative. Not later than fifteen days after a public declaration by the candidate of the candidate's intention to seek nomination or election to a particular public office, the candidate shall form a single candidate committee, except that in the case of a candidate establishing an exploratory committee for purposes including aiding or promoting the candidate's candidacy for nomination or election to the General Assembly or a state office, the candidate shall form a single candidate committee not later than fifteen days after the date that the treasurer of such exploratory committee is required to file a notice of intent to dissolve the committee under subsection (f) of section 9-608. As used in this subsection, "state office" has the same meaning as provided in subsection (e) of section 9-610.*

[Emphasis added.]

8. General Statutes § 9-608, provides in pertinent part:

(f) If an exploratory committee has been established by a candidate pursuant to subsection (c) of section 9-604, *the treasurer of the committee shall file a notice of intent to dissolve it with the appropriate authority not later than fifteen days after the candidate's declaration of intent to seek nomination or election to a particular public office*, except that in the case of an exploratory committee established by a candidate for purposes that include aiding or promoting the candidate's candidacy for nomination or election to the General Assembly or a state office, *the treasurer of the committee shall file such notice of intent to dissolve the committee not later than fifteen days after the earlier of: (1) The candidate's declaration of intent to seek nomination or election to a particular public office, (2) the candidate's endorsement at a convention, caucus or town committee meeting, or (3) the candidate's filing of a candidacy for nomination under section 9-400 or 9-405. The treasurer shall also file a statement identifying all contributions received or expenditures made by the exploratory committee since the previous statement and the balance on hand or deficit, as the case may be. In the event of a surplus, the treasurer shall, not later than the filing of the statement, distribute the surplus to the candidate committee established pursuant to said section, except that (A) in the case of a surplus of an exploratory committee established by a candidate who intends to be a participating candidate, as defined in section 9-703, in the Citizens'*

*Election Program, the treasurer may distribute to the candidate committee only that portion of such surplus that is attributable to contributions that meet the criteria for qualifying contributions for the candidate committee under section 9-704 and shall distribute the remainder of such surplus to the Citizens' Election Fund established in section 9-701, and (B) in the case of a surplus of an exploratory committee established for nomination or election to an office other than the General Assembly or a state office (i) the treasurer may only distribute to the candidate committee for nomination or election to the General Assembly or state office of such candidate that portion of such surplus which is in excess of the total contributions which the exploratory committee received from lobbyists or political committees established by lobbyists, during any period in which the prohibitions in subsection (e) of section 9-610 apply, and (ii) any remaining amount shall be returned to all such lobbyists and political committees established by or on behalf of lobbyists, on a prorated basis of contribution, or distributed to any charitable organization which is a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended. If the candidate decides not to seek nomination or election to any office, the treasurer shall, within fifteen days after such decision, comply with the provisions of this subsection and distribute any surplus in the manner provided by this section for political committees other than those formed for ongoing political activities, except that if the surplus is from an exploratory committee established by the State Treasurer, any portion of the surplus that is received from a principal of an investment services firm or a political committee established by such firm shall be returned to such principal or committee on a prorated basis of contribution. ...*  
[Emphasis added.]

9. General Statutes § 9-622, provides in pertinent part that the following individuals shall be guilty of illegal practices:
  - ...
  - (10) Any person who solicits, makes or receives a contribution that is otherwise prohibited by any provision of this chapter; . . .
10. The Commission issued Declaratory Ruling 2009-01 in May 2009, outlining the factors the Commission would apply in assessing whether a candidate had made a “public declaration” triggering the 15-day deadline to file notice of intent to dissolve the candidate’s exploratory committee.

11. Declaratory Ruling 2009-01 defined “public declaration” as “an announcement made to a wide audience within the state or relevant community that the candidate seeks nomination or election to a specific office.” Declaratory Ruling 2009-01, “*Public Declarations by Candidates in Exploratory Committee*,” 4 (State Elections Enforcement Comm’n, May 6, 2009). In order to satisfy this definition, an announcement must meet both requirements, namely that it is both “public” and a “declaration” of candidacy for a particular office. A declaration of one’s intent to seek a particular office that is not public will not meet this definition. Likewise, a public statement that is not a declaration for a particular office will also not satisfy this definition.
12. Since the advent of the Citizens’ Election Program, public declarations in the exploratory phase of a campaigns have taken on increased importance, largely because of the expenditure limits that are intrinsic to the public financing program. Declaratory Ruling 2009-1, *Public Declarations by Candidates in Exploratory Committee*, was issued in recognition of his importance. The Commission addressed the issues raised by exploratory committees and the CEP in Declaratory Ruling 2007-02, *Citizens’ Election Program: Surplus and Deficit of Exploratory Committees*. Under the CEP, a candidate for the General Assembly or statewide office must be careful when he dissolves the exploratory committee and forms a candidate committee. A candidate who chooses to participate in the voluntary program submits to strict expenditure limits for his or her candidate committee. General Statutes § 9-702 (c). When an exploratory committee is dissolved and a candidate committee is formed, any surplus or liability of the candidate’s exploratory committee transfers to that candidate’s candidate committee. General Statutes § 9-608 (f). Such surplus and deficit can have a significant impact on a candidate’s ability to participate in the CEP. See DR 2007-02. The risks of failing to properly determine whether the exploratory committee needs to be dissolved and a candidate committee formed can be fundamental as to whether an individual can remain successfully within the parameters of the CEP.
13. There are significant differences between exploratory committees and candidate committees, and those differences, again, are more significant when the candidate elects to participate in the CEP. In essence, a candidate who remains in an exploratory committee after triggering the need to dissolve and form a candidate committee runs the twofold risk of (1) violating the statutory requirements to timely dissolve the exploratory committee, and (2) making expenditures attributable to a candidate committee. If the expenditures deemed attributable to the candidate committee exceed the applicable expenditure limits for the Citizens’ Election Program, a candidate could be ineligible for a grant, so proper application of the deadlines triggered by a public declaration become critical to determining eligibility for the Program.

14. In the present complaint, it is alleged that candidate made public declarations of his intention to run for the office of Governor while in exploratory committee. Complainant points to the posting by the Respondent's exploratory committee of a Boston Herald op-ed on its website, Twitter account and its Facebook page on July 10, 2017. The article was also emailed by the committee to supporters.
15. The op-ed, originally entitled "Fresh Face Worth Watching in Conn. Race," is a generally favorable account of Mr. Mattei's qualifications, comparing him to former Massachusetts governor Deval Patrick. The article states that "[Mattei] was rapidly becoming someone to watch in next year's gubernatorial election [in Connecticut]. Chris Mattei. . . has emerged as both a serious candidate for governor and an illustration of the kind of unconventional person Democrats may need to recruit if they want to restore faded luster." Elsewhere it says "[Mattei] . . . has joined the race for governor."
16. The Boston Herald op-ed was written by Jeffrey Robbins. The investigation revealed that Mr. Robbins is an active blogger and was not an employee of the Boston Herald. Rather, it appears that he has an active social media presence and has also submitted opinion pieces for publication to the Boston Globe and other media outlets.
17. Each post on social media by the exploratory committee incorporated the photo that was part of the original July 10, 2017 Boston Herald piece. Additionally, the title of the article was changed on the exploratory committee's website to read "Fresh Face Worth Watching in CT Governor's Race." (Emphasis added.)
18. The social media posts, also dated July 10, 2017, included in part:

Twitter

*Chris Mattei@ChrisMatteiCT JUL 10... New @bostonhearld profile on Chris Mattei – "Fresh Face Worth Watching in Conn Race"*

Below the link to the story, this post showed the picture of Mattei and contained the first lines from the story:

"Robbins: Fresh face worth watching in Conn. Race  
When political newcomer Deval Patrick emerged as though from nowhere to rout party veterans in the Democratic primary for governor and go on to win . . ."

Facebook

**Chris Mattei** – July 10 – “Chris Mattei, a former federal prosecutor who blends old-school values with a natural appeal to the Democratic activist base, has emerged as both a serious candidate for governor and an illustration of the kind of unconventional person Democrats may need to recruit if they want to restore faded luster.” **Read the full Boston Herald Profile below.**

Below the link to the story, this post showed the picture of Mattei and contained the first lines from the story:

“Robbins: Fresh face worth watching in Conn. Race  
When political newcomer Deval Patrick emerged as though from nowhere to rout party veterans in the Democratic primary for governor and go on to win the general election, among his calling cards were freshness and the fact that he . . .”

19. The email sent out to the committee’s list July 11, 2017, by a committee consultant contained the same quote used on Facebook as a header and added in the text of the email: “The *Boston Herald* took note of our unconventional campaign with columnist Jeffrey Robbins calling Chris, ‘a fresh face’ and ‘someone to keep an eye on.’” The email also referred to the announcement of the exploratory committee for Governor.
20. The threshold question, then, is whether the reposting and/or use of quotes from the op-ed constituted a public declaration.
21. The Commission has addressed numerous public declaration cases in the past years. See, *inter alia*, *Complaint by Douglas Hageman, Southington*, File No. 98-230; *Complaint by Linda Schofield*, File No. 2008-079; *Complaint by Christopher Healy, Wethersfield*, File No. 2009-075; *Complaint by Robert Brown, Waterford*, File No. 2010-095; *Complaint by Anthony Santino*, File No. 2013-042.
22. Whether an individual has made a declaration of intent to seek a particular office is necessarily a fact-specific inquiry. In conducting such inquiry, the Commission considers whether a reasonable person would believe that the words or actions of the candidate, or those acting in coordination with the candidate, constituted a statement of intent to seek such public office. See *Healy* and DR 2009-01. More specifically, in determining whether a declaration has been made, the Commission considers whether a reasonable person would believe that the activity or activities in question indicate that the candidate is continuing to deliberate whether to run, or whether his or her actions are indicative that the candidate is actually seeking election to a specific public office. *Id.*



23. In determining whether a public declaration has been made, the Commission will consider various factors, including the extent to which the declaration was public, in other words the breadth of the distribution; the nature of the declaration; the efforts made by the exploratory committee to avoid such public declarations before the candidate chose to form a candidate committee; other declarations, public announcements and actions during the exploratory committee relating to the candidate's candidacy; and whether there has been a good faith attempt to avoid public declarations triggering the requirement. *Healy* and DR 2009-1.
24. Here the statements was unquestionably public, as it was posted to Facebook and the website and tweeted, all by the exploratory committee, the same day that the op-ed was published. It was referred to in an email the next day. It was distributed to the general public who were following the campaign on Twitter and Facebook and to those who checked the campaign website. Payments to boost the posts outside of the normal distribution were not, however, made. Thus while the distribution was definitely public, and fairly broad, it was not as broad as for example an advertisement made on television or information mailed to homes of registered voters. The breadth was limited to those already following the campaign or looking for information on the website.
25. Being public, the next question and by far the closer one, is whether the postings constituted a declaration. In cases where the candidate himself actually states his intent to run for a specific office, the question is simpler to answer. See *Complaint by Douglas Hageman, Southington*, File No. 98-230. Whether a candidate has adopted by association the statements of another is less easily established.
26. The *Complaint by Robert Brown, Waterford*, File No. 2010-095 had facts that were similar to the facts here. In *Brown*, the exploratory candidate, while attending a large fundraising dinner, was introduced by another individual—who was the chairperson of the party—as “a candidate” for lieutenant governor: his exploratory status was not mentioned. At the same event, the exploratory campaign distributed a card featuring a quote calling the candidate a “front-runner in the race for lieutenant governor” based on a column by a Hartford Courant writer. The card did not clarify that the candidate was only exploring a run for lieutenant governor or that he was potentially interested in other offices. It did not provide the entire article but instead pulled the phrase identifying the candidate as the front-runner for a particular office. It was an item that was designed by the campaign, reviewed, and sent to the printers then distributed broadly to the party members.

27. The Commission found that the exploratory candidate's actions in the *Brown* matter, specifically those related to the printed card, constituted a public declaration. In other words, it found that a reasonable person would believe that the candidate was no longer exploring, but was publically declaring his candidacy.
28. The article here that was redistributed by the exploratory committee was somewhat similar to the content of the handout in *Brown* in that it refers to the exploratory candidate as a candidate for a specific office, and touts his qualifications for said office. The Respondents argue that the case can be differentiated because the handout in *Brown* excerpted statements from the column, whereas here people were directed to the op-ed in its entirety. Because, they argue, the website, Facebook page, etc. were replete with references to the exploratory nature of the campaign, the effect was to "dilute" the impact of any statement within the op-ed that Mr. Mattei was a candidate for governor.
29. In contrast, the Respondents seem to argue that, in *Brown*, the candidate, by excerpting choice statements from the Courant columnist, and in conjunction with the un-corrected introduction as "a candidate" for lieutenant governor, the committee amplified and, thus, adopted the message that the exploring candidate was actually running for the specific office of lieutenant governor. The Mattei campaign, they argue, did not act in the same way.
30. The Respondents provide ample documentation of Mr. Mattei's persistent descriptions of himself as merely exploring a run for Governor. In essence, they say that the context of their use of the article and their otherwise careful behavior to avoid making a clear public declaration should mitigate the contents of the article. The committee notes that just two days before the reaction to the article in question, the candidate himself spoke very publically indicating that he was merely exploring. During the candidate's appearance on the Fox 61 television program "The Real Story" on July 9, 2017, when the host Al Terzi asked, "When did you decide, okay, I want to be Governor?" the candidate responded by saying, "First, it is important to understand that we're in the exploratory phase so part of what we're doing now is trying to gauge support for what we're trying to build. Once we get to the end of that phase, if we've concluded that there's support for a new vision, a new kind of politics in the state, I'll make a decision on whether to become a formal candidate."

31. In this respect the case is more akin to *Complaint of Christopher Healy*, Wethersfield, File No. 2009-075, where the candidate made multiple declarations that might best be described as ambivalent. In *Healy*, the Commission considered several statements that candidate Dannel Malloy made regarding his candidacy for governor. Malloy had established an exploratory committee in February 2009. When the complaint was filed in August 2009, Malloy remained in the exploratory phase and was raising money through his exploratory committee to finance a potential run for the governor's office. The complaint alleged that through his campaign website and in several radio appearances, Malloy had made a public declaration of his intent to seek the governor's office.
32. In reviewing the evidence, the Commission concluded that although Malloy's statements on his website and in media appearances implied that he *likely* was going to run for governor, the candidate was careful to qualify his candidacy with statements that implied he had yet to make up his mind definitively. By hedging his statements about whether he would definitely run for governor, the Commission said, Malloy had made a public statement regarding his candidacy but had not publicly declared his intention to seek a particular office. For example, at one point the interviewer said, "[S]o there's no question about it; you are definitely going to be a candidate for Governor," and Malloy responded, "Well there's precious little doubt about it."
33. The Commission dismissed that portion of the complaint alleging that Malloy had made a public declaration, noting that it appeared that several professional and personal decisions remained to be addressed before Malloy could commit to running for a particular public office. *See id.*
34. Given this precedent, and returning to the standard set forth in DR 2009, what would a reasonable person believe was the intent of the exploratory candidate Mattei? Did the words or actions of the candidate, or those acting in coordination with the candidate, constitute a statement of intent to seek such a particular public office? Did the activities in question indicate that the candidate was deliberating whether to run, or did they indicate that the candidate was seeking election to a specific public office?
35. At best, the message created by the committee's reaction to the op-ed is unclear. It is likely a reasonable person, receiving an email or seeing the twitter or Facebook post with a link to the op-ed, would be confused about the candidate's intent. Clarification was not helped by the exploratory committee changing the title of the op-ed to add the word "Governor" on its website; however, the website had many other clear indications that the committee was exploring which would have been viewed at the same time.

36. The social media posts, unlike the web posting, are more troubling in that, by nature, such posts are not necessarily seen in context of other postings that make the exploratory nature of the committee clear. A viewer would not as likely have the context of all of those past (and future) references to the exploratory nature of the campaign. That the viewer very well might be reading an article describing Mattei as a candidate for governor sent from a committee with an attribution reading, simply, "Mattei for CT" is not helpful. In the matter before us, however, the two social media postings spoke about the Mattei's emergence as a candidate for governor but also talked about him as "the kind of person the Democrats may need to recruit." The entire article, which in whole was an opinion piece, was included in both links.
37. The email that contained quotes from the article also contained reference to exploring and the quotes had to do with the candidate as a fresh face and someone to keep an eye on, rather than focusing on the candidate as someone who had announced for governor.
38. As noted, in determining whether a public declaration has been made, the Commission will consider various factors, including (1) the extent to which the declaration was public, in other words the breadth of the distribution; (2) the nature of the declaration; (3) the efforts made by the exploratory committee to avoid such public declarations before the candidate chose to form a candidate committee; (4) other declarations, public announcements and actions during the exploratory committee relating to the candidate's candidacy; and (5) whether there has been a good faith attempt to avoid public declarations triggering the requirement. Healy and DR 2009-1.
39. Applying these factors, (1) the communications here were public, but were limited to those following the campaign or searching out the website; (2) the nature of the declaration, while having some similarities to that in *Brown*, was distinct in that each of the four mentions either included the full article, which is clearly an opinion piece, or included references to exploring, and was not explicitly adopted by the campaign; (3) the exploratory committee had made well-documented efforts to avoid such public declarations otherwise, had come in for trainings and asked follow-up advice; (4) the committee had not made other declarations, although the complainant waited four months to file this complaint; and, (5) among other good faith efforts to avoid public declarations, just days before a committee worker reacted to the op-ed by posting it, the candidate himself had corrected a reporter during a television interview and explained in detail what it meant that he was in the exploratory phase. Overall, like in *Healy*, the campaign's message from July 10 and 11 could best be described as ambivalent and the Commission does not find a public declaration to have been made in any one of the four communications about the op-ed under the totality of these circumstances.

40. It is the conclusion of the Commission that, while closely approaching the line of making a public declaration, this activity did not cross it.

**ORDER**

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

That the matter is dismissed.

Adopted this 27 day of June of 2018 at Hartford, Connecticut.



~~Anthony J. Castagno~~  
By Order of the Commission

*Salvatore A. Bramante*  
Vice-Chairperson