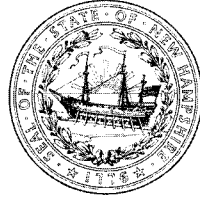


**ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6397

JOSEPH A. FOSTER  
ATTORNEY GENERAL



ANN M. RICE  
DEPUTY ATTORNEY GENERAL

September 1, 2016

House Election Law Committee  
107 North Main Street  
Concord, NH 03301

Re: ELECTIONS BI-ANNUAL REPORT

Dear Committee Members:

Delivered are twenty five (25) Election Law Complaint Status Reports Submitted Pursuant to RSA 7:6-c for the reporting period July 1, 2015 – December 31, 2015.

Thank you.

Sincerely,

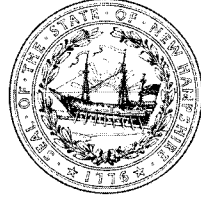
A handwritten signature in black ink, appearing to read "J.A. Foster".

Joseph A. Foster  
Attorney General

**ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6397

JOSEPH A. FOSTER  
ATTORNEY GENERAL



ANN M. RICE  
DEPUTY ATTORNEY GENERAL

September 1, 2016

Senate Public and Municipal Affairs Committee  
Legislative Office Building, Room 102  
107 North Main Street  
Concord, NH 03301

Re: ELECTIONS BI-ANNUAL REPORT

Dear Committee Members:

Delivered are ten (10) Election Law Complaint Status Reports Submitted Pursuant to RSA 7:6-c for the reporting period July 1, 2015 – December 31, 2015 for your information.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Foster".

Joseph A. Foster  
Attorney General

**STATE OF NEW HAMPSHIRE**

**DEPARTMENT OF JUSTICE**

**SENATE PUBLIC AND MUNICIPAL AFFAIRS COMMITTEE**

**HOUSE ELECTION LAW COMMITTEE**

**Election Law Complaint Status Report**

**Submitted Pursuant to RSA 7:6-c**

**Reporting Period July 1, 2015 – December 31, 2015**

Prepared by:

Joseph A. Foster  
Attorney General  
Anne M. Edwards  
Associate Attorney General  
Brian W. Buonamano  
Assistant Attorney General  
Civil Bureau  
Attorney General's Office  
33 Capitol Street  
Concord, NH 03301  
(603) 271-3650

## **INTRODUCTION**

Part I, Article 11 of the New Hampshire Constitution provides, in part, that “[a]ll elections are to be free, and every inhabitant of the State of 18 years of age and upwards shall have an equal right to vote in any election.” To safeguard this constitutional provision, and pursuant to RSA 7:6-c, the Legislature designates the Attorney General to enforce all election laws in New Hampshire. Pursuant to RSA 7:6-c, II, (a), the Attorney General is pleased to submit to the New Hampshire House of Representatives and the Senate the biannual rolling report on the status of all complaints of alleged violations of election laws received. This report includes a summary of complaints received during the six-month period beginning on July 1, 2015 through December 31, 2015. It also includes, for each complaint, the results of the investigation and any actions taken as a result of the investigation, as required by RSA 7:6-c, II.

**I. RESULTS OF COMPLAINTS INVESTIGATED AND DESCRIPTIONS OF ACTIONS TAKEN**

<b>Complaints Received</b>	<b>Statute</b>	<b># of Complaints Received</b>	<b>Complaints Closed Due To Legal Analysis</b>	<b>Complaints Investigated</b>	<b>Open Matters December 31, 2015</b>	<b>Matters Closed By December 31, 2015</b>
Incompatibility of Offices	RSA 669:7	1	1	0		1

**II. RESULTS OF INVESTIGATIONS OPENED PRIOR TO THE REPORTING PERIOD BUT CLOSED DURING THE REPORTING PERIOD**

<b>Alleged Violation</b>	<b>Date Opened</b>	<b>Date Closed</b>
Campaign Expenditures RSA 664:4, III; RSA 664:4-b	10/19/12	5/7/15*
Voting in More Than One State RSA 659:34-a	05/09/13	05/26/15*
Voting Procedures RSA 659:63; RSA 659:95; RSA 659:58	03/15/13	10/14/15
Electioneering RSA 659:44	02/05/14	08/27/15
Voter Assistance, Electioneering, Voter ID	04/24/14	5/13/15*
Political Fundraising RSA 664	05/29/14	06/26/15*
Political Advertising RSA 664:14	09/25/14	05/19/15*
Harassing Political Calls RSA 644:4	10/07/14	06/10/15*
Political Campaign Sign RSA 664:14	10/20/14	05/26/15*
Wrongful Voting RSA 659:34	11/12/14	10/05/15
Distribution of Campaign Materials/Polling Hours RSA 671:30; 659:43, I	04/10/15	08/14/15
Electioneering	04/24/13	3/10/15*
Political Committee Registration	10/27/14	11/17/15

\*These matters were closed prior to the reporting period but due to clerical error were omitted from the preceding biannual report.

**III. INVESTIGATIONS OPEN PRIOR TO THE REPORTING PERIOD, WHICH REMAIN OPEN**

<b>Alleged Violation</b>	<b>Date Opened</b>
Robo-Call RSA 664:14-a	1/10/2012
Robo-Call 664:14-a	8/15/2012
Push-Poll RSA 664:16-a	8/29/2012
Push-Poll RSA 664:16-a	9/4/2012
Robo-Call RSA 664:14-a	9/21/2012
Registration RSA 664:3	9/20/2012
Registration RSA 664:3	9/20/2012
Registration RSA 664:3	9/20/2012
Registration RSA 664:3	9/20/2012
Registration RSA 664:3	9/20/2012
Political Advertising RSA 664:14	11/02/12
Robo-Call RSA 664:14-a	10/2/2012
Absentee Ballot RSA 657:1	10/22/2012
Absentee Ballot RSA 657:15	10/24/2012
Campaign Materials at Polling Place RSA 659:43	11/8/12
Legality of Vote	3/14/13
Id Disclosure RSA 664:14	5/13/13
Warrant Article RSA 39:3	10/07/13
Id Disclosure RSA 664:14	11/04/13
Warrant Article RSA 39:3	2/25/14
Electioneering RSA 659:44	3/3/14
Electioneering RSA 644	4/25/14
Reporting by Political Committee RSA 664:6	8/27/14
Robo- Call RSA 664:14-a	9/3/14
Reporting by Candidate RSA 664:7	9/4/14
Reporting by Committee RSA 664:6	9/16/14
Reporting by Candidate RSA 664:7	9/18/14
Reporting by Committee RSA 664:6	9/23/14
Removal of Political Adv. RSA 664:17	9/23/14
UOCAVA RSA 659:19	9/28/14
Receiving a Ballot RSA 659:13	10/3/14
Placement of Political Adv RSA 664:17	11/06/14
Registration of Political Committee RSA 664:3	11/10/14
Wrongful Voting RSA 659:34	11/10/14
Wrongful Voting RSA 659:34	11/20/14
Wrongful Voting RSA 659:34	11/19/14
Removal of Political Advertising RSA 664:17	11/26/14
Political Committee Registration RSA 664:3	12/2/14
Political Committee Registration RSA 664:3	12/2/14
Wrongful Voting RSA 659:34	12/10/14
End of Day RSA 652:20	02/02/15
Placement of Political Advertising RSA 664:17	02/13/15

Preparation of Ballots RSA 671:20	02/11/15
Political Advertising RSA 664:14	03/09/15
Polling Time Hours RSA 39:2	03/13/15
Display of Ballot RSA 659:35	03/17/15
Handling of Ballots RSA 659:38	03/26/15
Political Advertising RSA 664:17	04/08/15
Political Advertising RSA 664:17	04/08/15
False Documents, Names or Endorsement RSA 666:6	05/15/15



Closure Letters, Settlement Agreements,  
Cease and Desist Orders, Complaints Filed With A Court,  
or Other Official Communications

**ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6397

JOSEPH A. FOSTER  
ATTORNEY GENERAL



ANN M. RICE  
DEPUTY ATTORNEY GENERAL

November 17, 2015

Jason Walta, Esq.  
National Education Association  
1201 16<sup>th</sup> Street, N.W.  
Washington, D.C. 20036

Re: NEA Advocacy Fund

Dear Attorney Walta:

The Attorney General's Office received a complaint on October 24, 2014, regarding certain mailings sponsored by NEA Advocacy Fund (hereinafter "NEA"). In substance the complaint contends that NEA's registration was not received by the secretary of state within 48 hours after the committee met at least one of the criteria under RSA 664:2, III, as required by RSA 664:3, I. The complaint then alleges that the NEA's registration was received by the secretary of state on October 17, 2014 and that NEA was responsible for flyers advocating the success of Linda Tanner in the race for the New Hampshire Senate District 8 seat, which were received by voters on October 21, 2014. The complainant speculates that the financial obligation made by NEA to pay for development and distribution of the communication was made weeks prior to October 17, 2014.

RSA 664:3, I, requires that a political committee's registration be received by the secretary of state not later than 48 hours after its formation under one of the criteria specified by RSA 664:2, III. The criteria relevant to NEA is set by RSA 664:2, III (c), which defines a "political committee" as "[a]ny organization that has as its major purpose to promote the success or defeat of a candidate or candidates or measure or measures and whose receipts or expenditures total \$2,500 or more in a calendar year for that purpose." An "Expenditure" is defined as a "disbursement of money or thing of value or *the making of a legally binding commitment to make such a disbursement in the future* or the transfer of funds by a political committee to another political committee or to a candidate for the purpose of promoting the success or defeat of a candidate or candidates or measure or measures." RSA 664:2, IX (*emphasis added*).

A review of records from the New Hampshire Secretary of State's Office (hereinafter "the Office") supports the allegation that your registration was received by the Office on October 17, 2014. NEA's purpose as expressed by its registration is to "[m]ake independent expenditures involving New Hampshire candidates." According to NEA's itemized statement of receipts and

Jason Walta, Esq.  
Re: NEA Advocacy Fund  
November 17, 2015

expenditures dated October 29, 2014, NEA made a payment to Mission Control Inc. for the design, printing and postage of the first flyer on October 20, 2014. The complainant alleges the mailing was received the next day. Based on our recent conversation NEA has an open contract with Mission Control, Inc., whereby orders are placed over the phone, as needed, with a quick turnaround time.

As stated above, to be compliant with the RSA 664:3, I, NEA's registration must have been received by the secretary of state within 48 hours of placing the order for the mailings with Mission Control, Inc., which created a legally binding commitment to make a disbursement of money in the future. In the current case the order for the mailings should not have been made prior to October 15, 2014, as NEA's registration was received by the secretary of state on October 17, 2014. Although the complainant has presented some circumstantial evidence to support his allegations, there is not enough evidence to proceed with an enforcement action, nor do I believe such an action would be warranted on the first offense of a violation of this nature.

Sincerely,



Stephen G. LaBonte  
Assistant Attorney General  
Civil Bureau  
(603) 271-3658  
Fax: (603) 223-6296

Cc: Gordon Allen

**ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6397

JOSEPH A. FOSTER  
ATTORNEY GENERAL



ANN M. RICE  
DEPUTY ATTORNEY GENERAL

December 14, 2015

James O'Shaughnessy, Esq.  
Drummond Woodsum  
1001 Elm Street, Suite 303  
Manchester, NH 03101-1845

Re: Incompatibility of Offices Complaint

Dear Attorney O'Shaughnessy:

I am writing in response to your complaint filed on behalf of the Timberlane Regional School District (hereinafter "Timberlane") regarding the incompatibility of offices held by Joshua Horns. According to the complaint, Timberlane is a cooperative school district comprised of the Towns of Atkinson, Danville, Plaistow and Sandown. The complaint alleges that Mr. Horns is a member of Timberlane's Budget Committee, while at the same time serving on the Town of Danville's Board of Selectman.

RSA 669:7 states in pertinent part that "[n]o selectman, town manager, school board member except a cooperative school board member, full-time town, village district, school district except a cooperative school district, or other associated agency employee or village district commissioner shall at the same time serve as a budget committee member-at-large under RSA 32." Also relevant to this discussion is RSA 32:15, V, which similarly provides that "[n]o selectman, town manager, member of the school board, village district commissioner, full-time employee, or part-time department head of the town, school district or village district or other associated agency shall serve as a member-at-large." Budget committee membership specific to a cooperative school district is governed by RSA 195:12-a, I, which prohibits cooperative school board members from serving on the respective district's budget committee, with the exception of one school board member appointed by the board's chairperson.

The above statutory scheme has been interpreted to apply to offices within the same political subdivision, meaning that a member of the governing body cannot serve as a member-at-large on the budget committee serving the same political subdivision. The common law doctrine of incompatible of offices precludes an individual from holding two offices when one office is subordinate to the other, as the governmental checks and balances are eliminated because an individual is reviewing his or her own work. *Town of Littleton v. Taylor*, 138 N.H. 419, 423 (1994).

Timberlane Regional School District  
Re: Incompatibility of Offices Complaint  
December 14, 2015  
Page 3

confer with Timberlane's school board and school officials relative to estimated costs and revenues; (3) conduct the public hearings required under RSA 32:5, I; and (4) to forward copies of the final budget to the school district clerk and to deliver two copies of the budgets and recommendations upon special warrant articles to the school board at least twenty days before the date set for the annual or special meeting. Where Timberlane is a cooperative school district, the budget committee is not accountable to the Town of Danville Board of Selectman. As such, it does not appear that holding both the offices of selectman and cooperative school district budget committee member offends the common law doctrine of incompatible offices.

The fact that Timberlane is a cooperative school district is a distinguishing characteristic in the context of incompatible offices as prescribed by statute. A cooperative school district is expressly authorized by the legislature to establish a budget committee. RSA 32:14, I (b). If a school district lies wholly within a town authorized to establish a budget committee, such a school district is served by that town's budget committee and membership on the committee would be governed by RSA 32:15. RSA 32:16, I. Timberlane is a cooperative school district, thus membership on its budget committee is governed by RSA 195:12-a, I. *See Sanborn Regional Sch. Dist. v. Budget Comm. of the Sanborn Regional Sch. Dist.*, 150 N.H. 241, 244 (2003) ("RSA chapter 195 deals specifically with cooperative school districts while RSA chapter 32 pertains more generally to municipal budget committees, RSA chapter 195 controls over conflicting provisions of RSA chapter 32."). Where RSA 195:12-a, I, expressly bars all but one school board member from serving on the district's budget committee and holds no such prohibition for selectman of its member towns, we do not believe the offices of selectman and budget committee member of a cooperative school district are incompatible by statute.

If you have any further questions do not hesitate to contact me.

Sincerely,



Stephen G. LaBonte  
Assistant Attorney General  
Civil Bureau  
603-271-3650

Cc: Joshua Horns, Selectman  
David Scanlan, Deputy Secretary of State

1314198

## MEMORANDUM

To: File

From: Stephen G. LaBonte

Matter Id. # 2012100977

Date: May 7, 2015

---

On January 23, 2015, I spoke with Phil Greazzo concerning his complaint regarding Senator D'Allesandro's campaign expenditures filed prior to the 2012 General Election shortly after the state primary. I advised him that based on the statutory construction of RSA Chapter 664 a candidate has considerable discretion on the use campaign funds as opposed to surplus funds. I explained that under RSA 664:4-b surplus funds may be used for fundraising, politically related activities, and donations to charitable organizations. Mr. Greazzo said he understood that before the election a candidate can use funds however he wanted but after its only for the limited purpose. I said depending on how the funds were raised other statutes may apply outside the election laws.

I further explained that we asked the senator to provide information regarding the expenditures he (Greazzo) identified and that the senator was able to provide explanations for each expenditure regulated by RSA 664:4-b. He responded saying that he didn't understand how buying flowers for his wife would not be a personal expense. I explained that there was no evidence to indicate that he used the money to buy flowers for his wife and that his (Greazzo's) complaint was not specific enough to be construed to make that allegation, however buying flowers for campaign volunteers would be viewed as political activity. I further explained the reason for this is that the term "political activity" is broad enough to include any expense related to the campaign and the office he or she holds, in other words to bring an enforcement action we would have to have evidence of personal use and there was none here.

He expressed his displeasure and said it shouldn't have taken this long to get an answer. The call then ended.

# Events Listing with Children

27.13

Matter ID/Client Sort Matter Description	Initials	Event Date	Notes
2013104092 / Department of SAAB, THOMAS J. - ALLEGED	PEB	5/26/2015 11:12	A review of the dates shows that Saab did not vote in NH & MA during the same election. There is nothing to show that Saab intentionally gave Lawrence, MA rather than Salisbury, MA for prior reg. location. It appears the voting on 01/10/12 could have been his son Thomas Saab III and the person doing the checklist could have made an error. All efforts have been exhausted. CLOSE.

Saab registers in Salem in 2004  
he and his wife own summer house  
in Salisbury, MA. They separate in  
2011. 1/08 NH Primary Salem NH  
5/08 Town Meeting Salisbury MA  
11/08 General/Presidential Salem  
11/12 Primary Salem - not seen  
11/12 Salisbury  
claims he's going to moving

2014108032  
6.14

MEMORANDUM

TO: File #2014108032 – Greenfield Select Board  
FROM: Stephen G. LaBonte *SGL*  
DATE: August 27, 2015

---

**I. COMPLAINT**

This complaint was filed on 02/06/14 by Brendan Minnihan alleging that the Greenfield Select Board used public funds to mail out a flyer regarding the ConVal School District budget and that the information contained in the flyer was inaccurate

**II. FACTUAL BACKGROUND**

On 02/06/14, Paul Brodeur interviewed the Town Administrator, Aaron Patt. Patt advised that a similar item had gone out in 2013, showing a graph of the expenses for the school district on the tax rate. Selectperson Karen Day had prepared the flyer and the other Selectmen approved of the item prior to it being sent out to the voters. Patt further advised that he had duplicated the sheet at Town Hall and had determined from the US Postal Service how many copies would be needed to be delivered to each household in Greenfield, NH. The total was 695 copies at a cost of \$121.63.

On 04/07/14 Paul Brodeur met with Karen Day along with her legal counsel. Day advised that she developed the informational page in 2013 based on budgets and warrant articles for the school district. She further advised that she updated the item for 2014 again using the current budgets and warrant articles. The sheet had been approved on 01/30/14 and the 695 copies had been made and ready to be mailed. The date was changed because of an impending snow storm therefore the first 695 copies were discarded and another 695 copies with the amended date were made. Day advised that the Selectmen knew and directed Patt to incur the expense of duplication and mailing.

**III. RELEVANT STATUTES**

**RSA 659:44 Electioneering at the Polling Place.** – No election officer shall electioneer while in the performance of his official duties. For the purposes of this section, "electioneer" shall mean to act in any way specifically designed to influence the vote of a voter on any question or office.

**RSA 652:14 Election Officer.** – "Election officer" shall mean any moderator, deputy moderator, assistant moderator, town clerk, deputy town clerk, city clerk, deputy city clerk, ward clerk, selectman, supervisor of the checklist, registrar, or deputy registrar.



**RSA 659:44-a Electioneering by Public Employees.** – No public employee, as defined in RSA 273-A:1, IX, shall electioneer while in the performance of his or her official duties or use government property, including, but not limited to, telephones, facsimile machines, vehicles, and computers, for electioneering. For the purposes of this section, "electioneer" means to act in any way specifically designed to influence the vote of a voter on any question or office. Any person who violates this section shall be guilty of a misdemeanor.

**RSA 273-A:1, IX. "Public employee"** means any person employed by a public employer except:

- (a) Persons elected by popular vote;
  - (b) Persons appointed to office by the chief executive or legislative body of the public employer;
  - (c) Persons whose duties imply a confidential relationship to the public employer; or
  - (d) Persons in a probationary or temporary status, or employed seasonally, irregularly or on call.
- For the purposes of this chapter, however, no employee shall be determined to be in a probationary status who shall have been employed for more than 12 months or who has an individual contract with his employer, nor shall any employee be determined to be in a temporary status solely by reason of the source of funding of the position in which he is employed.

**RSA 273-A:1, VII. "Legislative body"** means that governmental body having the power to appropriate public money. The legislative body of the state community college system and university system shall be the board of trustees.

**RSA 37:2 Appointment of Manager.** – The selectmen of towns adopting the provisions of this chapter, as herein provided, shall forthwith thereafter appoint a town manager who may or may not, when appointed, be a resident of the town or state.

**RSA 32:3, I. "Appropriate"** means to set apart from the public revenue of a municipality a certain sum for a specified purpose and to authorize the expenditure of that sum for that purpose.

#### **IV. ANALYSIS**

Selectmen by definition are election officers pursuant to RSA 652:14. However, a selectman does not serve in the capacity of an election officer within a school district, as it is a separate political subdivision. This is not to say that a selectman attempting to influence the vote of a voter, at a polling place that is simultaneously holding a town and school election pursuant to RSA 671:22, would not be a violation of RSA 659:44. Based on the substance of the flyer it appear its purpose was to encourage voters to attend the school district's deliberative session in order to amend the warrant article pertaining to the budget. Where the school district is a separate political subdivision from the Town of Greenfield there is no violation of RSA 659:44. Whether the use of public funds to develop and mail the flyers was appropriate is a question to be answered by the voters at the town election.

Regarding Mr. Patt's involvement with the reproduction and distribution of the flyers, Mr. Patt as the town administrator was appointed by the selectmen, who have the power to

appropriate money making them the legislative body with regard to RSA 273-A:1, VII. Thus, Mr. Pratt is not a public employee under RSA 273-A:1, IX. As such, there was no violation of RSA 659:44-a.

1257252

ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE

33 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6397

JOSEPH A. FOSTER  
ATTORNEY GENERAL



May 13, 2015

Robert H. Pearson III, Moderator

[REDACTED]  
Webster, NH 03303

Re: March 2014 Election

Dear Moderator Pearson:

You may recall that I spoke with you regarding reported issues that took place during the March 2014 elections. Those issues were voter assistance, electioneering and voter ID.

I determined after the discussion with you that you are aware of the procedures required to be in compliance with the above matters. I spoke with the newly registered voters and it appears from their responses that you were not made aware of their need of assistance and who ever registered them did not require any affidavits to be completed again unbeknownst to you.

We also discussed people being behind the guard rail. You acknowledged that your son and grand-children were there and that there were no other voters present at the time. You acknowledged knowing that anyone not voting is not allowed behind the guard rail. I would suggest rather than chairs being the guard rail that something else that wouldn't allow someone to sit and talk within the guard rail would be more appropriate. I was advised the reported electioneering was not election related.

There have been a number of law changes in the Election Statutes. I presume you have received the up to date Procedure Manual and Election Law RSAs but if not please contact the Secretary of State's Office and request the updated material. There is also ongoing training being conducted by the Help America Vote Act (HAVA) personnel that may be of some assistance. You can reach them at 603-271-8241.

Sincerely,

Handwritten signature of Paul E. Brodeur in cursive.

Paul E. Brodeur  
Investigator  
Civil Bureau  
(603) 271-3650  
Fax: (603) 223-6245  
paul.brodeur@doj.nh.gov

PEB/peb

pc: Ellen Kontinos-Cilley, Supervisor  
Michele Derby, Town Clerk

Michele R. Derby, Town Clerk  
945 Battle Street  
Webster, NH 03303

Ellen Kontinos-Cilley  
[REDACTED]  
Contoocook, NH 03229

6-1-10

ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE

33 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6397

JOSEPH A. FOSTER  
ATTORNEY GENERAL

ANN M. RICE  
DEPUTY ATTORNEY GENERAL



May 13, 2015

Ellen Kontinos-Cilley, Supervisor  
[REDACTED]  
Contoocook, NH 03229

Re: March 2014 Election

Dear Supervisor Kontinos-Cilley:

We have discussed my findings and this letter is to memorialize and close our file.

You were concerned about voter assistance, electioneering and voter ID.

I spoke with Barbara Couch and three of the residents that had registered on March 11, 2014. William Stevens advised he did not have an ID and Bob Pearson vouched for him. Whoever registered Mr. Stevens did not require him to complete any other affidavits. Ronald Silver showed his Social Security card and was vouched for by Bob Pearson who is his cousin. He also was not required to complete any affidavits. Mr. Silver advised that he could not find the name of Pearson on the ballot and Ms. Couch merely pointed to its location for him. And Kenneth Douglas was assisted by Ms. Couch in walking to a booth. Each of the people I spoke with indicated they voted for Pearson because they knew him or that he had taken the time to stop by the Austin House and introduce himself. All of the voters indicated they were not influenced by anyone on how or who to vote for.

Moderator Pearson acknowledged that his family was within the rail when he picked up his grand-daughter. I recommended he arrange the guard rail differently. I was advised that the electioneering was Mr. Pearson seeking assistance with the Veteran's Memorial and that the person had cast their ballot and was in no way influenced regarding election issues.

I presume this is responsive to your concerns and assuring you of our cooperation, I remain.

Sincerely,

Handwritten signature of Paul E. Brodeur in cursive.

Paul E. Brodeur  
Investigator  
Civil Bureau  
(603) 271-3650  
Fax: (603) 223-6245  
paul.brodeur@doj.nh.gov

PEB/peb  
Email delivery: Mike Jette

7934

REPUBLICAN  
DEPARTMENT OF JUSTICE  
33 CAPITAL STREET  
CONCORD, NEW HAMPSHIRE 03301-0007

JOSEPH A. POSTER  
ATTORNEY GENERAL

ANN M. RICE  
DEPUTY ATTORNEY GENERAL



May 19, 2015

Eric Fisk  
[REDACTED]

Rindge, N.H. 03461

Re: **CEASE & DESIST - Violation of RSA 664:14**

Dear Mr. Fisk:

The New Hampshire Attorney General's Office received a complaint on September 24, 2014, concerning a website (electpatmartin.com) advocating the defeat of Patricia Martin for the New Hampshire House Representatives. The basis of the complaint was that the website did not contain the proper disclosure required by RSA 664:14. This letter follows an investigation conducted by the New Hampshire Attorney General's Office.

RSA 664:14, I, provides in pertinent part:

All political advertising shall be signed at the beginning or the end with the names and addresses of the candidate, his fiscal agent, or the name and address of the chairman or the treasurer of a political committee, or the name and address of a natural person, according to whether a candidate, political committee, or natural person is responsible for it.<sup>1</sup>

"Political advertising" is defined as "any communication . . . which expressly or implicitly advocates the success or defeat of any party, measure or person at any election." RSA 664:2, VI (emphasis added). The words "or implicitly" were struck from this statute by the U.S. District Court for the District of New Hampshire because they were "impermissibly vague." See Stenson v. McLaughlin, 2001 WL 1033614, 5, 7 (D.N.H. Aug. 24, 2001) (permanently enjoining the New Hampshire Attorney General "from enforcing RSA 664:14 and RSA 664:16 against any

<sup>1</sup> Senate Bill 378 amended RSA 664:14, effective on August 15, 2014, by adding paragraph VIII, which allows political advertising in the form of signs or placards to contain an Internet address in lieu of the signature and identification requirements, provided the Internet address is clearly legible and the website immediately and prominently displays all of the information required by the statute through election day.

individual or organization engaging in political advertising that implicitly advocates the success or defeat of any party, measure or person at any election”). The United States Supreme Court has held that express advocacy communications are those which contain “express words of advocacy of election or defeat, such as ‘vote for,’ ‘elect,’ ‘support,’ ‘cast your ballot for,’ ‘Smith for Congress,’ ‘vote against,’ ‘defeat,’ ‘reject.’” Buckley v. Valeo, 424 U.S. 1, at 44 n. 52, 80 n. 108.

While the Court in *Buckley* listed the “magic words” of express advocacy, its use of the phrase “such as” before those words, and its subsequent decision in *Federal Election Commission v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238 (1986) indicate that express advocacy advertisements are not limited to communications that contain the *Buckley* “magic words.” In *Massachusetts Citizens for Life, Inc.*, the Court held that a print communication that directed readers to vote for pro-life candidates and identified and depicted specific pro-life candidates constituted express advocacy, because although it failed to directly tell the readers to vote for a specific candidate “it provide[d] in effect an explicit directive: vote for these (named) candidates.” *Massachusetts Citizens for Life, Inc.*, 479 U.S. at 249 (emphasis added); *see also League of Women Voters v. Davidson*, 23 P.3d 1266, 1277 (Colo.App. 2001) (holding that express advocacy as defined in a Colorado statute required the use of the “magic words” from *Buckley* or other substantially similar and synonymous words).

The “name” and “address” requirements in RSA 664:14 have been interpreted by this office to mean that political advertising must contain the name and address of the individual or entity responsible for the advertising. Also, as RSA 664:14 does not define the term “address,” this office has determined that a political advertisement satisfies the disclosure requirement if it lists an address, whether it be a domicile, mailing, website or email address, that allows someone to contact the person or entity responsible for the advertisement.

Investigator Paul Brodeur of this office conducted the investigation. The complainant linked the website back to an Internet company known as Domains by Proxy, LLC. This information was provided to Investigator Brodeur. Under the authority granted by RSA 7:6-b Investigator Brodeur subpoenaed any and all records related to the website electpatmartin.com from Domains by Proxy, LLC. These records identified you, Eric Fisk, as the registrant contact, administrative contact, technical contact and billing contact.

A review of the website revealed it was in violation of RSA 664:14, I, in that it expressly advocated the defeat of Pat Martin in the 2014 general election for the New Hampshire House of Representatives<sup>2</sup> and the site did not contain the proper disclosure requirements as discussed above. Be advised that any future political advertising in which you are associated with the production thereof must contain the required disclosures as specified above. Failure to comply with RSA 664:14 may result in an enforcement action and/or prosecution in New Hampshire Superior Court. Although we now consider this matter closed with regard to the 2014 Election this **Cease and Desist** order applies to all future elections.


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<sup>2</sup> When entering the site the viewer was confronted with the language “(Don’t!) Elect Pat Martin.”

Rindge Anonymous  
May 19, 2015  
Cease and Desist  
Page 3

If you have any further questions please do not hesitate to contact me.

Sincerely,



Stephen G. LaBonte  
Assistant Attorney General  
Civil Bureau  
33 Capitol Street  
Concord, N.H. 03301  
(603) 271-3658  
Fax: (603) 223-6296

cc: Patricia Martin

SGL/dlb



**Brodeur, Paul**

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**From:** Brodeur, Paul  
**Sent:** Wednesday, June 10, 2015 1:54 PM  
**To:** [REDACTED]@yahoo.com  
**Subject:** Luce Research

Mr. Mallen: I finally connected with the owner of Luce Research a Kenyon Luce. He researched our complaint and did determine that you received a number of calls. He also advised that the employee that had called you had left the employ of Luce Research. Mr. Luce indicated he had left in good standing but because of your complaint will note accordingly in event of any calls for a reference.

Paul. E. Brodeur, Investigator  
Department of Justice  
Office of the Attorney General  
33 Capitol Street  
Concord, NH 03301  
(603)271-3650  
fax (603)223-6245  
91st Session FBINAA



**Buonamano, Brian W**

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**From:** Brodeur, Paul  
**Sent:** Tuesday, May 26, 2015 3:14 PM  
**To:** [REDACTED]@aol.com  
**Subject:** Sign on your property

Representative Emerson: I have spoke with Chief Muilenberg and other parties that you identified. Chief Muilenberg being new to the community was not able to offer any insights. I spoke with the other parties and all deny any involvement in placing a sign on your property. We have exhausted our efforts at this time and will be suspending our investigation.

Paul. E. Brodeur, Investigator  
Department of Justice  
Office of the Attorney General  
33 Capitol Street  
Concord, NH 03301  
(603)271-3650  
fax (603)223-6245  
91st Session FBINAA



## CONSENT AGREEMENT

This Consent Agreement is entered into by and between, the State of New Hampshire, Office of the Attorney General, 33 Capitol Street, Concord, New Hampshire 03301 (“State”), and Nancy J. Sullivan, [REDACTED], Windham, New Hampshire 03087 (“Ms. Sullivan”) (collectively referred to as the “Parties”), as of the effective date specified herein. The parties hereby agree to undertake the following:

1. This consent agreement is entered into between the parties as stated above in order to resolve the State’s claim of an alleged violation of the New Hampshire voter fraud statute, RSA 659:34, I (c), during the 2014 General Election.

2. Under New Hampshire law, a person is subject to a civil penalty not to exceed \$5,000, if such person applies for a ballot in a name other than his or her own. RSA 659:34, I (c). A person is likewise guilty of a class A misdemeanor, if such person purposely or knowingly commits a violation of RSA 659:34, I (c). *See* RSA 659:34, II.

3. The State alleges in this matter that Nancy J. Sullivan applied for a ballot in a name other than her own, in that Nancy J. Sullivan completed a State of New Hampshire absentee ballot application utilizing the personal identifying information of Avery S. Galloway and signing Mr. Galloway’s name on the signature line. On October 30, 2014, Ms. Sullivan personally submitted the application to the Windham Town Clerk’s Office.

5. This Consent Agreement is intended to resolve all of the State’s claims and potential claims against Ms. Sullivan under RSA 659:34 in connection with the conduct alleged in paragraph 3.

6. Nancy J. Sullivan agrees to pay a total of \$250.00 to the State of New Hampshire for the violation of RSA 659:34, I (c), alleged in paragraph 3. The payment of this amount shall be submitted by or before October 23, 2015.

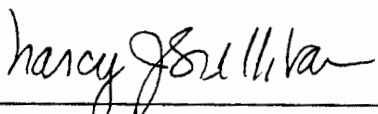
9. The payment shall be made by check drawn in the name of "Treasurer, State of New Hampshire," and shall be mailed to Office of the Attorney General, 33 Capitol Street, Concord, New Hampshire 03301, Attn: Assistant Attorney General Stephen G. LaBonte.

10. The effective date of this Consent Agreement shall be 10/5/2015

11. This Consent Agreement shall be construed in accordance with the laws of the State of New Hampshire.

NANCY J. SULLIVAN

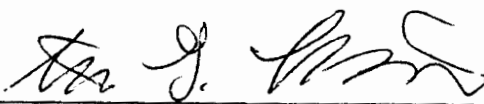
Date: 9/25/2015

  
By: Nancy J. Sullivan

STATE OF NEW HAMPSHIRE

JOSEPH A. FOSTER, ATTORNEY GENERAL

Date: 10/5/2015

  
By: Stephen G. LaBonte, Esq.  
Assistant Attorney General  
33 Capitol Street  
Concord, New Hampshire 03301  
(603) 271-3650

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**ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6397

JOSEPH A. FOSTER  
ATTORNEY GENERAL

ANN M. RICE  
DEPUTY ATTORNEY GENERAL



August 14, 2015

Seelye Longnecker

[REDACTED]  
Salisbury, NH 03268

Re: CEASE & DESIST - VIOLATION RSA 659:43

Dear Ms. Longnecker:

On March 10, 2015, the New Hampshire Secretary of State's Office received a complaint from Louise Andrus regarding the distribution of campaign materials within the building where the Merrimack Valley School District Election was being held this past March. The complaint alleges that you were "handing out notices to vote for [you] inside the building." This letter follows an investigation into these allegations.

RSA 659:43, I, the statute which regulates the distribution of campaign materials at the polling place, states as follows:

No person who is a candidate for office or who is representing or working for a candidate shall distribute or post at a polling place any campaign material in the form of a poster, card, handbill, placard, picture, or circular which is intended to influence the action of the voter within the building where the election is being held.

In the course of this investigation Jack Mulder, a school district voter was interviewed. Mr. Mulder advised that at the entrance of the school there are double doors leading into what he referred to as a lobby and then a 2<sup>nd</sup> set of double doors leading into the school itself. He further explained, that as he entered the building you were standing between the 1<sup>st</sup> and 2<sup>nd</sup> set of double doors. As he approached, you introduced yourself and handed him a slip of paper asking for his vote. When interviewed by Investigator Paul Brodeur, you advised that you were running for re-election to a 3 year term on the school board and that for years you had seen others handing out campaign material in the outer lobby and didn't believe it was an issue.

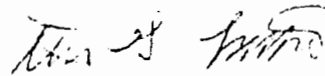
Based on the facts revealed by our investigation, it is our conclusion that you violated RSA 659:43, I, by distributing campaign material intended to influence the action of the voters within the building where the Merrimack Valley School District Election was being held on

Seelye Longnecker  
August 14, 2015  
Page 2 of 2

March 5, 2015. Under the authority granted by RSA 7:6-c and RSA 666:8, you are hereby ordered to **CEASE AND DESIST** the above conduct at all future elections within the school district and other political subdivisions within the State of New Hampshire. Failure to comply with this cease and desist order may result in a civil penalty in an amount not to exceed \$1,000 per violation.

If you have any questions or would like to discuss this matter further, please do not hesitate to contact me at the number listed below.

Sincerely,



Stephen G. LaBonte  
Assistant Attorney General  
Civil Bureau  
(603) 271-3658  
Fax: (603) 223-6296

cc: Louise Andrus  
James O'Shaughnessy, Esq.