

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Ryan Condon
Monroe

File No. 2021-125

AGREEMENT CONTAINING CONSENT ORDER

This agreement by and between Alan J. Clavette of the Village of Sandy Hook, Town of Newtown, County of Fairfield, 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 Ryan Condon filed this complaint on May 13, 2021, alleging that a text message sent out in relation to a special election campaign failed to include attribution and provided incorrect information regarding another candidate in the race. Commission staff investigated the allegations. The text message did, in fact, fail to include an attribution in violation of General Statutes § 9-621.
2. According to the complainant, on or about April 12, 2021, individuals in the 112th General Assembly district received a text message related to an upcoming special election between Tony Scott (Republican Party candidate), Nicholas Kapoor (Democratic Party candidate), and Will Furrier (Independent Party candidate). The message stated:

Republican Bill Furrier is the only candidate endorsed by the Independent Party for the Special Election Tuesday, April 13th. Vote tomorrow for a conservative who believes in a constitutionally limited government. Let’s open up our State!

3. According to the complainant, upon calling the number listed on the message, the complainant heard the following message: “Thank you for calling the Fairfield Democratic Town Committee. The person who texted you has been notified of your call. You may also leave them a voicemail after the beep.”
4. Commission staff investigated the origins of the text message and confirmed that the message one received upon calling the number did reference the “Fairfield Democratic

Town Committee.” The 112th General Assembly district, however, covers Monroe and Newtown. Fairfield is served by the 132nd, 133rd, and 134th legislative districts. Further investigation showed that the text message was created by a consulting firm, 475 Consulting, who had previously done work on behalf of the Fairfield Democratic Town Committee.

5. In conversations with Andrew Gausepohl of 475 Consulting, he confirmed that his firm had created the text message. He provided a contract that his firm had executed with the Newtown Democratic Town Committee, which ultimately paid for the text message at issue. Gausepohl stated that, due to a computer error, the text message identified the Fairfield DTC as the responsible party instead of the Newtown DTC.
6. The Newtown Democratic Town Committee reported that it paid \$2,000 on April 9, 2021 to 475 Consulting for organization expenditures made to support the “Nick for CT 2021” candidate committee. An invoice from 475 Consultants reflected that it charged the Newtown DTC \$500 for “Digital Targeting/Text” on April 8, 2021.
7. General Statutes § 9-621 states that any written communication that promotes the success or defeat of a candidate must include the words “Paid for by” and, in the case of a party committee, the name of the party committee and in the case of a communication created with the consent of, in coordination with, or in consultation with a candidate, the words “Approved by” and the name of the candidate on the face of the message itself.
8. There is no exemption from the requirements of General Statutes § 9-621 for text messages. In fact, commission staff have directed callers who enquired about whether text messages in support of candidates required attribution that attributions are required on these messages, given that they were “written communications” that opposed or supported a candidate.
9. The Commission has imposed a civil penalty in prior matters where a party committee sent out a text message that failed to include an attribution. In a 2019 case, the Commission imposed a civil penalty of \$200 where a text message sent out by party committee that promoted the candidacies of two candidates but did not include a proper attribution.¹

¹ See In the Matter of a Complaint by Frank LaDore, Hamden, SEEC File No. 2019-150A, State Elections Enforcement Comm’n., Feb. 17, 2021 (imposing \$200 civil penalty on candidate for text message that was sent promoting her candidacy without attribution).

10. Here, the respondent party committee did not include attribution on text messages that it sent out to promote, clandestinely, its candidate in the 2021 special election, Nicholas Kapoor. The party committee did report the expenditures, but it did not include the proper disclaimers on the text messages as required by General Statutes § 9-621 (a).
11. Respondent states that although he approved the expenditure for a text message to promote candidate Kapoor prior to the April 13, 2021, special election, the consultant did not provide a copy of the actual text message for the committee's approval prior to the message's broadcast. Because of this failure, the committee was unable to review the content of the message as well as that it lacked the attribution required under General Statutes § 9-621.
12. 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.
13. 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.
14. It is understood and agreed that this agreement will be submitted to the Commission at its next meeting and, if it is not accepted by the Commission, it is withdrawn by the Respondent and may not be used by either party as an admission in any subsequent hearing or against the Company in any proceeding, if the same becomes necessary.
15. 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 contest the validity of the Order entered into pursuant to this agreement.

16. Upon Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against Respondent.

ORDER

IT IS HEREBY ORDERED THAT the Respondent shall pay a civil penalty of \$200 and shall strictly comply with the requirements of General Statutes § 9-621.

The Respondent:

BY:



Alan J. Clavette

3 Fox Hollow Lane

Sandy Hook, CT

Dated: 8/9/2022

For the State of Connecticut:

BY:



Michael J. Brandi, Esq.

Executive Director and General Counsel

And Authorized Representative of the

State Elections Enforcement Commission

55 Farmington Ave., 8th Floor

Hartford, Connecticut

Dated: 8/12/22

Adopted this 17th day of August, 2022, at Hartford, Connecticut



Commissioner STEPHEN T. PHELAN

By Order of the Commission