

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Lisa Labella, Trumbull
In the Matter of a Complaint by Lisa Labella, Trumbull

File No. 2019-145B
File No. 2019-146

FINDINGS AND CONCLUSIONS

The Complainant filed the instant complaints with the Commission pursuant to Connecticut General Statutes § 9-7b. The following are the Commission's findings of fact and conclusions of law:

COUNT I

ALLEGATION

1. It is alleged that Respondent candidates for municipal office accepted improper contributions in the form of video advertising paid for by a candidate committee other than their own funding source.¹

STATEMENT OF THE LAW

2. 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... .
3. 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.

¹ Allegations concerning Respondent Schwartz's role as treasurer of *Coach Herbst for Trumbull* shall be addressed in a separate document.

4. 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.

5. 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.

STATEMENT OF THE FACTS

6. On or about May 23, 2019 Respondents Michael Herbst and 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.
7. Respondents Lori Rosasco Schwartz, Alison Squicciarro, 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 Schwarts, Tony Scino, and Mark Block (“Municipal Candidate Respondents”), Registered as candidates for public office in the Town of Trumbull for the 2019 municipal election.
8. The registration statements for the Municipal Candidate Respondents indicated that they were exempt from forming a candidate committee pursuant General Statutes § 9-608 (b).²
9. At all times relevant hereto, Respondent Loretta Chory was the Treasurer of the Trumbull Republican Town Committee.
10. 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 Candidate

² Respondent Chory’s registration statement originally indicated that she was exempt from forming a candidate committee because she was neither raising or spending any funds in support of her candidacy, but that was later revised to indicate that she was not going to raise or spend more than \$1,000 in support of her candidacy.

Respondents 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.”

11. 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 Candidate Respondents indicating, about the photographer, “He will also be interviewing some candidates for social media promotional videos.”
12. 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.
13. On or about July 21, 2019 the Municipal Respondent Candidates attended the Trumbull Republican Town Committee convention.
14. On or about July 21, 2019, the Trumbull Republican Town Committee endorsed Respondent Herbst and the Municipal Candidate Respondents for election to public office in the 2019 municipal election in the Town of Trumbull.
15. On or about July 21, 2019, during the Trumbull Republican Town Committee convention, the Municipal Candidate Respondents sat for interviews that were recorded by a professional videographer (the “Interview Recordings”).
16. The Interview Recordings were recorded by professional videography company A2V Media.
17. In the Interview Recordings, each Municipal Candidate Respondent discussed why they supported the Republican Party. In the Interview Recordings, most Municipal Candidate Respondents discussed why they were supporting Respondent Michael Herbst for First Selectman. In the Interview Recordings, most Municipal Candidate Respondents discussed why they were running for office themselves.
18. Sometime after July 21, 2019, A2V Media edited the Interview Recordings into individual videos, each featuring a different Municipal Candidate Respondent (the “Interview Videos”).
19. All but one of the Interview Videos indicated, in on screen text, that the interviewee was a candidate for municipal office.
20. The cost of recording and editing the Interview Videos was paid for by Coach Herbst for Trumbull.

21. 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.
22. 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."
23. The Interview Videos contained a recorded statement by Respondent Herbst, "My name is Mike Herbst and I approved this message."
24. The Interview Videos were shared on social media with the knowledge and participation of Respondent Herbst and the Municipal Candidate Respondents.

DISCUSSION

25. Whether applying the definition contained in General Statutes § 9-601b (a) (1) or § 9-601b (a) (2), the Interview Videos are properly classified as expenditures made for the benefit of Respondent Municipal Candidates. The Interview Videos specifically display the name, image, voice, and district and/or office of each Respondent Municipal Candidate. The videos also specifically detail why many of the Respondent Municipal Candidates are running for office. That the Interview Videos also contain content concerning why the Respondent Municipal Candidates are supporting Respondent Herbst's campaign and/or the Republican Party does not exempt them from this classification. Rather, in addition to falling within the classification of expenditure for the benefit of the Municipal Candidate Respondents, they are also expenditures made for the benefit of Respondent Herbst.
26. While the payment for the Interview Videos was made by the *Coach Herbst for Trumbull* committee, such committee was not permitted to bear the entire cost of such expenditures. General Statutes § 9-616 (a) prohibits candidate committees from making contributions to, or for the benefit of a:
27. As Respondents Herbst and Lori Rosasco Schwartz as well as all of the Municipal Candidate Respondents were personally involved in the production of the Interview Videos, these videos were not independent expenditures.³
28. It is not permissible for a candidate committee to make an expenditure to benefit a candidate other than the candidate for which the committee was formed. General Statutes § 9-616. It is further not acceptable for any candidate, committee, or individual, to accept a

³ Even if such expenditures were independent, they would not be permissible pursuant to General Statutes §§ 9-607 and 9-616.

contribution that is prohibited by any provision of chapter 155 of the General Statutes. General Statutes § 9-622 (10).

29. However, in this case, it was not only possible, but reasonable to believe that the Interview Videos were productions of the TRTC, which was the funding vehicle for all but two of the candidate committees.⁴ Had the TRTC funded these videos, there would have been no violation.
30. Accordingly, the Commission determines that this count should be dismissed. However, the Commission notes that the liability for the expenditure of such funds by Respondent Schwartz shall be addressed in a separate document.

COUNT II

ALLEGATION

31. It is alleged that Respondent Chory, while a candidate for municipal office, was also the treasurer of a committee making expenditures for the benefit of such campaign.

STATEMENT OF THE LAW

32. General Statutes § 9-606 (d) provides, in pertinent part:

A candidate shall not serve as the candidate's own treasurer or deputy treasurer, except that a candidate who is exempt from forming a candidate committee under subsection (b) of section 9-604 and has filed a certification that the candidate is financing the candidate's campaign

33. General Statutes § 9-604 (a) – (b) further provides:

(a) Each candidate for a particular public office or the position of town committee member shall form a single candidate committee for which he shall designate a treasurer and a depository institution situated in this state as the depository for the committee's funds and shall file a committee statement containing such designations, not later than ten days after becoming a candidate, with the proper authority as required by section 9-603. The candidate may also designate a deputy treasurer on such committee statement. The treasurer and any deputy treasurer so designated shall sign a statement accepting such designation which the candidate shall include as part of, or file with, the committee statement.

⁴ Two candidates registered as exempt from forming a candidate committee because they were neither raising or spending more than \$1,000. Nothing in the investigation suggested that the proportional share of the videos attributable to these two candidates rendered them ineligible for this exemption.

(b) The formation of a candidate committee by a candidate and the filing of statements pursuant to section 9-608 shall not be required if the candidate files a certification with the proper authority required by section 9-603, not later than ten days after becoming a candidate, and any of the following conditions exist for the campaign: (1) The candidate is one of a slate of candidates whose campaigns are funded solely by a party committee or a political committee formed for a single election or primary and expenditures made on behalf of the candidate's campaign are reported by the committee sponsoring the candidate's candidacy; (2) the candidate finances the candidate's campaign entirely from personal funds and does not solicit or receive contributions, provided if said candidate personally makes an expenditure or expenditures in excess of one thousand dollars to, or for the benefit of, said candidate's campaign for nomination at a primary or election to an office or position, said candidate shall file statements according to the same schedule and in the same manner as is required of a treasurer of a candidate committee under section 9-608; (3) the candidate does not receive or expend funds in excess of one thousand dollars; or (4) the candidate does not receive or expend any funds, including personal funds, for the candidate's campaign. If the candidate no longer qualifies for the exemption under any of these conditions, the candidate shall comply with the provisions of subsection (a) of this section, not later than three business days thereafter and shall provide the candidate's designated treasurer with all information required for completion of the treasurer's statements and filings as required by section 9-608. If the candidate no longer qualifies for the exemption due to the condition stated in the candidate's certification but so qualifies due to a different condition specified in this subsection, the candidate shall file an amended certification with the proper authority and provide the new condition for the candidate's qualification not later than three business days following the change in circumstances of the financing of the candidate's campaign. The filing of a certification under this subsection shall not relieve the candidate from compliance with the provisions of this chapter.

STATEMENT OF THE FACTS

34. The statements included in paragraphs 6 through 30 are incorporated herein.

DISCUSSION

35. The campaign finance laws of Connecticut prohibit candidates from serving as their own treasurers. General Statutes § 9-606 (d). The Commission has further been clear that:

In addition, a candidate may never serve as treasurer of a committee that is the authorized funding source of the candidate's campaign, including a town committee. Thus, in the event that the candidate has authorized a town committee to be the sole funding source for his campaign, and such candidate is, at the time of filing his registration, the treasurer or deputy treasurer of the town committee, the candidate must immediately resign as treasurer or deputy treasurer. The

candidate may not resume the position of town committee treasurer or deputy treasurer until he or she ceases to be a candidate.

A Guide for Party (Town and State Central) Committees, State Elections Enforcement Commission, Rev. Jan. 2019.

36. Moreover, General Statutes § 9-604 requires that, if a candidate declares in their candidate registration that they are exempt from forming a candidate committee and later no longer qualifies for that exemption, a candidate must file an amended registration statement within three business days detailing the new reason for the exemption or forming a candidate committee.
37. In this case, Respondent Chory indicated on her 2019 candidate registration that she would not be raising or spending any funds in support of her candidacy and later amended that registration statement to indicate that she would not raise or spend more than \$1,000 in support of her candidacy.
38. With regard to the allegation that Respondent Chory was serving as her own treasurer, General Statutes § 9-606 exempts individuals who certify that they will neither raise nor spend more than \$1000 in support of their campaign from that requirement.
39. Accordingly, it is the determination of the Commission that this Count should be dismissed.

ORDER

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

That this matter be dismissed.

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



Anthony J. Castagno, Chairperson
By Order of the Commission