

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Stephen Kalkowski,
Southington

File No. 2020-044

AGREEMENT CONTAINING CONSENT ORDER

This agreement by and between Lisa Sandow of the Town of Southington, County of Hartford, State of Connecticut (hereinafter “Respondent”) and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with § 9-7b-54 of the Regulations of Connecticut State Agencies and § 4-177(c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. Complainant Stephen Kalkowski filed this complaint alleging that the candidate committee of Dagmara Scalise posted communications on its website that opposed not only her opponent in the election, John Fusco, but also referenced Robert Sampson, who was not her direct opponent in the race but that of Jack Perry, also a respondent in this matter. The references to a candidate who was not her direct opponent gives rise to the issue that the Scalise candidate committee made expenditures that were not directly related to promoting her candidacy.¹
2. The complaint named Scalise and her candidate committee treasurer, Lisa Sandow, as respondents in the matter as well as Jack Perry. The Commission also named the treasurer for Perry’s candidate committee, Ralph Holyst, as a respondent.
3. The webpage began with a rhetorical question, asking “Did you know that your current Republican [legislators’] positions reflect the Trump’s administration’s regressive agenda?” The webpage went on to list eight instances where these Republican incumbents supported this conservative agenda. All eight referred to Fusco, and two of the eight referenced Sampson. The two references to Sampson follow:

...

¹ *Complaint by Stephen Kalkowski*, Southington, SEEC File No. 2020-044, (SEEC), Received July 24, 2020.

Opposed Increasing the Minimum Wage

Sen. Rob Sampson voted against and Rep. John Fusco was absent for the vote on HB 5004 to increase the minimum wage. Connecticut ultimately passed the legislation, which raised the minimum wage from \$10.10 in 2019 to \$15 in 2023, a move that will help workers support themselves and their families, and will help stimulate the economy by increasing workers' spending power.

...

Sponsored a Bill to Prohibit Municipalities to Regulate Firearms & to Keep Firearms Locked

Despite the usual Republican rhetoric of limited government and local control, our Southington legislators voted against letting municipalities regulate firearms if they so chose. Rep. John Fusco, Sen. Rob Sampson and other Republican legislators, sponsored a bill to [sic] would have prevented municipalities from adopting ordinances and regulations to regulate firearms and voted no on a bill that prohibits unattended firearms from being stored in unlocked vehicles.²

4. As part of the grant validation process for both the Scalise and Perry candidate committees, commission staff questioned representatives of both candidate committees. The Scalise candidate committee acknowledged that it had placed the statements regarding Sampson on the webpage. Once it was explained to the Scalise candidate committee that the references to Sampson would be expenditures on behalf of Perry, it removed the references to Sampson. The Perry candidate committee, Sampson's direct opponent, was not aware that the statements about Sampson had been included on the Scalise webpage.
5. General Statutes § 9-607 (g) requires that all expenditures made by a candidate committee promote the candidacy of the candidate that created the committee.³ In addition, candidate committees may not make contributions to another candidate committee.⁴ Candidate committees may make joint expenditures where the committees pay the proportionate cost of a communication based on the benefit they glean from the communication. The Commission issued Declaratory Ruling 2011-03 outlining its guidance to candidate committees on how properly to make these joint expenditures.⁵ The finding of a violation

² <https://scalise4southington.com/time-for-a-change>

³ See General Statutes § 9-607(g)(1)(A)(i) (limiting expenditures from candidate committee to those that promote nomination or election of candidate that established committee).

⁴ See General Statutes § 9-616(a).

⁵ See Declaratory Ruling 20] 1-03: Candidate Committees and Joint Communications, State Elections Enforcement Comm'n., May 18, 2011.

may not be necessary where the Commission determines the benefit to a candidate or candidates was incidental. *See* In the Matter of a Complaint by Joseph Romano, SEEC File No. 2018-115.

6. Among the threshold issues addressed in the Commission's declaratory ruling, however, is at what point does referencing another candidate in a communication require some sort of allocation to a candidate who is not the focal candidate in the communication.
7. As stated in SEEC File No. 2018-115, the Commission may look to indicia to determine whether a communication that clearly identifies candidates within 90 days of election nevertheless provides only incidental benefit to those candidates or their opponents. These factors may include:
 - *Distribution* - to what extent was the communication disseminated or targeted outside the attacked candidate's district;
 - *Allocation of space and message* - what portion or percentage of the communication incorporated or included a clearly identified candidate or candidates;
 - *Cost* - does the communication include videos or photos that were provided by a volunteer as part of ongoing content development and delivery for social media on the Internet or by telephone;
 - *Series* - was the immediate communication part of a series of such communications or a pattern of communications by the sponsoring committee or was it an isolated incident;
 - *CEP* - did the candidate or candidates supported or opposed participate in the CEP, which may trigger a heightened scrutiny in that all public funds must directly further the election of participants;
 - *Endorsements* - did the communication fit within exemptions for endorsements or otherwise contain traditional campaign speech and associational rights in support of an individual candidate by the sponsor, such that the exercise of discretion is warranted;
 - *Prior bad history* - consistent with Commission regulations for assessing penalties, whether the individual or entity sponsoring such communication has prior history with the Commission or whether discretion can be extended to newcomers to the process;
 - *Coordination* - whether or not the communication was coordinated with benefited candidates; and,
 - *Disclosure* - whether or not the expenditures were fully disclosed.

8. The Scalise webpage made two mentions of Sampson, as part of an entire webpage that focused on the actions of Southington's legislators but primarily targeted Fusco by name. The statements referring to Sampson cast his legislative record in a negative light but did not expressly advocate his defeat in the election. The references to Sampson occurred more than 90-days prior to the November 3 election.
9. Neither of the references to Sampson mentioned Jack Perry as Sampson's opponent nor did they advocate voting for or electing Perry. The overall tone and tenor of the webpage was in opposition to the two Republican lawmakers, and its appearance as part of the website promoting and paid for by Scalise, a Democrat running for the General Assembly seat currently occupied by Fusco, made it apparent that the webpage, as part of the overall message of the website, was promoting the Democratic candidates as opposed to the Republican incumbents.
10. The cost of the single webpage, however, was negligible. It was produced before the Scalise candidate committee had qualified for public campaign financing through the Citizens' Election Program. Based on the investigation conducted by commission staff, there was not proof of coordination between the Scalise candidate committee and the Perry committee regarding the creation or dissemination of the message on the webpage. The communication was directed at electors in Southington, which are represented by both candidates mentioned in the webpage.
11. As enumerated in § 9-7b-48 of the Regulations of Connecticut State Agencies:
In its determination of the amount of the civil penalty to be imposed, the Commission shall consider, among other mitigating or aggravating circumstances:
 - (1) the gravity of the act or omission;
 - (2) the amount necessary to insure immediate and continued compliance;
 - (3) the previous history of similar acts or omissions; and
 - (4) whether the person has shown good faith in attempting to comply with the applicable provisions of the General Statutes.

12. The Commission possesses the authority to set the punishment it metes out to individuals who violate the statutes under its authority. While the maximum penalty available under the enabling statute is \$2,000 per offense or twice the amount of any improper expenditure, the Commission also has the authority to set a lesser penalty where circumstances call for such leniency.
13. The references to Sampson in the webpage that appeared on the Scalise candidate committee's website were, given the context and tenor of the webpage and website taken as a whole, in opposition to Sampson's candidacy for the Connecticut state senate. That opposition to Sampson was not a proper expenditure for the Scalise candidate committee because Sampson is not her direct opponent in the 2020 election. The expenditure therefore violates General Statutes § 9-607.
14. Although this is an improper expenditure, the reference to Senator Sampson included in the website posting creates only an incidental benefit and the Commission opts not to impose a civil penalty on Respondent Sandow in this matter given that: the amount spent by the candidate committee to create this webpage is negligible; Sandow, the treasurer for the Scalise committee, has no other violations of Connecticut's campaign finance statutes; and the candidate committee quickly brought the webpage into compliance with the General Statutes by excising the language referencing Sampson once the violation was brought to the campaign's attention. *Cf.* In the Matter of the Complaint by Michael Hayes, Colchester, SEEC File No. 2018-083.
15. The matter against all other respondents in this matter will be dismissed.
16. Respondent Sandow 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 contest the validity of the Order entered into pursuant to this agreement.


17. Upon Respondent Sandow's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against her related to the allegations raised in this complaint.

ORDER

IT IS HEREBY ORDERED THAT the Respondent shall henceforth strictly comply with the requirements of General Statutes § 9-607.

The Respondent:

BY:

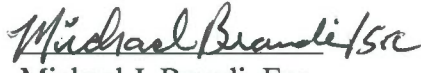


Lisa Sandow
287 Summer Street
Plantsville, CT 06479

Dated: 11.21.20

For the State of Connecticut:

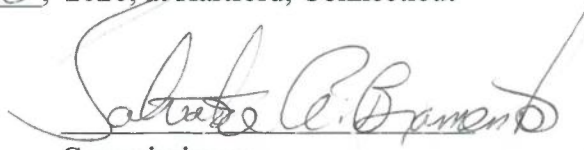
BY:



Michael J. Brandi, Esq.
Executive Director and General Counsel
And Authorized Representative of the
State Elections Enforcement Commission
20 Trinity Street, Suite 101
Hartford, Connecticut

Dated: 12/16

Adopted this 16th day of December, 2020, at Hartford, Connecticut



Commissioner

By Order of the Commission



Salvatore H. BRAMANTE, Vice-Chair