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STATE ELECTIONS
ENFORCEMENT COMMISSION

STATE OF CONNECTICUT STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Anita Dugatto, Derby

File No. 2019-122

AGREEMENT CONTAINING A CONSENT ORDER

The parties, Richard Dziekan (“Respondent”) and the undersigned authorized representative of the State Elections Enforcement Commission (the “Commission”), enter into this agreement as authorized by Connecticut General Statutes § 4-177 (c) and Regulations of Connecticut State Agencies § 9-7b-54. In accordance with those provisions, the parties agree that:

1. The Complainant in this matter alleged Respondent Richard Dziekan, the incumbent Mayor of the City of Derby and a candidate for reelection to that office, placed a link on the city’s website that that connected to a Facebook page promoting his candidacy.
2. General Statutes § 9-610 (d) provides:
 - (1) No incumbent holding office shall, during the three months preceding an election in which he is a candidate for reelection or election to another office, use public funds to mail or print flyers or other promotional materials intended to bring about his election or reelection.
 - (2) No official or employee of the state or a political subdivision of the state shall authorize the use of public funds for a television, radio, movie theater, billboard, bus poster, newspaper or magazine promotional campaign or advertisement, which (A) features the name, face or voice of a candidate for public office, or (B) promotes the nomination or election of a candidate for public office, during the twelve-month period preceding the election being held for the office which the candidate described in this subdivision is seeking.
3. General Statutes § 9-622 (5) further provides that the following persons are guilty of an illegal practice:

Any person who, directly or indirectly, pays, gives, contributes or promises any money or other valuable thing to defray or towards defraying the cost or expenses of any campaign, primary, referendum or election to any person, committee, company, club, organization or association, other than to a treasurer, except that this subdivision shall not apply to any expenses for postage, telegrams, telephoning, stationery, express charges, traveling, meals, lodging or photocopying incurred by any candidate for office or for nomination to office, so far as may be permitted under the provisions of this chapter;
4. At all times relevant hereto, Respondent Dziekan was the incumbent Mayor of the City of Derby.

5. At all times relevant hereto, Respondent was a candidate for reelection to the office of Mayor of the City of Derby.
6. At all times relevant hereto, Complainant Anita Dugatto was a candidate for election to the office of Mayor of the City of Derby.
7. After winning his first term as Mayor of Derby in 2017, Respondent placed a link on the City of Derby's website linking to a Facebook page that had been used by his 2017 campaign – @dziekanformayor.
8. In response to the Complaint, Respondent states that after the election, the primary use of the Facebook page was to “update citizens on the goings-on in our little city.”
9. However, in response to the Complaint, Respondent does admit that “in the past 2 months or so, since I have ramped up campaign efforts, I have shared information on the Facebook page about my fundraisers, etc.”
10. Respondent further stated that “I never once intentionally utilized the City website to share that information or direct [sic] traffic to my Facebook page.”
11. Respondent avers that “my current campaign is called ‘RD19’ and from a practical perspective, the ‘dziekanformayor’ terminology was abandoned after the 2017 election.”
12. Upon receiving the instant complaint, Respondent removed the link to @dziekanformayor from the City of Derby's website.
13. While the use of public resources to benefit a campaign on display in this case is the type of conduct that the Election Laws normally seek to discourage, the statutory provision regulating such conduct has not been updated to keep up with modern campaigns. The Commission has previously noted such when it stated that there is a “clear disconnect between the current state of communications and the statutory provisions that the Commission must utilize to regulate expenditures by incumbent candidates.” See *In the Matter of a Complaint by Robert Berriault, New Britain*, File No. 2017-049. In this case, the link on the public website was neither paying to, “mail or print flyers or other promotional material,” nor was it:

for a television, radio, movie theater, billboard, bus poster, newspaper or magazine promotional campaign or advertisement, which (A) features the name, face or voice of a candidate for public office, or (B) promotes the nomination or election of a candidate for public office, during the twelvemonth period preceding the election being held for the office which the candidate described in this subdivision is seeking.

General Statutes § 9-610 (d).

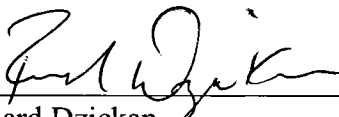
14. The Commission here, again, highlights this troubling hole in the Election Laws of the State of Connecticut.
15. However, that is not the end of the Commission's analysis with regard to this matter. In addition to the "public funds" analysis, the Commission must also determine if the Respondent used improper funds to "defray the cost" of his campaign pursuant to General Statutes § 9-622 (5). The Commission has previously held that the use of public resources to benefit your ones campaign is a violation of this section. For example, *In the Matter of a Complaint by Mark J. Ciarciello, Hartford*, File No. 2013-136, the Commission found that a candidate was liable for a violation of General Statutes s 9-622 (5) when a judicial branch employee was using her paid time to run her campaign and using judicial branch computer systems and printers for campaign purposes.
16. While the cost of a link on a public website is nominal, the additional publicity Respondent's page received due to the link on this page would have would have come at some real cost if the campaign was required achieve such publicity through commercial online advertising. Accordingly, the Commission concludes that Respondent violated General Statutes § 9-622 (5).
17. The Commission notes that the Respondent has been cooperative with this investigation and removed the link in question once the complaint was brought to his attention.
18. The Respondent admits to all jurisdictional facts and agrees that this Agreement and Order shall have the same force and effect as a final decision and order entered into after a full hearing and shall become final when adopted by the Commission.
19. The Respondent waives:
 - a. Any further procedural steps;
 - b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, separately stated; and
 - c. All rights to seek judicial review or otherwise to challenge or to contest the validity of the Order entered into pursuant to this Agreement.
20. Upon the Respondent's agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against the Respondent regarding this matter.
21. It is understood and agreed by the parties to this Agreement that the Commission will consider this Agreement at its next available meeting and, if the Commission rejects it, the Agreement will be withdrawn and may not be used as an admission by the Parties in any subsequent hearing, proceeding or forum.

ORDER

It is hereby ordered that the Respondent Richard Dziekan shall henceforth strictly adhere to the requirements of General Statutes § 9-622.

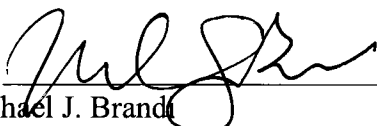
It is further ordered that Respondent Richard Dziekan shall pay a civil penalty of \$100.

Respondent Dziekan:

By: 
Richard Dziekan
17 Krakow Street
Derby, CT 06418-2603

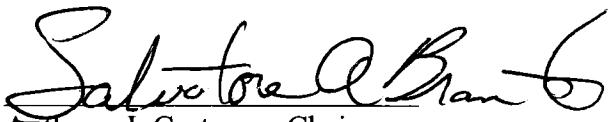
Dated: 8.11.2020

For the State of Connecticut:

By: 
Michael J. Brandt
Executive Director and General Counsel and
Authorized Representative of the
State Elections Enforcement Commission
20 Trinity St.
Hartford, CT 06106

Dated: 8/17/2020

Adopted this 19th day of August, 2020 at Hartford, Connecticut by vote of the Commission.


Anthony J. Castagno, Chairman
By Order of the Commission
Salvatore Bramante, Vice Chair