



STATE OF CONNECTICUT STATE ELECTIONS ENFORCEMENT COMMISSION

Advisory Opinion 2010-07: Attribution Requirements for Joint Expenditures for Written, Typed, or Printed Communications, Television or Internet Video Advertising, and Radio or Internet Audio Advertising

The Commission has received several inquiries from current and prospective candidates seeking guidance as to the attribution requirements for joint expenditures made by two candidate committees for various types of written, typed, printed, television, or Internet video, and radio or Internet audio communications or advertising.

Background:

Generally, a candidate committee may only make expenditures promoting the nomination or election of the candidate who established the committee. General Statutes § 9-607 (g) (1). An “expenditure” means, in relevant part “[a]ny purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, when made for the purpose of influencing 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 on behalf of any political party.” General Statutes § 9-601b (a) (1). The law prohibits a candidate committee from making contributions to another candidate committee. General Statutes § 9-616 (a). The term “contribution” is defined broadly in the General Statutes to include “anything of value, made for the purpose of influencing the nomination for election, or election, of any person.” General Statutes § 9-601a (a) (1).

A candidate committee may, however, engage in joint expenditures with another candidate committee for preparing, printing and disseminating any political communication that promotes each candidate, so long as each committee pays its pro rata share of the expenses. General Statutes § 9-610 (b); § 9-616 (a).

Legal Analysis and Conclusions:

1. What is the attribution requirement for a joint expenditure for any written, typed, or other printed communication?

Section 9-621 of the General Statutes sets forth the attribution requirements for communications in various media forms which solicit funds or promote the success or defeat of a candidate. Section 9-621(a) provides, in relevant part:

No candidate or committee shall make or incur any expenditure . . . as defined in subparagraph (A) of subdivision (25) of section 9-601, for any written, typed or other printed communication, or any web-based, written communication, which

promotes the success or defeat of any candidate's campaign for nomination at a primary or election or solicits funds to benefit any . . . committee unless such communication bears upon its face (1) the words "paid for by" and the following: . . . (B) in the case of a committee other than a party committee, the name of the committee and its campaign treasurer. . . , and (2) the words "approved by" and the following: . . . (B) in the case of a candidate committee, the name of the candidate.

Accordingly, when a candidate committee makes an expenditure for any written, typed or printed communication, or any web-based, written communication promoting the candidate who established the committee, the required attribution is:

"paid for by [name of candidate committee, name of treasurer], approved by [name of candidate]."

When two committees make a joint expenditure for such type of communication, the attribution must reflect that each committee paid for part of the communication. The following two attribution options meet the requirements of General Statutes § 9-621 (a):

Option 1: Paid for by [name of candidate A's candidate committee], [name of committee A treasurer], Treasurer. Approved by [Candidate A]; Paid for by [name of candidate B's candidate committee], [name of committee B treasurer], Treasurer. Approved by [candidate B].

Option 2: Paid for by [name of candidate A's candidate committee], [name of committee A treasurer], Treasurer and [name of candidate B's candidate committee], [name of committee B treasurer], Treasurer. Approved by [candidate A] and [candidate B].

2. What is the attribution requirement for a joint expenditure for television advertising and Internet video advertising?

In addition to the core "paid for by" and "approved by" attribution requirements for candidate committee communications, section 9-621 (b) sets forth additional requirements for television and Internet video advertising.

Section 9-621 (b) provides that:

(b) In addition to the requirements of subsection (a) of this section:

(1) No candidate or candidate committee or . . . shall make or incur any expenditure for television advertising or Internet video advertising, which promotes the success of such candidate's campaign for nomination at a primary or election or the defeat of another candidate's campaign for nomination at a primary or election, unless (A) at the end of such advertising there appears simultaneously,

for a period of not less than four seconds, (i) a clearly identifiable photographic or similar image of the candidate making such expenditure, (ii) a clearly readable printed statement identifying such candidate, and indicating that such candidate has approved the advertising, and (iii) a simultaneous, personal audio message, in the following form: “I am (candidate’s name) and I approved this message”, and (B) the candidate’s name and image appear in, and the candidate’s voice is contained in, the narrative of the advertising, before the end of such advertising;

The phrase “[i]n addition to the requirements of subsection (a) of this section” means that the television or Internet video advertising paid for by a committee and which promotes the success or defeat of the candidate must include the basic “paid for by” and “approved by” attribution language as set forth in subsection (a) of section 9-621. When two candidates are making a joint expenditure, the attribution must reflect that each committee paid for a portion of the expenditure. The core “paid for by” and “approved by” attributions are those set forth in the answer to question one of this Advisory Opinion.

The narrative or body of such advertisement must include the candidate’s name, image, and voice. In addition, the statute requires that the ending portion of any such television or Internet video advertising must contain, for a minimum of four seconds, the following three simultaneous elements:

1. a clearly identifiable photographic or similar image of the candidate making such expenditure;
2. a clearly readable printed statement identifying such candidate, and indicating that such candidate has approved the advertising, which is satisfied by including the “paid for by” and “approved by” attribution set forth in the response to question one above; *and*
3. a simultaneous, personal audio message, stating that “I am (candidate's name) and I approved this message.”

Two candidates who are making a joint expenditure for television or Internet video advertising must satisfy each of these requirements. The photographic or image requirement may be satisfied by having a photograph or similar image of both candidates on the screen.

Since the personal audio message must contain the candidate’s voice, each candidate would have to state his or her name and that such candidate approved the message. In the example of a joint expenditure for television or Internet video advertising made by two candidate committees, the *audio message* requirement may be accomplished by either of the following two options:

Option 1: [in the voice of Candidate A:] “I am [Candidate A], and I approved this message.” [in the voice of Candidate B]: “I am [Candidate B], and I approved this message.”

Option 2: [in the voice of Candidate A:] “I am [Candidate A],” [in the voice of Candidate B:], “and I am [Candidate B],” [voices of Candidate A and Candidate B together:] “and we approved this message.”

3. What is the attribution requirement for a joint expenditure for radio or Internet audio advertising?

In addition to the core “paid for by” and “approved by” attribution requirements for candidate committee communications, section 9-621 (b) sets forth additional requirements for radio and Internet audio advertising. Section 9-621 (b) provides that:

(b) In addition to the requirements of subsection (a) of this section:

....

(2) No candidate or candidate committee or exploratory committee established by a candidate shall make or incur any expenditure for radio advertising or Internet audio advertising, which promotes the success of such candidate’s campaign for nomination at a primary or election or the defeat of another candidate’s campaign for nomination at a primary or election, unless (A) the advertising ends with a personal audio statement by the candidate making such expenditure (i) identifying such candidate and the office such candidate is seeking, and (ii) indicating that such candidate has approved the advertising in the following form: “I am. . . . (candidate’s name) and I approved this message”, and (B) the candidate’s name and voice are contained in the narrative of the advertising, before the end of such advertising; and

The phrase “[i]n addition to the requirements of subsection (a) of this section” means that any expenditure for radio advertising or Internet audio advertising by a candidate or candidate committee that solicits funds or promotes the success or defeat of a candidate must include the core “paid for by” and “approved by” attribution language as set forth in subsection (a) of section 9-621. When two candidates are making a joint expenditure, the attribution must reflect that each committee paid for its portion of the expenditure. The core “paid for by” and “approved by” attributions are those set forth in the answer to question one of this Advisory Opinion. In the case of radio or Internet audio advertising, these attributions must be spoken.

The narrative of the radio or Internet audio advertising must also contain the candidate’s name and voice. In addition, the candidate must conclude the message with a personal audio statement that:

1. identifies the candidate;
2. identifies the office sought; *and*
3. includes the statement “I am [name of candidate] and I approved this message.”

Two candidate committees making a joint expenditure for radio or Internet audio advertising must satisfy each of these requirements.

Since the personal audio message must contain the candidate's voice, for a joint expenditure each candidate would have to state his or her name and that such candidate approved the message. In the example of a joint expenditure for radio or Internet audio advertising made by two candidate committees, the audio message requirement may be accomplished by either of the following two options:

Option 1: [in the voice of Candidate A:] "I am [Candidate A], candidate for [name of office sought] and I approved this message." [in the voice of Candidate B]: "I am Candidate B, candidate for [name of office sought], and I approved this message."

Option 2: [in the voice of Candidate A:] "I am [Candidate A], candidate for [name of office sought]," [in the voice of Candidate B:], "and I am [Candidate B], candidate for [name of office sought]," [voices of Candidates A and B together:], "and we approved this message."

The foregoing advice is an Advisory Opinion of the Commission. This Advisory Opinion is issued pursuant to the provision of General Statutes § 9-7b (a) (14).

Adopted this 30th day of June 2010 at Hartford, Connecticut by a vote of the Commission.



Stephen F. Cashman, Chairman