

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Referral by Dayna Arriola and Mary Oliver,
Registrars of Voters, Hampton

File No. 2022-002

AGREEMENT CONTAINING CONSENT ORDER

This agreement, by and between Allan R. Cahill, Town of Hampton, State of Connecticut (hereinafter "Respondent"), and the authorized representative of the State Elections Enforcement Commission, is entered into in accordance with Section 9-7b-54 of the Regulations of Connecticut State Agencies and Section 4-177 (c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. The referring officials alleged that Respondent violated General Statutes § 9-610 (d) (1) when he used the Town of Hampton website to promote his re-election as First Selectman in violation of General Statutes § 9- 610 (d) (1).
2. Specifically, the referring officials indicated that:
On November 1, 2021, our Office received a call at 9AM alleging that the First Selectman, Allan Cahill, who was seeking re-election in the November 2, 2021 Municipal Election, used the Town website for political purposes...

We checked the Town website and found that it directed viewers to "Click Here for Selectman's Blog" in large, red letters. We checked the blog and found only one entry titled "A Response from Selectman Cahill" dated October 31, 2021, which sought to answer criticisms of his administration and urged residents to "Please vote for me to continue our town's progress during these challenging times." It was signed, Allan Cahill, Unaffiliated Candidate for First Selectman, Vote Row C.
3. At all times relevant to this complaint and investigation, Respondent was the Hampton First Selectman.
4. There is no dispute, and Respondent admits, that he posted a letter while seeking re-election through the town website which included the exhortation "*Please vote for me to continue our town's progress during these challenging times.*"

5. General Statutes § 9-610, provides:

(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.

Facts After Investigation

6. In response to this complaint and investigation Respondent admitted that he promoted his candidacy on the Town of Hampton website by posting a letter soliciting votes for his reelection.
7. After investigation, it can be determined that the letter was posted on the website via a tab on the town's website titled "Selectman's Blog." Further, it can be determined that the communication was published on October 31, 2023 by Respondent and removed by him on or about November 4th and therefore was posted for five days.
8. There is no dispute that the posting was through the town's website or that such website includes a tab used by the First Selectman to publish information and updates regarding the town. The Respondent in this instance believed that he was providing such letter to address and refute what he believed was "...lies and misinformation on my 10 years in office."
9. Respondent explained that it was a flyer that had been used in his petitioning campaign for re-election and also distributed in hard copy to the residents of Hampton. Respondent asserted that the blog space "...is my bulletin board to share information to citizens. Example; pending weather events, Covid pandemic protocols and misinformation or 'fake news'."
10. General Statutes § 9-610 (d) (1), which the Commission has applied to publicly funded electronic communications in prior matters, prohibits an incumbent three months prior to an election from using public funds for promotional materials to bring about their election or reelection.

Commission Conclusions

11. The Commission determines therefore that Respondent's posting on the town's website of the communication that solicited votes for his re-election as First Selectman days prior to the November 2, 2021 municipal election in the Town of Hampton was in violation of General Statutes § 9-610 (d) (1).

12. The Commission concludes therefore that Respondent violated General Statutes § 9-610 (d) (1) as alleged.

Penalty Considerations

13. 9-7b-48 of the Regulations of Connecticut State Agencies provides that, in the 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 ensure 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.
14. Respondent has no prior violations with the Commission and cooperated with this investigation. The Commission determines based on the limited duration of the posting of the communication to the town's website, and consistent with its penalty authority, that ordering Respondent to henceforth strictly comply with General Statutes § 9-610 (d) is sufficient to ensure immediate and continued compliance with that section.
15. Respondent admits all jurisdictional facts and agree that this agreement and Order shall have the same force and effect as a final decision and Order entered after a full hearing and shall become final when adopted by the Commission. The Respondent shall receive a copy hereof as provided in Section 9-7b -56 of the Regulations of Connecticut State Agencies.
16. It is understood and agreed that this agreement will be submitted to the Commission at its next available meeting and, if it is not accepted by the Commission, it is withdrawn by the and may not be used as an admission by any party in any subsequent hearing, if the same becomes necessary.
17. The Respondents 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.

18. Upon the Respondent's agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against Respondents pertaining to this matter.

ORDER

IT IS HEREBY ORDERED that henceforth Respondent shall strictly comply with the requirements of General Statutes § 9-610 (d).

The Respondent:

For the State of Connecticut:

BY: Allan R. Cahill
Allan R. Cahill
40 Carter Road
Hampton, Connecticut

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

Dated: 9-14-23

Dated: 9/29/23

Adopted this _____ day of _____, 2023 at Hartford, Connecticut by vote of the Commission.

Stephen T. Penny, Chairman
By Order of the Commission

18. Upon the Respondent's agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against Respondents pertaining to this matter.

ORDER

IT IS HEREBY ORDERED that henceforth Respondent shall strictly comply with the requirements of General Statutes § 9-610 (d).

The Respondent:

BY: Allan R. Cahill
Allan R. Cahill
40 Carter Road
Hampton, Connecticut

Dated: 9-14-23

For the State of Connecticut:

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

Dated: 9/26/23

Adopted this 4th day of October, 2023 at Hartford, Connecticut by vote of the Commission.



Stephen T. Penny, Chairman
By Order of the Commission