



FOR IMMEDIATE RELEASE
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FINDINGS IN THE COMPLAINT OF
DAVID STERN V. RAYMOND CALLANAN
COMPLAINT 2005-1

Fair Campaign Practices for the Capital Region, Inc. (FCP) held a hearing on October 31, 2005 to consider a complaint made by David Stern, a candidate for Supervisor of the Town of Ballston, against his opponent Raymond Callanan. Present were Hearing Panel members Aimee Allaud, Joan Elliott, Elizabeth Smith-Holmes, Eugene Rowland, Coordinator Betsey Swan, and *ex officio* designee of the Rensselaer Democratic Party James Conroy. Mr. Stern appeared at the hearing. Mr. Callanan failed to respond to the complaint, either in person or in writing.

Mr. Stern complained that Mr. Callanan engaged in unfair campaign practices by circulating or failing to repudiate unfair and misleading political flyers distributed by the Saratoga County Republican Committee. Although the Republican Committee has mailed additional flyers similar in content to those discussed in this complaint, only the first two flyers will be discussed here.

The first flyer pictured Mr. Stern as a puppet of Manhattan liberals. It claimed he had accepted fundraising support and endorsements from New York City liberals like Andrew Cuomo and the Chairman of the Manhattan Democratic Party, that he had failed to vote in local elections on odd-numbered years, and that he had proudly accepted the endorsement of the socialist Working Families Party (WFP), which, according to its website, advocated a radical agenda of raising the state income taxes of Ballston residents and granting non-citizens the right to vote in state and local elections. The mailing then concluded that David Stern's support from New York City politicians was dangerous to Ballston's small town values.

The second flyer referred to David Stern's strange devotion to New York City politicians and their radical liberal agenda. It again characterized the platform of the Working Families Party as advocating higher state income taxes and county

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and municipal taxes for Ballston families and allowing non-citizens to vote in state and local elections. It also indicated the platform advocated \$23 Billion in new funding for New York City schools, which would mean less money for schools in the Ballston area, forcing Ballston residents to pay more money in school taxes. Lastly, the flyer pictured Mr. Stern and Mr. Cuomo together, characterizing Mr. Cuomo as Mr. Stern's Manhattan fundraiser.

At the hearing, Mr. Stern testified that he grew up on Long Island, left the metropolitan New York City area to attend college, and has lived in Ballston since graduation from college. Although he is a registered member of the Independence Party, he is running for Ballston Town Supervisor on the Democratic, Independence, and Working Families Party lines.

Mr. Stern described a two-step process to obtain the Working Families Party nomination. He first completed a multi-page questionnaire, in which he was asked his position on various issues, and then was interviewed by the WFP in Saratoga County. Mr. Stern explained that he was not in agreement with certain tenets of the WFP platform, including the position that non-citizens should be granted the right to vote in state and local elections and that there should be an infusion of \$23 Billion in new funding for New York City schools. Mr. Stern stated that he automatically became the WFP candidate for Supervisor of Ballston upon receipt of the party's designation, without the necessity of acceptance of the nomination or other action on his part.

Mr. Stern briefly discussed the platform on which he is running for Supervisor. One of his major campaign issues is the control of suburban sprawl and opposition to the building of a Wal-Mart. He has not advocated the raising of taxes for Ballston residents. Neither does he support giving non-citizens the vote, although the WFP platform supports this position.

Mr. Stern then described the funding of his campaign. He has received contributions from his in-laws on Long Island. With that exception, he has received no funding from the metropolitan New York City area, and he has received no funding from Manhattan politicians or anyone else in Manhattan. Neither has the WFP supported his campaign financially. Similarly, Mr. Stern has not been endorsed by Andrew Cuomo, the Chairman of the Manhattan Democratic Party, or any other New York City politician or public figure. Although Mr. Cuomo did appear at a local fundraiser held by the Saratoga Democratic Party, Mr. Cuomo served as the draw, neither contributing financially to the event nor endorsing candidates.

Mr. Stern admitted that he had failed to vote in local elections held on odd years and stated that some of these elections had been uncontested.

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FINDINGS WITH RESPECT TO FIRST FLYER – UNFAIR CAMPAIGN PRACTICE

The first flyer was clearly misleading in that it misrepresented facts about Mr. Stern and his campaign. Mr. Stern testified that he has received neither endorsement nor funding from Andrew Cuomo, the Chairman of the Manhattan Democratic Party or any other New York City politician. Although Mr. Stern received the nomination of the Working Families Party, that nomination is not, standing alone, the equivalent of his endorsement of all aspects of the WFP platform and should not be characterized as such.

The flyer also mischaracterized the agenda of the Working Families Party as stated on its website, to include raising of the state income taxes of Ballston citizens. A review of the WFP website indicates the party advocates raising income taxes for the highest earners in the state. There is no reference to the Ballston area or how many voters in that area might be affected by such increases. Given that the flyer was circulated to Ballston voters, it cannot be said that the flyer was accurate with respect to its intended audience.

Beyond its obvious misstatements of fact, the flyer falls short of fair campaign practice standards in that it relies on innuendo to erroneously imply that Mr. Stern is a tax and spend big-city liberal who is neither rooted in Saratoga County nor has appreciation for the small-town values of the Town he seeks to represent. The flyer achieves its effect by the layering of buzzwords meant to evoke a fear response on the part of voters with misinformation about both the positions of Mr. Stern and the WFP and the sources of Mr. Stern's support. Words like "Manhattan Liberal," "David Stern **proudly accepted** the endorsement of the **socialist** Working Families Party," (emphasis added) and "David Stern's support from New York City politicians is DANGEROUS to our small town values," when coupled with the flyer's factual inaccuracies, create an insidious distortion of Mr. Stern's campaign.

While FCP supports the robust debate of issues, when debate consists of misleading innuendo coupled with factual inaccuracy, it crosses the line into the realm of unfair campaign practice. Here, although the flyer contained an unfair and misleading attack on Mr. Stern's beliefs and character and misrepresented the platform of the WFP, in violation of the underlying precepts of principles two and four of FCP's Statement of Principles, there is no evidence that the Callanan campaign was involved in publication of the flyer. Mr. Callanan therefore cannot be said to have participated in, permitted, or condoned the misleading statements. Mr. Callanan did, however, violate FCP's seventh principle, which requires a candidate to promptly and publicly disavow the materials or actions of any individual whose activities would violate the principles if engaged in by the candidate's campaign. The duty to disavow relates not to the fact of initial publication but to the candidate's duty to distance himself from the misleading

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materials. Disavowal can take many forms, such as a letter to the editor or other form of public pronouncement. In this case, Mr. Callanan made no attempt to publicly disavow the materials, thereby violating the seventh principle of FCP's Statement of Principles.

FINDINGS WITH RESPECT TO SECOND FLYER – UNFAIR CAMPAIGN PRACTICE

The second flyer reiterated misleading statements contained in the first and again relied on buzzwords to mischaracterize Mr. Stern's candidacy. Additionally, it indicated that the WFP platform included higher municipal and county taxes for Ballston families and \$23 Billion in new funding for New York City Schools, which would mean less state money for upstate schools in the Ballston area and higher school taxes for Ballston residents. In fact, the WFP recommends partial replacement of local property taxes with a local income tax, which is generally considered to be more reflective of individual taxpayers' abilities to pay. Similarly, a bill introduced to assure the State provides adequate funding to guarantee all state schoolchildren their state constitutional right to a sound basic education would not result in less money for upstate schools. Rather, it would result in an 89.6% annual increase of state education funding for the Ballston Spa Central School District and a 27.3% annual increase for the Burnt Hills - Ballston Lake Central School District upon full implementation. Thus, the two school districts within the Town's border would each receive substantial increases in state funding.

Mr. Callanan's failure to disavow the inaccurate and misleading statements in the second flyer constituted an unfair campaign practice in violation of FCP's seventh principle.

If a candidate or campaign wishes to quote from this Finding, FCP requires that the Finding be quoted in its entirety. FCP regards selective quotation of its Findings as an Unfair Campaign Practice.