STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of Kenneth Johnson and Craig Yarde, Bristol — File No. 2008-145

FINDINGS AND CONCLUSIONS

The Complainant brings this complaint pursuant to Connecticut General Statutes § 9-7b and alleged that AFSCME Local 2267 made an expenditure to support a referendum by purchase of signs and the dissemination of a letter to its members indicating that a committee for this purpose would be formed. Complainants further alleged a possible violation of § 9-602 because such committee never filed with the town clerk.

After the investigation of the complaint, the Commission makes the following findings and conclusions:

1. The City of Bristol had a ballot question on the November 4, 2008 election, pertaining to whether the city should create the position of Chief Operating Officer (COO).

2. Complainants formed an ongoing political committee "Choose COO PAC" to advocate a "yes" vote on this ballot question by filing with the Bristol City Clerk's office. No other individuals or entitities registered with the Bristol Town Clerk's office regarding the November 4, 2008 COO ballot question.

3. The Complainants alleged that AFSCME Local 2267 made expenditures in excess of $1,000 advocating a position regarding the COO ballot question without forming a political committee and filing with the town clerk.

4. Specifically, Complainants allege that by disseminating a letter and the purchasing signs urging a "no" vote a the COO ballot question they exceeded $1,000 in costs and therefore were required to file a statement of registration with the Bristol City Clerk's office.

5. Mr. Chad Lockhart is the President of AFSCME Local 2267, and Mr. Sean Burke is its Treasurer.

6. General Statures § 9-602, provides in pertinent part:

> (a) ***Except with respect to an individual acting on his own***, no contributions may be made, solicited or received and ***no expenditures may be made, directly or indirectly, in aid of or in opposition to*** the candidacy for nomination or election of any individual or ***any*** party or ***referendum question***, unless (1) the candidate or chairman of the committee has filed a designation of a campaign treasurer and a depository institution situated in this state as the depository for the committee's funds or (2) the candidate or, ***in the event of a referendum question, a group of individuals has filed a certification in accordance with the***

provisions of section 9-604 or 9-605, as the case may be. In the case of a political committee, the filing of the statement of organization by the chairman of such committee, in accordance with the provisions of section 9-605 shall constitute compliance with the provisions of this subsection.

7. General Statutes § 9-605, provides in pertinent part:

... (d) A group of ***two or more individuals*** who have joined solely to promote the success or defeat of a referendum question shall not be required to file as a political committee, make such designations in accordance with subsections (a) and (b) of this section or file statements pursuant to section 9-608, ***if the group does not receive or expend in excess of one thousand dollars for the entire campaign and the agent of such individuals files a certification with the proper authority or authorities as required under section 9-603 before an expenditure is made. The certification shall include the name of the group, or the names of the persons who comprise the group, and the name and address of the agent which shall appear on any communication paid for or sponsored by the group as required by section 9-621***. If the group receives or expends in excess of one thousand dollars, the agent shall complete the statement of organization and file as a political committee not later than three business days thereafter. The agent shall provide the designated campaign treasurer with all information required for completion of the statements for filing as required by section 9-608. The filing of a certification under this subsection shall not relieve the group from compliance with the provisions of this chapter, and the group shall be considered a political committee established solely for a referendum question for purposes of the limitations on contributions and expenditures.
[Emphasis added.]

8. General Statutes § 9-612(d) provides:

(d) Any individual may make unlimited contributions or expenditures to aid or promote the success or defeat of any referendum question, ***provided any individual who makes an expenditure or expenditures in excess of one thousand dollars to promote the success or defeat of any referendum question shall file statements*** according to the same schedule and in the same manner as is required of a campaign treasurer of a political committee under section 9-608. [Emphasis added.]

9. General Statutes § 9-620, provides in pertinent part:

... (c) No ***person***, as defined in subdivision (9) of section 9-601, other than an individual or a committee, ***shall make a contribution to a political committee formed solely to aid or promote the success or defeat of a referendum question, or to***

any other person, as defined in subdivision (9) of section 9-601, ***to aid or promote the success or defeat of a referendum question, in excess of ten cents for each individual residing in the state or political subdivision thereof*** in which such referendum question is to be voted upon, in accordance with the last federal decennial census.

(d) Any such ***person*** other than an individual or a committee which makes expenditures or has expenses incurred but not paid ***in excess of one thousand dollars*** in the state or political subdivision thereof ***in which a referendum question is to be voted upon***, shall file all designations and sworn financial statements required to be filed by political committees and comply with all provisions of this chapter which apply to political committees. [Emphasis added.]

10. General Statutes § 9-601, provides in pertinent part:

... (7) **"Organization" means all labor organizations**, (A) as defined in the Labor-Management Reporting and Disclosure Act of 1959, as from time to time amended, or (B) as defined in subdivision (9) of section 31-101, employee organizations as defined in subsection (d) of section 5-270 and subdivision (6) of section 7-467, bargaining representative organizations for teachers, any local, state or national organization, to which a labor organization pays membership or per capita fees, based upon its affiliation or membership, and trade or professional associations which receive their funds exclusively from membership dues, whether organized in or outside of this state, but does not mean a candidate committee, party committee or a political committee.

... (10) ***"Person" means*** an individual, committee, firm, partnership, ***organization***, association, syndicate, company trust, corporation, limited liability company or any other legal entity of any kind but does not mean the state or any political or administrative subdivision of the state.

11. The Commission finds that Mr. Lockhart acted as an individual in purchasing the signs. The Commission concludes that AFSCME Local 2267 is an "organization" and a "person" as defined by General Statutes § 9-601.

12. Mr. Lockhart purchased 250 signs reading "Vote No COO – Question 3." He purchased the signs on October 2, 2008 for $625, and at that time, had no expectation of reimbursement.

13. Mr. Burke was subsequently authorized by AFSCME Local 2267 to reimburse Mr. Lockhart a portion of his expenditure for the above mentioned signs and reimbursed him $300 on October 9, 2008 with union treasury funds.

14. Because neither the expenditure by Mr. Lockhart, nor the subsequent reimbursement by the union exceeded $1,000, the threshold to trigger filing

requirements was not reached pursuant to General Statutes § 9-620(d) or § 9-612(d) for either party.

15. The Commission further concludes that General Statutes § 9-605(d) would not apply in this instance, where Mr. Lockhart was reimbursed by the union for expenditures made to advocate a "no" vote on a ballot questions, because Mr. Lockhart and the union were *not* "a group of two or more individuals," as required by that section.

16. Complainants also asserted that the dissemination of a letter urging a "no" vote on the COO ballot question required AFSCME Local 2267 to file as a political committee with the Bristol Town Clerk's office.

17. The letter is on AFSCME Local 2267 letterhead and begins: *Dear Union Brothers and Sisters.* The above mentioned letter was disseminated by the union to its members. There is otherwise no indication that it was mailed to other than union members.

18. General Statutes § 9-601a, provides in pertinent part:

> ... (b) As used in this chapte r and sections 9-700 to 9-716, inclusive, "contribution" does not mean:
> (2) ***Any communication made by a corporation, organization or association to its members, owners, stockholders, executive or administrative personnel, or their families***;
> [Emphasis added.]

19. General Statutes § 9-601b, provides in pertinent part:

> ... (b) The term "expenditure" does not mean:
> (2) ***A communication made by any corporation, organization or association to its members, owners, stockholders, executive or administrative personnel, or their families***;
> [Emphasis added.]

20. The Commission concludes that the dissemination of the letter at issue was neither a contribution nor an expenditure pursuant to General Statutes § 9-601a(b)(2) and § 9-601b(b)(2) because it was sent only to union members.

ORDER

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

That the case be dismissed.

Adopted this 14 th day of January 2009 at Hartford, Connecticut.

Stephen F. Cashman, Chairperson
By Order of the Commission