

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Lisa Labella, Trumbull

File No. 2019-145A

FINDINGS AND CONCLUSIONS

On or about October 25, 2019, the Complainant filed the instant complaint with the Commission alleging, among other things, that Respondent Schwartz had made an impermissible contribution from a candidate committee to other candidates for municipal office in Town of Trumbull. The following are the Commission's findings of fact and conclusions of law:

Law

1. General Statutes § 9-601b provides, in relevant part, as follows:

(a) As used in this chapter and chapter 157, the term "expenditure" means:

(1) Any purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, when made to promote the success or defeat of any candidate seeking the nomination for election, or election, of any person or for the purpose of aiding or promoting the success or defeat of any referendum question or the success or defeat of any political party;

(2) Any communication that (A) refers to one or more clearly identified candidates, and (B) is broadcast by radio, television, other than on a public access channel, or by satellite communication or via the Internet, or as a paid-for telephone communication, or appears in a newspaper, magazine or on a billboard, or is sent by mail... .

2. General Statutes § 9-601a (a) (4) provides that "[a]n expenditure that is not an independent expenditure" is a contribution as defined by that section.

3. General Statutes § 9-616 provides, in relevant part, as follows:

(a) A candidate committee shall not make contributions to, or for the benefit of, (1) a party committee, (2) a political committee, (3) a committee of a candidate for federal or out-of-state office, (4) a national committee, or (5) another candidate committee except that (A) a pro rata sharing of certain expenses in accordance with subsection (b) of section 9-610 shall be permitted, and (B) after a political party nominates candidates for election to the offices of Governor and Lieutenant Governor, whose names shall be so placed on the ballot in the election that an elector will cast a single vote for both candidates, as prescribed in section 9-181, an expenditure by a candidate committee established by either such candidate that benefits the candidate committee established by the other such candidate shall be permitted.

4. General Statutes § 9-622 (10) provides that, “Any person who solicits, makes or receives a contribution that is otherwise prohibited by any provision of this chapter;” is guilty of an illegal practice.

Relevant Facts

5. On or about May 23, 2019 Michael Herbst and Respondent Lori Rosasco Schwartz registered the Coach Herbst for Trumbull candidate committee with the Trumbull Town Clerk as the funding vehicle for Respondent Herbst’s 2019 campaign for First Selectman of Trumbull.
6. Sometime prior to July 31, 2019, Respondent Schwartz as well as Alison Squiccimarro, Carl Massaro, Chris Bandecchi, Christy Hayes, Edna Colucci, Jackie Norcel, Jeff Craw, Jeff Donofrio, Joe Pifko, Josephine Mills, Launa Whaley Riley, Lisette Colon, Loretta Chory, Marie Petitti, Paul Verbisky, Rich Deecken, Scott Zimov, Stewart Schwartz, Tony Scino, and Mark Block (“Municipal Candidates”), Registered as candidates for public office in the Town of Trumbull for the 2019 municipal election.
7. The registration statements for the Municipal Candidates indicated that they were exempt from forming a candidate committee.
8. On or about July 16, 2019, the chairperson of the Trumbull Republican Town Committee (“TRTC”) sent an email to the a group that included some of the Municipal Candidates advising them that they would need to wear business attire to the Republican Town Convention on July 21, 2019 because “promotional photos will be taken.”
9. In a second email on July 16, 2019, the chairperson of the Trumbull Republican Town Committee (“TRTC”) sent an email to a group that included some of the Municipal Candidates indicating, about the photographer, “He will also be interviewing some candidates for social media promotional videos.”
10. On or about July 21, 2019, the Trumbull Republican Town Committee held its convention for the purpose of endorsing candidates for the 2019 municipal election in the Town of Trumbull.
11. On or about July 21, 2019 the Municipal Candidates attended the Trumbull Republican Town Committee convention.
12. On or about July 21, 2019, the Trumbull Republican Town Committee endorsed Respondent Herbst and the Municipal Candidates for election to public office in the 2019 municipal election in the Town of Trumbull.
13. On or about July 21, 2019, during the Trumbull Republican Town Committee convention, the Municipal Candidates sat for interviews that were recorded by a professional videographer (the “Interview Recordings”).
14. The Interview Recordings were recorded by professional videography company A2V Media.

15. In the Interview Recordings, each Municipal Candidates discussed why they supported the Republican Party. In the Interview Recordings, most Municipal Candidates discussed why they were supporting Respondent Michael Herbst for First Selectman. In the Interview Recordings, most Municipal Candidates discussed why they were running for office themselves.
16. Sometime after July 21, 2019, A2V Media edited the Interview Recordings into individual videos, each featuring a different Municipal Candidates (the "Interview Videos").
17. All but one of the Interview Videos indicated, in on screen text, that the interviewee was a candidate for municipal office.
18. The cost of recording and editing the Interview Videos was paid for by Coach Herbst for Trumbull.
19. Coach Herbst for Trumbull reported that the total cost of recording and editing the Interview Videos was \$2,545 in the financial disclosure statement filed with the Trumbull Town Clerk on October 10, 2019.
20. The Interview Videos contained the attribution in visible type: "Paid for by Coach Herbst for Trumbull, Lori Rosasco Schwartz, Treasurer. Approved by Michael T. Herbst."
21. The Interview Videos contained a recorded statement by Respondent Herbst, "My name is Mike Herbst and I approved this message."
22. The Interview Videos were shared on social media with the knowledge and participation of Respondent Herbst and the Municipal Candidates.

Dismissal per General Statutes § 9-7a (g)

23. The aforementioned Complaint was received on October 25, 2019. Per General Statutes § 9-7a (g), the Commission had through October 24, 2020 to complete its investigation of the allegations and resolve the matter through either a sua sponte dismissal, a hearing under the Uniform Administrative Procedure Act, or a by agreement of any respondent.
24. Pursuant to Governor Lamont's Executive Order 7M, because of the Covid-19 pandemic and the closure of state offices for an extended period of time, the Governor issued the following order, which applied to all state agencies, and reads in pertinent part:

Authority to Extend Statutory and Regulatory Administrative Deadlines by 90 Days. Notwithstanding any provision of the Connecticut General Statutes, any regulation, or other provision of law, I hereby authorize each department head, commissioner, agency head, and board and commission of this State to extend, as they deem reasonably necessary to respond to the COVID-19 pandemic or its effects, any statutory or regulatory time

requirements, decision-making requirements, hearings, or other time limitations or deadlines, procedure or legal process pertaining to matters under their respective jurisdiction, functions or powers for a period not to exceed 90 days. Department heads, commissioners, agency heads, and board and commission of this State may issue any orders necessary to implement and effectuate the purposes of this order and shall publicly post and maintain such orders on their respective websites.

25. The SEEC issued a 90-day extension “for docketed matters including decision-making requirements, hearings, or other time limitations or deadlines, procedures, or legal processes pertaining to these matters.” This extension applied to all SEEC matters, including but not limited to this matter. This extension was posted on the agency website as required by the Executive Order.
26. The 90-day extension pushed out the deadline for this matter to January 22, 2020.
27. While Commission investigators were able to finish the factual investigation of this matter and resolve a portion of it through a dismissal on the merits, the portion of the matter concerning the liability of Respondent Rosasco Schwartz remains outstanding.
28. Unfortunately, due the constraints of General Statutes § 9-7a (g), the Commission does not have sufficient time to hold an administrative hearing concerning Respondent Rosasco Schwartz and as Commission staff was unable to get this Respondent to resolve this portion of the matter by consent, by necessity this portion of the matter must be procedurally dismissed without a conclusion on the merits.
29. Accordingly, this matter is dismissed as to Respondent Rosasco Schwartz per General Statutes § 9-7a (g).

ORDER

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

Dismissed per General Statutes § 9-7a (g).

Adopted this 20 day of JAN, 2021 at Hartford, Connecticut.



Anthony J. Castagno, Chairperson
By Order of the Commission