

**STATE OF CONNECTICUT**  
**STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Dustin Bingham  
Torrington

File No. 2020-062

**FINDINGS & CONCLUSIONS**

Complainant Dustin Bingham of Torrington filed this complaint on October 21, 2020, pursuant to General Statutes § 9-7b, alleging that the *NR20* candidate committee had made expenditures for mailers that Bingham characterized as containing both “false and malicious” allegations against Jay Case, who was the Republican candidate for the 63<sup>rd</sup> General Assembly district. The Commission adopts the following findings of fact and conclusions of law related to this complaint:

1. Complainant filed the complaint against candidate Noel Rodriguez and Jeremy Kincaid, the treasurer for Rodriguez’s candidate committee in the 2020 election cycle, *NR20*. The complaint alleged that mailers sent by the *NR20* candidate committee included statements that were intended to “assassinate Mr. Case’s character rather than to promote the success or defeat of a candidate.”<sup>1</sup>
2. The two-sided mailer, which accompanied the complaint, included an attribution stating: “Paid for by NR20, Jeremy Kincaid, Treasurer. Approved by Noel Rodriguez.” The first side of the mailer stated:

Sexual Assault  
Allegations Are Serious and  
Jay Case Must  
RESIGN!

The words “Allegations Are Serious and” were in a smaller font than that rest of the type, and a reader could easily have seen only the words “Sexual Assault Jay Case Must RESIGN!” when glancing at the mailer.

3. The second side of the mailer included what appeared to be a copy of a criminal complaint that included allegations against Jay Case by a man who claimed to be Case’s stepson. The mailer also included the admonition “It’s Time For Change In Our District” and “Vote Rodriguez” on the line below. The mailer ended with three directions: “Vote

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<sup>1</sup> Affidavit of Complaint – Dustin Bingham, Torrington, SEEC File No. 2020-062 (State Elections Enforcement Comm’n., Rec’d October 21, 2020) (alleging that *NR20* campaign mailer violated Connecticut’s election laws).

in Person · Vote by Mail · Vote Rodriguez” at the bottom of the second side above the disclaimer identifying who had paid for the mailer.

4. The mailer was delivered to residents of Colebrook, Goshen, Torrington, and Winchester between October 3 and October 5 of 2020.<sup>2</sup>
5. On October 1, 2020, the *NR20* candidate committee ordered 12,000 direct mail pieces that were delivered on Friday, October 2, 2020 for a total cost of \$1,706.92.<sup>3</sup>
6. General Statutes § 9-607 (g)(1)(A)(i) requires that all expenditures made by a candidate committee must be made to promote the candidate that established the committee.
7. For candidates that receive a grant from the Citizens’ Election Fund, the spending restrictions are even more stringent. Qualified candidate committees must use all of the funds in their bank account for “campaign-related expenditures made to directly further the participating candidate’s nomination for election or election . . . .”<sup>4</sup>
8. The Rodriguez candidate committee applied for and received a grant from the Citizens’ Election Fund in July of 2020.<sup>5</sup>
9. The complaint alleged that by creating such a charged piece that alleged that his opponent had engaged in sexual assault of his stepson, Rodriguez had violated the program rules of the Citizens’ Election Program. That, however, is not the case.
10. The Citizens’ Election Program provides money to candidate committees to implement whatever strategy they choose to promote their candidacy. Candidates could decide to use grant funds to create only positive, promotional pieces, highlighting their qualifications for office. Or, as is the case here, candidates could use the grant funds to attack the character of their opponent and offer themselves as an alternative. Both strategies further the election of the candidate for whom the candidate committee was established, which is what the law requires.
11. The mailers here included significant allegations against the incumbent representative Case, who was Rodriguez’s opponent in the 2020 election. The mailers also included

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<sup>2</sup> *Id.*

<sup>3</sup> See Invoice No. 164200, Cricket Press Inc. (Oct. 1, 2020).

<sup>4</sup> Regs., Conn. State Agencies § 9-706-1 (delineating how candidate committees that have received grants from Citizens’ Election Fund may spend money in their bank accounts).

<sup>5</sup> See SEEC Form 30 – Itemized Campaign Finance Disclosure Statement: October 10 Filing – *NR20* (October 2, 2020) (reflecting receipt of public grant funds from Citizens’ Election Fund of \$12,230 on July 3, 2020 and of \$18,345 on July 29, 2020).


statements that made clear to voters that given the information included elsewhere in the mailer that it was time for a change and that they should vote for Rodriguez in the upcoming election, which was occurring the next month. These statements made it clear that this mailer was intended to further the election of Rodriguez in the November 2020 election by attacking his opponent Case.

12. Judging the veracity or accuracy of the statements made by candidate committees who receive grants through the Citizens' Election Program is not the job of the Commission, but rather of the voters who received these mailers and must determine for whom they should vote based on the information in the mailer.
13. The Commission shall dismiss this matter.

**ORDER**

IT IS HEREBY ORDERED THAT the Commission shall dismiss this matter.

Adopted this 15<sup>th</sup> day of Sept, 2021 at Hartford, Connecticut by vote of the Commission.

  
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Commissioner, Stephen T. Penny  
By Order of the Commission