

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Charles J. Mozzochi
Glastonbury

File No. 2020-069

FINDINGS & CONCLUSIONS

Complainant Charles J. Mozzochi of Glastonbury filed this complaint pursuant to Connecticut General Statutes § 9-7b alleging that the Glastonbury Police Department was improperly used to promote a candidate running for state representative. After investigating the allegations raised in the complaint the Commission makes the following findings and conclusions:

1. Complainant filed this complaint alleged that the Glastonbury Police Department was used improperly for political purposes. As part of the complaint, Complainant attached an article from the GLASTONBURY CITIZEN dated October 8, 2020 that described violations of city policy stemming from members of the Glastonbury Police Department posing in uniform for a photograph with Brian Marois, the Republican candidate for the 13th General Assembly district.
2. Complainant did not provide any specific factual allegations other than the newspaper article nor did the complainant cite specific statutory provisions that would have been violated by the use of the photograph as part of the Marois candidate committee's promotional literature.
3. According to facts gathered during the Commission's investigation, sometime during the first week of September, in 2020, Marois was at the Glastonbury Police Department when he posed for a photograph with a group of police officers, some of whom were in uniform. The photograph was taken by a campaign volunteer and was not part of a planned event. There were no members of the press present at the event and the photograph was not associated with an event hosted by the police officers' union or endorsement of Marois as a candidate by the union. The photograph was posted on the campaign's website but was ultimately removed after a September 30, 2020 memorandum from Glastonbury town manager Richard Johnson pointed out that town employees who were on duty were prohibited from engaging in political activities under state statute and the town charter.¹

¹ The memorandum cited General Statutes § 7-421, which prohibits on-duty employees from engaging in political activities and from using municipal resources to promote the election of a candidate.

4. General Statutes § 9-601b defines an expenditure as “[a]ny 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
5. General Statutes § 9-601a defines a contribution as “[a]ny gift, subscription, loan, advance, payment or deposit of money or anything of value, *made to promote the success or defeat of any candidate* seeking the nomination for election, or election 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”³
6. While the definitions contain subtle differences, to qualify as either an “expenditure” or a “contribution” under Chapter 155, the purpose motivating a payment must be to “promote the success or defeat of any candidate.”
7. In this case, according to the information gathered by investigators, there was no organized effort on the part of the police officers or their union to create a photo opportunity on behalf of Marois. The “event” that occurred was a spontaneous photo event that ultimately involved municipal employees, some of whom were using municipal assets, e.g. their police uniforms, to show their support for Marois.
8. In prior cases, the Commission has relied upon a rubric to determine if an event were actually a “campaign event” promoting candidates.⁴ The indicia considered to evaluate these events includes:
 - 1) Whether the invitations for the event tout the candidate’s presence and/or the chance to hear [the candidate’s] message;
 - 2) Whether the media was alerted as to the candidate’s presence at the event;
 - 3) Whether the candidate notified . . . supporters that [the candidate] would be present at the event;

² General Statutes § 9-601b (a) (1) (emphasis added) (defining “expenditure” under Connecticut’s campaign finance regime). *See also* General Statutes § 9-601b (b) (13) (exempting from definition of “expenditure” “[a] lawful communication by any charitable organization which is a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code”) In this instance, however, the potential expenditure was not a “communication” but an event.

³ General Statutes § 9-601a (a) (1) (emphasis added) (defining “contribution” under Connecticut’s campaign finance regime).

⁴ *See Findings & Conclusions – In the Matter of a Complaint by Nancy J. DiNardo, Hartford, SEEC File No. 2012-152 (State Elections Enforcement Comm’n., April 17, 2013) (adopting indicia first outlined in SEEC Advisory Opinion 2010-08 to determine whether event qualifies as “campaign event” promoting candidates).*

- 4) Whether the candidate is distributing ... campaign literature at the event or in connection with the event;
 - 5) Whether the candidate is fundraising at the event;
 - 6) The extent to which the event targets the voters or in-district donors of the candidate; and
 - 7) The extent to which the candidate is speaking at the event regarding [the candidate's] campaign.⁵
9. According to the Commission's investigation, none of the indicia above occurred in relation to the photo opportunity at the Glastonbury Police Department and as such there was no "campaign event" for which some reporting would be required.
10. General Statutes § 9-610 (d) prohibits the use of public funds to promote the election of a candidate. Specifically, the prohibition comprises two provisions:
- (d) (1) No incumbent holding office shall, during the three months preceding an election in which he is a candidate for reelection or election to another office, use public funds to mail or print flyers or other promotional materials intended to bring about his election or reelection.
 - (2) No official or employee of the state or a political subdivision of the state shall authorize the use of public funds for a television, radio, movie theater, billboard, bus poster, newspaper or magazine promotional campaign or advertisement, which (A) features the name, face or voice of a candidate for public office, or (B) promotes the nomination or election of a candidate for public office, during the twelve-month period preceding the election being held for the office which the candidate described in this subdivision is seeking.
11. As with the prior analysis, neither of the subparagraphs of General Statutes § 9-610 (d) would apply in this instance.
12. Marois was elected as a member of the Manchester Board of Directors in 2019 and served in that role when he announced his candidacy for the 13th General Assembly district seat.
13. Even though Marois was an incumbent, Manchester municipal official, he was not an incumbent in Glastonbury, whose police officers posed with him in the photograph in question.

⁵ *Id.* at paragraph 28.

14. In addition, there were no funds used to “mail or print flyers” in association with the photograph, which would be required for a violation of General Statutes § 9-610 (d)(1) to occur.
15. Similarly, under General Statutes § 9-610 (d)(2), there was no indication that any official used public funds to distribute the photograph showing Marois as part of a “television, radio, movie theater, billboard, bus poster, or magazine promotional campaign or advertisement” in the time between when it was taken and the November 2020 election.
16. Neither section of General Statutes § 9-610 (d) was violated by this activity on the part of the Glastonbury police officers.
17. As stated earlier, however, the activities may have violated General Statutes § 7-421, which prohibits political activities by on-duty municipal employees, but that provision falls outside the jurisdiction of the Commission and will not be addressed in this decision. The Commission makes no finding as to whether General Statutes § 7-421 was violated.
18. Based on the facts in this case, there is no evidence to support the allegation that the photograph taken by the Marois candidate committee of the candidate with members of the Glastonbury Police Department that was later depicted on his campaign website violated Connecticut’s campaign finance statutes.
19. The Commission shall dismiss this matter.

ORDER

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

This case will be dismissed.

Adopted this 15th day of September, 2021 at Hartford, Connecticut.



Commissioner, Stephen T. Benny
By Order of the Commission