

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Lorelei O'Hagan, Greenwich

File No. 2019-161A

AGREEMENT CONTAINING A CONSENT ORDER

The parties, Laura Gladstone (“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:

Allegations

1. The Complainant alleged that an organization known as Fiscal Freedom for Connecticut (“FFC”) was making impermissible expenditures and/or contributions to candidates for the Greenwich Representative Town Meeting by publishing content online and in mailers promotional of Greenwich Representative Town Committee candidates.
2. The Complainant further alleged that FFC failed to report its expenditures.
3. The Complainant further alleged that FFC failed to include proper attribution on its communications.

Factual Background Applicable to All Counts

4. Sometime prior to March 5, 2018, Respondent Gladstone attempted to form a group by the name of Femmes for Fiscal Freedom, also known as Fiscal Femmes. On or about April 9, 2019 Respondent Gladstone elected to change the name of Femmes for Fiscal Freedom to Fiscal Freedom for Connecticut (“FFC”).
5. When Respondent Gladstone attempted to form Femmes for Fiscal Freedom and its purported successor entity FFC, Respondent Gladstone attempted to recruit other individuals to join the group.
6. However, the individuals alleged to have been members of FFC by the Complainant each reported to the Commission that shortly after Respondent Gladstone attempted to form FFC, they each decided not to be involved. No evidence to the contrary of these representations was discovered in this investigation. In fact, all evidence collected in this investigation suggested that no individual other than Respondent Gladstone was involved with FFC during the time period relevant to this matter.

Discussion of the Legal Status of FFC

7. Before addressing the specific conduct in this matter, the Commission must first determine the legal status of FFC. The investigation into this matter revealed that FFC is not currently registered with any state or federal agency, is not incorporated, and has not formed a political committee of any sort. Rather, Respondent Gladstone reports that she started FFC as a “women’s group of fiscal conservatives.” Respondent Gladstone further stated that “FFC is not even an organized thing. We don’t meet, there’s no membership.”
8. The investigation further revealed that shortly after Ms. Gladstone attempted to form FFC the individuals that Respondent had asked to participate in FFC quickly chose not to engage with any aspect of FFC. Respondent Gladstone reported, and the investigation confirmed, that Respondent accepted no contributions for FFC and all expenditures for FFC’s activities were paid for with Respondent Gladstone’s personal funds. Thus, it is the determination of the Commission that, at the time of the conduct in question, FFC was Respondent Gladstone operating under another name.¹

¹ Even if FFC could be said to have membership at any relevant time, such association would not shield Respondent Gladstone from liability. Rather, FFC, under those conditions, would properly be considered a “voluntary association.” While Connecticut has granted voluntary associations certain legal status, it has not allowed such entities to shield individuals from liability for their own conduct in any context. The Unincorporated Nonprofit Association Drafting Committee to the Connecticut Law Review Commission provided the following statement in its report concerning this very topic:

A review of Connecticut law reveals that Connecticut appears to have granted near-legal entity status to unincorporated or voluntary associations, albeit in a piecemeal fashion over the past one hundred fifty years. Initially, both Connecticut statutory and case law are inconsistent in their use of terms when referring to certain groups that appear not to have any specified legal status. Some cases and statutes use the term “voluntary association,” an undefined term. Whether the term includes both concepts of nonprofit and unincorporated, or even whether it refers to one concept or the other, is unclear. Some statutory references are simply to “unincorporated associations,” which is less problematic.

Notwithstanding the difficulty in determining with assurance to what kind of entity present Connecticut law refers, both case and statutory law seem to allow associations to sue and be sued (section 52-76 permits actions to be brought by and against voluntary associations), and to provide members with some protection against individual liability for obligations of the association or of other members. *Azzolina v. Sena*, 119 Conn. 81 (1955); section 31-114 (this statute limits the liability of members for the “unlawful” acts of others). Connecticut law does not permit associations to acquire, hold or transfer property as an entity, nor does it protect individuals from liability for their own actions as association members.

Jo. A. Roberts, *Report of the Unincorporated Nonprofit Association Drafting Committee to the Connecticut Law Review Commission*, (December 15, 1998) (available at <https://www.cga.ct.gov/lrc/UnincorporatedNonprofitAssociations/UNPARReport.htm>).

Count I

Allegation

9. Complainant alleged that FFC made impermissible contributions to the candidates that befitted from the expenditures made by FFC because the expenditures were not independent.

Law

10. Any expenditure that is not an independent expenditure is, by definition, a contribution from the person making such expenditure to the committee and/or candidate with whom such expenditure was coordinated. General Statutes § 9-601a (a) (4).
11. General Statutes § 9-601c (a) defines “independent expenditure” as, “an expenditure, as defined in section 9-601b, that is made without the consent, coordination, or consultation of, a candidate or agent of the candidate, candidate committee, political committee or party committee.”
12. General Statutes § 9-611 (a) further provides that “No individual shall make a contribution or contributions to, for the benefit of, or pursuant to the authorization or request of, a candidate any other office of a municipality not previously included in this subsection, in excess of two hundred fifty dollars.”

Statement of Relevant Facts

13. On or about September 13, 2019 Respondent Gladstone registered as a candidate for the Greenwich Representative Town Meeting from District 2 in the November 5, 2019 election. In that registration, Respondent Gladstone indicated that she was exempt from forming a candidate committee because she was funding her campaign entirely from her personal funds and she did not intend to receive or expend funds in excess of one thousand dollars.
14. On or about September 16, 2019, Duncan Burke registered as a candidate for the Greenwich Representative Town Meeting from District 2 in the November 5, 2019 election. In that registration, Mr. Burke indicated that he was exempt from forming a candidate committee because he did not intend to receive or expend funds in excess of one thousand dollars.
15. Sometime after September 16, 2019 and before October 18, 2019, Respondent Gladstone, Mr. Burke, and five other candidates for the Greenwich Representative Town Meeting in the November 5, 2019 election, placed an order for a mailer to be distributed in Greenwich promoting their candidacies. Such mailer cost each candidate \$121. Such mailer included the attribution of each candidate.
16. On or about April 3, 2018, Respondent Gladstone purchased the domain fiscalfedomect.com through a website hosting vendor. The cost of this domain was \$284.45 which gave Respondent the rights to that website for a period of five years.

17. On or about October 18, 2019, Respondent Gladstone placed an order with a printing vendor for postcards to be printed promoting certain candidates and opposing other candidates for District 2 of the Greenwich Representative Town Meeting (hereinafter the "Scorecard"). The Scorecard gave each member a "score" based upon their voting record. Candidates with high scores were noted in green and those with low scores were noted in red.
18. The cost of printing the Scorecard was \$171.73 which was paid for from Respondent Gladstone's personal funds. Respondent Gladstone further spent \$165 of her personal funds to mail the Scorecard.
19. On or about October 21, 2019, Respondent Gladstone placed an order for a digital ad with the Greenwich Free Press. The included the name and logo of FFC and read "Click here to find out how Fiscally Responsible your RTM Members Are. Vote November 5th." The advertisement linked to the FFC website and ran from October 21 to October 26. No other attribution was included on the advertisement. The advertisement cost \$108 and was paid for from Respondent Gladstone's personal funds.

Discussion

20. While Respondent Gladstone and Mr. Burke were both candidates for the Greenwich Representative Town Meeting in District 2 and did share the cost of one mailer, the investigation in this matter revealed no evidence that Duncan Burke coordinate with, or was even aware of the Scorecard until after it was printed.
21. Moreover, there was no evidence that Respondent Gladstone had any knowledge of Mr. Burke's "plans, projects or needs" concerning his campaign. See General Statutes § 9-601c (3) and (7).
22. Moreover, even if Respondent Gladstone and Mr. Burke had coordinated on the advertisement, the per candidate value of such contribution from Respondent Gladstone to Mr. Burke, less than \$100, would have been a permissible contribution pursuant to General Statutes § 9-611.
23. Accordingly, the Commission concludes that this allegation should be dismissed.

Count II

Allegation

24. The Complainant alleged that FFC failed to report its expenditures.

Law

25. Any person who makes independent expenditures, in the aggregate, in excess of one thousand dollars must file financial disclosure statements concerning such expenditures. General Statutes § 9-601d (a).

Discussion

26. As noted above, for the purposes of the conduct in question, the actions of FFC are properly considered to be the actions of Respondent Gladstone as an individual.
27. As detailed above, the evidence collected in this case shows that Respondent Gladstone spent \$729.18 concerning FFC. Even if such expenditures were all considered independent expenditures, such amount is less than the one-thousand-dollar threshold that triggers the need to file financial disclosure statements.
28. Accordingly, the Commission concludes that this allegation should be dismissed.

Count III

Allegation

29. The Complainant alleged that FFC failed to include proper attributions on its communications.

Law

30. General Statutes § 9-621 (h) provides:

(1) No person shall make or incur an independent expenditure for any written, typed or other printed communication, including on a billboard, or any web-based, written communication, unless such communication bears upon its face, as a disclaimer, the words "Paid for by" and the name of such person and the following statement: "This message was made independent of any candidate or political party.". In the case of a person making or incurring such an independent expenditure during the ninety-day period immediately prior to the primary or election for which the independent expenditure is made, such communication shall also bear upon its face the names of the five persons who made the five largest aggregate covered transfers to the person making such communication during the twelve-month period immediately prior to such primary or election, as applicable. The communication shall also state that additional information about the person making such communication may be found on the State Elections Enforcement Commission's Internet web site.

(2) In addition to the requirements of subdivision (1) of this subsection, no person shall make or incur an independent expenditure for a video broadcast by television, satellite or Internet, unless at the end of such advertising there appears for a period of not less than four seconds as a disclaimer, the following as an audio message and a written statement: "This message was paid for by (person making the communication) and made independent of any candidate or political party.". In the case of a person making or incurring such an independent expenditure during the ninety-day period immediately prior to the primary or election for which the independent expenditure is made, such communication shall also list the names of the five persons who made the five largest aggregate covered transfers to the person making such communication during the twelve-month period immediately prior to such primary or election, as applicable. The communication shall also state that additional information about the person

making such communication may be found on the State Elections Enforcement Commission's Internet web site.

(3) In addition to the requirements of subdivision (1) of this subsection, no person shall make or incur an independent expenditure for an audio communication broadcast by radio, satellite or Internet, unless the advertising ends with a disclaimer that is a personal audio statement by such person's agent (A) identifying the person paying for the expenditure, and (B) indicating that the message was made independent of any candidate or political party, using the following form: "I am (name of the person's agent), (title), of (the person). This message was made independent of any candidate or political party." In the case of a person making or incurring such an independent expenditure during the ninety-day period immediately prior to the primary or election for which the independent expenditure is made, such communication shall state the names of the five persons who made the five largest aggregate covered transfers to the person making such communication during the twelve-month period immediately prior to such primary or election, as applicable. The communication shall also state that additional information about the person making such communication may be found on the State Elections Enforcement Commission's Internet web site.

(4) In addition to the requirements of subdivision (1) of this subsection, no person shall make or incur an independent expenditure for telephone calls, unless the narrative of the telephone call identifies the person making the expenditure and during the ninety-day period immediately prior to the primary or election for which the independent expenditure is made, such communication shall state the names of the five persons who made the five largest aggregate covered transfers to the person making such communication during the twelve-month period immediately prior to such primary or election, as applicable. The communication shall also state that additional information about the person making such communication may be found on the State Elections Enforcement Commission's Internet web site.

31. General Statutes § 9-601b (b) (15) further excludes from the definition of expenditure, "An expense or expenses incurred by a human being acting alone in an amount that is two hundred dollars or less, in the aggregate, that benefits a candidate for a single election."

Statement of Relevant Facts

32. No communications disseminated by FFC did identified who had paid for such communication or included the statement, "This message was made independent of any candidate or political party."
33. Moreover, no communications disseminated by FFC stated that additional information about the person making such communication may be found on the State Elections Enforcement Commission's Internet web site.

Discussion

34. As noted above, for the purposes of the conduct in question, the actions of FFC are properly considered to be the actions of Respondent Gladstone as an individual.

35. Such expenditures exceeded \$200 and, thus, an attribution was required to be included on all communication expenditures identifying who had paid for such communication, that such communication was independent of any candidate, and that information about the person making such communication was available on the Commission's website.
36. Accordingly, the Commission concludes that Respondent Gladstone violated General Statutes § 9-621.
37. The Commission notes that the investigation revealed no evidence that this violation was knowing or willful or that Respondent Gladstone was attempting to conceal her association with FFC.²
38. The Commission further notes that Respondent Gladstone was responsive and cooperative with this investigation.
39. Respondent Gladstone has further affirmatively expressed her willingness to comply with all requirements of General Statutes § 9-621.

Terms of General Application

40. 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.
41. 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.
42. 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.
43. 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.

² In fact, Respondent Gladstone appeared in numerous news reports promoting the efforts of FFC.

ORDER

It is hereby ordered that the Respondent Laura Gladstone shall henceforth strictly adhere to the requirements of General Statutes § 9-621.

Respondent:

By: *Laura Gladstone*
Laura Gladstone
3 Mercia Lane
Greenwich, CT 06830

Dated: 10/22/20

For the State of Connecticut:

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

Dated: 10/27/2020

Adopted this 4th day of November, 2020 at Hartford, Connecticut by vote of the Commission.

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