



FOR IMMEDIATE RELEASE
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FINDINGS IN THE COMPLAINT OF
PATTI SOUTHWORTH AGAINST MARY BETH HYNES
COMPLAINT 2006-4

Fair Campaign Practices for the Capital Region, Inc. (FCP) held a hearing on November 3, 2006 to consider a complaint made by Patti Southworth against Mary Beth Hynes. Both are candidates for the office of Town Councilwoman of Ballston Spa. Present were Hearing Panel members James Miller (Chair), Ruth Dinowitz, Joanne Esposito, and Eugene Rowland, along with Coordinator Betsey Swan. Ms. Southworth appeared in person and through her representative Jordon Baugh. Ms. Hynes appeared through her representative Anne Crowell.

Ms. Southworth complained that a mailing of her opponent falsified and misrepresented Ms. Southworth's record, in violation of FCP principles 1, 2, and 4. The mailing in question purported to compare the stands of each candidate in the areas of "Preserving Ballston", "Keeping Ballston Town-Tax Free", "Open Government", and "Accountability", categorizing Ms. Hynes achievement in a four substantive areas as "results" and Ms. Southworth's as "talk". Ms. Hynes is the incumbent. Ms. Southworth, although having a history of community involvement, has never held elective office.

Ms. Southworth asserted the flier violated FCP's principles in eleven respects. Ms. Hynes, through her representative, claimed that the brochure was the straightforward comparison of an incumbent with a non-incumbent. While not denying Ms Southworth's community activism or leadership with respect to many issues discussed in the flier, Ms. Hynes claimed the word "record" had a specific legal meaning that implied official action. Ms. Hynes asserted that Ms. Southworth, by virtue of never having held elective office, had no record on the issues in question. Mrs. Hynes further asserted that the brochure represented the rough and tumble debate of the political arena without having crossed the line into the realm of unfair campaign practice.

Two aspects of the brochure merit special discussion.

First, the brochure contained the headline, "On the issues that will decide Ballston's future, where do the candidates stand?" It compared the two records of both candidates, thereby implying that Ms. Southworth had no stands with respect to the areas under discussion.

Distortion becomes apparent in a review of Ms. Southworth's record, which is undisputed. The flier stated Ms. Southworth has, "No record of leading the Town Council in opposing Wal-Mart." While in the technical sense this may be true because Ms. Southworth has never served on the Ballston Town

Council, to make the leap that she had no stand on the proposed location of a Wal-Mart was a clear misrepresentation of her position. In 2005 Wal-Mart proposed to locate a big box super center in Ballston, leading the Town Council to impose a moratorium on building, to adopt a Master Plan, and ultimately to the defeat of plans for the Wal-Mart facility. Ms Southworth appeared at numerous Town Council meetings, committee and board meetings in support of the moratorium and in support of a Master Plan that would specifically restrict movement of big box stores into the town. The record shows that Ms. Southworth spoke before the Town Council on February 16, 2005 in favor of the moratorium and adoption of a master plan. Once a master plan had been proposed she addressed a letter to the Town Council outlining her concerns, including concerns that the proposed plan did not take a strong enough stand against large scale retailers that provided minimum wage jobs. At the same time she was vocal before the Town Council in opposition to the citing of big box stores in the Town of Ballston, she wrote newspapers and had published letters to the editor in opposition to Wal-Mart and in support of smart growth. In an October 20, 2006 article in the Schenectady Gazette, Southworth was characterized as a vocal opponent of the Wal-Mart store.

Similarly, Southworth is characterized as having, "No record of preserving Open Space." As a characterization of her stand on open space it is clearly a misrepresentation, for she is a longstanding member of Concerned Citizens for Smart Growth, an organization committed to preservation of open space in the town.

FINDING: UNFAIR CAMPAIGN PRACTICE

Had Ms. Hynes' flier merely purported to compare the records of the two candidates, FCP would agree that it fell within the realm of rough and tumble political debate without crossing the line into unfair campaign practice. However, by characterizing the flier as an elaboration of the issues and then discussing only the official records of the candidates, the flier erroneously presented that Ms. Southworth has no stand on the issues discussed, in violation of FCP principle 4, which prohibits the use of campaign material that misrepresents, distorts, or otherwise falsifies a fact or facts regarding the opponent.

Second, under the rubric of "Accountability," the brochure stated, "Broke her promise to listen to Ballston voters when she skipped the League of Women Voters debate." The event in question was an October 26 candidates' forum sponsored by the League of Women Voters of Saratoga County. Southworth, who testified she had a prior commitment, sent a statement that was read by the moderator, in accordance with League rules. The purpose of the event was to inform the voters of candidates' positions, not to listen to voter concerns.

FINDING: UNFAIR CAMPAIGN PRACTICE

Had Ms. Hynes merely stated that Ms. Southworth had skipped the League debate, the brochure would have met acceptable standards of normal political discourse. However, by stating that Ms. Southworth had broken a promise to the voters, when the promise was totally unrelated to the purpose of the debate, the statement became a misleading attack upon the character of the opponent, in violation of FCP principle 2, which prohibits the candidate from engaging in unfair or misleading attacks upon the character of an opponent.

With the two exceptions noted above, FCP believes this flier constitutes rhetoric or political discourse of the sort that is normal and acceptable in a vigorous campaign for public office.

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.

Fair Campaign Practices For The Capital Region, Inc.

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