

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

In the Matter of a Complaint by Jeffrey Caggiano, Bristol

File No. 2018-031A

**FINDINGS AND CONCLUSIONS**

The Complainant, Jeffrey Caggiano, brings this Complaint pursuant to Connecticut General Statutes § 9-7b. The following are the Commission's findings of fact and conclusions of law:

1. The Complainant alleges that the Respondent Kevin Fuller, a 2018 candidate for State Representative in Connecticut's 77<sup>th</sup> District, violated Connecticut's campaign finance laws in the conduct of two fundraisers.<sup>1, 2</sup>
2. Specifically, the Complaint alleges that the fundraisers were an improper in-kind contribution from the business to the candidate's committee and Respondent Fuller solicited such contribution.

**Background**

3. At all times relevant hereto, Respondent Fuller was a candidate for State Representative of Connecticut's 77<sup>th</sup> General Assembly District.
4. On February 23, 2018, Respondent Fuller registered the *Fuller 2018* candidate committee with the Commission and indicated that such committee would be the sole funding source for Respondent Fuller's campaign for State Representative for the 77<sup>th</sup> General Assembly District.
5. On March 30, 2018 and again on March 31, 2018, the *Fuller 2018* committee held fundraisers (hereinafter the "Fundraisers") at Dunphys and Company LLC d/b/a Dunphy's Ice Cream, a local ice cream shop in Bristol Connecticut owned by Respondent Fuller's spouse, Gail Fuller.
6. Dunphys and Company LLC is a business entity as defined by General Statutes § 9-601 (8).

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<sup>1</sup> Any allegation in the instant complaint against Respondent Fuller not specifically addressed herein is hereby dismissed as such allegations, even if true, would not have amounted to violation of Connecticut's election laws.

<sup>2</sup> Allegations in the instant complaint against Respondent Krystal Myers shall be addressed separately.

7. At both of the Fundraisers, contributors were offered a free ice cream sundae if they made a \$15 or greater contribution to the *Fuller 2018* committee.
8. The *Fuller 2018* committee collected 132 contributions at the Fundraisers.
9. Each contribution raised at the Fundraisers was in the amount of \$15 or more.<sup>3</sup>
10. The value of the sundaes served at the March 30<sup>th</sup> and March 31<sup>st</sup> fundraisers were \$3.25.<sup>4</sup>

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<sup>3</sup> It has long been the advice of the Commission that contributors to candidate committees participating in the Citizens' Election Program should not receive anything of value in exchange for their contributions. *See In the Matter of a Complaint by Anthony DiPace, Enfield*, File No. 2008-136. The Commissions' position is detailed further in its guidebook for candidates participating in the Citizens' Election Program:

As previously discussed, qualifying contributions are small-dollar donations given by individuals in order to show a level of public support for the participating candidate. Since qualifying contributions are intended to show a significant level of public support for the candidate seeking public funds, participating candidate fundraising includes some restrictions not found in the private campaign financing system.

The participating candidate's fundraising tools should not include offering valuable gifts as a quid pro quo for qualifying contributions. When a participating candidate sells or exchanges valuable items to raise contributions, the contributions may not clearly demonstrate support for a particular candidate. Accordingly, participating campaigns may not hold auctions, tag sales or raffles to raise qualifying contributions.

Traditional fundraisers which include serving food remain generally permissible. For example, participating candidates may continue to hold spaghetti dinners or ice cream socials as part of their fundraising. Additionally, participating candidates may give away traditional campaign paraphernalia such as bumper stickers, t-shirts, hats, buttons, or other similar items.

State Elections Enforcement Commission, Understanding Connecticut Campaign Finance Laws: A 2018 Guide for Statewide Office and General Assembly Candidates Participating in the Citizens' Election Program 37-38 (June 2018).

In this case, in order for the contributors to the *Fuller 2018* committee to receive a free ice cream, they were required to make a contribution of \$15. The Commission strongly discourages organizing a fundraiser in this way, and doing so may endanger a committee's eligibility to receive a grant from the Citizens' Election Program. However, in this case, as the value of each contribution raised at the Fundraisers – \$15 or more – was significantly greater than the value of what was received in return – a sundae valued at \$3.25 – the Commission determined that the donative intent of each contributor could not reasonably be called into question. Accordingly, the 132 contributions raised at Fundraisers were not disqualified in the consideration of the *Fuller 2018* committee Citizens' Election Program grant application.

<sup>4</sup> This is the amount Dunphy's Ice Cream charged for any event held at that location.

11. The *Fuller 2018* committee paid for each ice cream distributed at both events via check dated April 2, 2018 in the amount of \$290.75.<sup>5</sup>
12. On June 4, 2018, the Complainant filed the instant complaint with the Commission.
13. On June 25, 2018, Respondent Fuller filed a Citizens' Election Program Application for Public Grant Dollars.
14. On July 12, 2018, after reviewing the application, the Commission approved the Respondents' application for a grant from the Citizen's Election Program.

#### **Discussion**

15. Complainant alleges that the *Fuller 2018* committee received an impermissible in-kind contribution from a business in the form of free ice cream given to contributors to the Fuller 2018 committee.
16. General Statutes § 9-613 provides, in pertinent part, that:

No business entity shall make any contributions or expenditures to, or for the benefit of, any candidate's campaign for election to any public office or position subject to this chapter or for nomination at a primary for any such office or position, or to promote the defeat of any candidate for any such office or position.
17. An expenditure that is made for the purpose of aiding or promoting the success of a candidate is defined to be a contribution. See General Statutes § 9-601a (a).
18. General Statutes § 9-622 (10) further provides that an individual is guilty of an illegal practice if he or she "solicits, makes or receives a contribution that is otherwise prohibited by any provision of this chapter."
19. Accordingly, if the ice cream at this event had been provided by Dunphy's Ice Cream without charge, it would have been an improper expenditure for the benefit of Respondent Fuller's campaign for election to State Representative.

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<sup>5</sup> Of the 132 contributors at the Fundraisers, only 84 actually received the free ice cream. The \$290.75 amount paid by the *Fuller 2018* committee to Dunphy's Ice Cream represents the value of 84 ice creams given out at the event, plus tax.

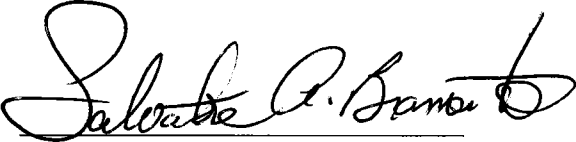
20. Moreover, if Respondent Fuller had solicited such expenditure, he would have been liable for soliciting an improper contribution.
21. However, because the *Fuller 2018* committee paid for each ice cream distributed at the Fundraisers, the Commission concludes that Dunphy's Ice Cream did not make a contribution to the *Fuller 2018* committee and further concludes that this Count should be dismissed.

ORDER

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

That this complaint be dismissed as to Respondent Fuller.

Adopted this 19<sup>th</sup> day of September, 2018 at Hartford, Connecticut.

A handwritten signature in black ink, reading "Salvatore A. Bramante". The signature is written in a cursive style with a large initial "S" and a long horizontal flourish at the end.

Salvatore A. Bramante, Co-Chair  
By Order of the Commission