



STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION
20 Trinity Street Hartford, Connecticut 06106 – 1628

September 4, 2007

David A. Rome, Esq.
32 Brookside Boulevard
West Hartford, CT 06107

RE: Opinion of Counsel 2007-07, Application of certification requirement set forth in General Statutes § 9-608(c)(3) to contributions that exceed \$50 from a communicator lobbyist to a business entity or organization political committee that is not established or controlled by a candidate for statewide or legislative office.

Dear Mr. Rome:

This will respond to your letter to the Commission dated July 23, 2007, concerning the interplay between Connecticut General Statutes § 9-603(c)(3), as amended by Public Act 07-1 and section 9-610. In that letter you have asked us to clarify the meaning of section 9-608(c)(3) as it applies to contributions from communicator lobbyists to business entity political committees.

The question of how to interpret General Statutes § 9-608(c)(3) is a question of statutory interpretation. Accordingly, when construing the meaning of that statute “[o]ur fundamental objective is to ascertain and give effect to the intent or the apparent intent of the legislature. . . . In other words, we seek to determine, in a reasoned manner, the meaning of statutory language as applied to the facts In seeking to determine that meaning, General Statutes § 1-2z directs us first to consider the text of the statute itself and its relationship to other statutes.” S. New England Tel. Co. v. Cashman, 283 Conn. 644, 2007 WL 2349991 *3. If, after examining such text and considering such relationship, the meaning of such text is plain and unambiguous but yields absurd or unworkable results, extra-textual evidence of the meaning of the statute may be considered. See Id.; Connecticut General Statutes § 1-2z.

Our Supreme Court has defined what is meant when one says that statutory text has a plain meaning. That phrase means “the meaning that is so strongly indicated or suggested by the language as applied to facts of the case, without consideration, however, of its purpose or the other, extratextual sources of meaning . . . that, when the language is read as so applied, it appears to be *the* meaning and appears to preclude any other likely meaning.” (Emphasis in original). Genesky v. Town of East Lyme, 275 Conn. 246, 277 (2005).

General Statutes § 9-608(c)(3), as amended by P.A. 07-1, provides the following in relevant part:

[E]ach contributor who makes a contribution to a candidate or exploratory committee for Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State, State Treasurer, state senator or state representative, any political committee authorized to make contributions to such candidates or committees, and any party committee that separately, or in the aggregate, exceeds fifty dollars shall provide with the contribution a certification that the contributor is not a principal of a state contractor or prospective state contractor . . . a communicator lobbyist or a member of the immediate family of a communicator lobbyist The State Elections Enforcement Commission shall prepare a sample form for such certification by the contributor and shall make it available to campaign treasurers and contributors. . . . **If a campaign treasurer receives such a contribution and the contributor has not provided such certification, the campaign treasurer shall:** (A) Not later than three business days after receiving the contribution, send a request for the certification to the contributor by certified mail, return receipt requested; (B) **not deposit the contribution until the campaign treasurer obtains the certification from the contributor,** notwithstanding the provisions of section 9-606; and (C) **return the contribution to the contributor if the contributor does not provide the certification** not later than fourteen days after the treasurer's written request or at the end of the reporting period in which the contribution was received, whichever is later. If a campaign treasurer deposits a contribution based on a certification that is later determined to be false, the treasurer shall not be in violation of this subdivision.

The language of the statute appears to have one meaning. It clearly provides that every contributor who makes a monetary contribution in excess of fifty dollars to any political committee authorized to make contributions to candidates for statewide or legislative office or their committees must certify, *inter alia*, that the contributor is not a communicator lobbyist or an immediate family member of a communicator lobbyist.

Section 9-608(c)(3) further provides that when a campaign treasurer receives such a contribution and the contributor has not provided such certification, the campaign treasurer must not deposit the contribution but rather, must return it to that contributor if the contributor does not provide the certification in the time prescribed.

This provision cannot, however, be read in a vacuum. “[T]he legislature is always presumed to have created a harmonious and consistent body of law. . . . This requires us to “read statutes together when they relate to the same subject matter Accordingly, in determining the meaning of a statute . . . we look not only at the provision at issue, but also to the broader statutory scheme to ensure the coherency of our construction. . . . In applying these principles, we are mindful that the legislature is presumed to have intended a just and rational result.”(Citations omitted; internal quotation marks omitted.) S. New England Tel. Co., 283 Conn. 644, 2007 WL 2349991 *4.

In the present matter, we examined General Statutes § 9-610(h) to assist us in construing the meaning of General Statutes § 9-608(c)(3). Connecticut General Statutes § 9-610(h) provides that:

“No communicator lobbyist, member of the immediate family of a communicator lobbyist . . . shall make a contribution or contributions to, or for the benefit of (1) an exploratory committee or a candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, State Treasurer, Secretary of the State, state senator or state representative, (2) **a political committee established or controlled by any such candidate**, (3) a legislative caucus committee or a legislative leadership committee, or (4) a party committee.”

Notably, that provision is the only provision in Title 9 of Connecticut General Statutes that, on its face, specifically prohibits certain contributions from communicator lobbyists **and** their immediate family members. In particular, General Statutes § 9-610(h) prohibits them from contributing to those political committees established or controlled by candidates for statewide or legislative office. It does not, however, prohibit contributions from communicator lobbyists to business entity and/or organization political committees, unless those committees are established or controlled by a candidate for statewide or legislative office.

When read together, however, and applied to a monetary contribution in excess of fifty dollars from communicator lobbyists or their immediate family members, General Statutes § 9-608(c)(3) appears to expand the communicator lobbyist contribution ban beyond what is specifically proscribed in section 9-610(h). In other words, as applied, section 9-608(c)(3) bans contributions in excess of fifty dollars from communicator lobbyists and their immediate family members to business entity and/or organization political committees.

The expanded ban results because General Statutes § 9-608(c)(3) requires that contributors, including communicator lobbyist contributors, who make monetary contributions in excess of fifty dollars to **any** political committee authorized to make contributions to candidates for statewide or legislative office or their exploratory and/or candidate committees, certify that they are not communicator lobbyists or their immediate family members. If the requisite certification is not provided, treasurers of political committees authorized to make contributions to candidates for statewide or legislative office or their exploratory and/or candidate committees cannot deposit the contribution. Instead, they must return it to the contributor. Obviously, communicator lobbyists and their immediate family members cannot truthfully make the requisite certification. As a consequence, all monetary contributions in excess of fifty dollars from communicator lobbyists and their immediate family members to **any** political committee authorized to make contributions to candidates for statewide or legislative office or their exploratory and/or candidate committees that exceed fifty dollars will be rejected.

Thus, the plain language of General Statutes § 9-608(c)(3) never explicitly prohibits monetary contributions exceeding fifty dollars from communicator lobbyists and their immediate family members to business entity or organization political committees. That language does, however, render such a result when applied. Such an effect is clearly bizarre in light of section 9-610(h). As such, we looked to the legislative history of section 9-608(c)(3) to see if the legislature intended to expand the contribution ban set forth in section 9-610(h) when it enacted the certification requirement in section 9-608(c)(3), as amended by Public Act 07-1. We found that it did not.

The legislative history of General Statutes § 9-608(c)(3), as amended by Public Act 07-1, indicates that the certification requirement was not intended to expand substantively the communicator lobbyist contribution ban set forth in General Statutes § 9-610(h). Instead, the certification requirement in section 9-608(c)(3) was intended to alleviate the onus on treasurers to determine whether a contribution was made by a principal of a state contractor and to make that certification consistent with the certification required pursuant to General Statutes § 9-704. For example, in the House of Representatives, Representative Caruso remarked that pursuant to the change in the law, the onus would be on the contractor rather than the treasurer. Representative Caruso further remarked that he believed “this law does not change the original intent of the campaign finance bill we passed in 2005. . . .” See Connecticut General Assembly, House Session Transcript for February 7, 2007, www.cga.state.ct.us. In fact, throughout the House’s entire legislative debate concerning this issue, no one ever mentioned that the change in the law was intended to impact the ability of communicator lobbyists or their immediate family members to contribute to business entity and/or organization political committees.

Furthermore, in the Senate, Senator Slossberg remarked that “the bill before you . . . will not compromise either the intent or the effect of the contribution ban embodied in campaign finance reform.” Senator Slossberg further remarked that “[t]his bill . . . will require a contributor of more than \$50 to provide a written certification to the campaign treasurer of a committee that is prohibited from accepting such contributions and that the contributor is not a principal of the state contractor, prospective state contractor, lobbyist, spouse, or dependent child, of a lobbyist to be consistent with the requirement in Section 9-704, for participating candidates in the Citizen Election Program.” See Connecticut General Assembly, Senate Session Transcript for February 7, 2007, www.cga.state.ct.us. General Statutes § 9-704 is a certification requirement which does not expand the contribution ban set forth in section 9-610(h). Again, throughout the Senate testimony, no mention was made of expanding the communicator lobbyist contribution ban.

Given the legislative history of General Statutes § 9-608(c)(3), this Commission will not apply the plain language of that certification provision in an effort to give effect to the legislature’s intent and to avoid the unreasonable and bizarre consequences of its application. In the alternative, we will read General Statutes § 9-608(c)(3) as follows:

[E]ach contributor who makes a contribution to a candidate or exploratory committee for Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State, State Treasurer, state senator or state representative, any political committee authorized to make contributions to such candidates or committees, and any party committee that separately, or in the aggregate, exceeds fifty dollars shall provide with the contribution a certification that the contributor is not a principal of a state contractor or prospective state contractor, as defined in subsection (g) of section 9-612, as amended by this act and shall provide the name of the employer of the contributor.

[E]ach contributor who makes a contribution to a candidate or exploratory committee for Governor, Lieutenant Governor, Attorney General, State Comptroller, State Treasurer, Secretary of the State, state senator or state representative, a political committee established or controlled by any such candidate, a legislative caucus committee or a legislative leadership committee, or a party committee that separately,

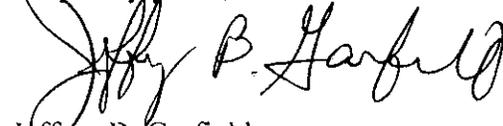
or in the aggregate, exceeds fifty dollars shall provide with the contribution a certification that the contributor is not a communicator lobbyist or a member of the immediate family of a communicator lobbyist and shall provide the name of the employer of the contributor.

The State Elections Enforcement Commission shall prepare sample forms for such certifications by the contributor and shall make them available to campaign treasurers and contributors. . . . If a campaign treasurer receives such a contribution and the contributor has not provided such certification, the campaign treasurer shall: (A) Not later than three business days after receiving the contribution, send a request for the certification to the contributor by certified mail, return receipt requested; (B) not deposit the contribution until the campaign treasurer obtains the certification from the contributor, notwithstanding the provisions of section 9-606; and (C) return the contribution to the contributor if the contributor does not provide the certification not later than fourteen days after the treasurer's written request or at the end of the reporting period in which the contribution was received, whichever is later. If a campaign treasurer deposits a contribution based on a certification that is later determined to be false, the treasurer shall not be in violation of this subdivision.

We believe this reading of General Statutes § 9-608(c)(3) is necessary to create a consistent body of law and to give effect to the true intent of the legislature in enacting Public Act 07-1. As a consequence, communicator lobbyists and their immediate family members will still be permitted to contribute up to \$750 to business entity and/or organization political committees that are not established or controlled by statewide or legislative candidates and the treasurers of such committees will be permitted to deposit such contributions.

This constitutes an Opinion of Counsel. I trust this information will be useful to you. Please do not hesitate to contact me if you have further questions or if we can be of further assistance to you.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeffrey B. Garfield". The signature is fluid and cursive, with the first name "Jeffrey" being particularly prominent.

Jeffrey B. Garfield

Executive Director and General Counsel