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Unions, think-tank spar in Connecticut

Complaint filed with attorney general

July 11, 2011

PUBLIC SECTOR UNIONS in Connecticut filed a complaint last month with the state's attorney general alleging a conservative think tank located in Hartford unlawfully tapped into the state's email system in an effort to spawn opposition to an agreement between the unions and the administration of Gov. Dan Malloy. Andrew Cowin, chairman of the Yankee Institute, accused the unions of trying to silence his think tank in an [op-ed piece](#) in Thursday's *Wall Street Journal*. What follows is the union group's original complaint followed by the response of the Yankee Institute's executive director, Fergus Cullen.

June 17 letter from Daniel E. Livingston, chief negotiator for the State Employees' Bargaining Agent Coalition, to Connecticut Attorney General George Jepsen

On behalf of the State Employees' Bargaining Agent Coalition ("SEBAC"), we hereby request that your office investigate possible violations of state law by the Yankee Institute by and through its employee, Zachary Janowski, who purports to be an "investigative reporter" and who also publishes a blog under the name of "Raising Hale." The following facts are true and correct to the best of our knowledge and belief:

1. The Yankee Institute is an alleged "non-partisan" organization dedicated to "free enterprise," privatization, and "smaller state government." The Yankee Institute is funded in part by, and connected to, such "think tanks" as the Heritage Foundation, and the Cato Institute and by billionaires such as the Koch brothers who are dedicated to the elimination of collective bargaining and the reduction or elimination of employment benefits for public employees.
2. As part of its political agenda, the Yankee Institute has sought, and continues to seek, to attack and degrade public employees, advocate moving their work to private employers, and to delegitimize and destabilize state government.
3. The Yankee Institute employs one Zach Janowski, who purports to be an "investigative reporter," but is actually employed to write and disseminate propaganda on behalf of the political goals of the Yankee Institute.
4. The State of Connecticut maintains an internal email system created and funded solely for the purpose of carrying out the functions of state government. Access to that email system is expressly denied to any "outside agencies."
5. On information and belief, the Yankee Institute has determined that its political interests are best served by the defeat of the ratification vote pending for "SEBAC 2011," a tentative agreement reached on May 27 between the Malloy administration and SEBAC. That agreement was preceded by a "framework for agreement" reached on May 13.
6. Since May 13, an orchestrated campaign of misinformation and propaganda has been created and disseminated in whole or in part by the Yankee Institute for purposes of furthering its agenda of shrinking state government through layoffs or otherwise by defeating SEBAC 2011.
7. Some parts of this campaign, no matter how misleading or downright false, are nevertheless protected political activity under

the First Amendment. Thus, SEBAC recognizes the legal (though not the moral) right of the Yankee Institute to further its political views by publishing information about public employees which is false, degrading, and even deliberately calculated to obscure the truth. However, other parts of the campaign have crossed the line into violations of state law, including but not limited to:

- a. On information and belief, obtaining access to the state email system by falsely claiming to be state employees and using assumed names, and utilizing that system and public resources in order to disseminate information which the Yankee Institute knew to be materially false and was intended to mislead public employees.
- b. On information and belief, providing material assistance to small groups of employees in efforts to disrupt the democratic voting processes by which state employees could indicate their approval or disapproval of agreements concerning their wages, benefits, and working conditions which are relegated to collective bargaining under state law.

Based upon the facts set forth above, and reasonable inferences that may be drawn from those facts, the Yankee Institute by and through its employee Zachary Janowski may have committed violations of numerous laws, in addition to those prohibiting unlawful use of state property for private purposes, including, but not limited to:

1. The Connecticut Unfair Trade Practices Act, C.G.S. §42-110a et seq.
2. Computer related offenses under C.G.S. §53a-251 et seq., and §53-451, the latter of which is specifically actionable by the Attorney General under C.G.S. §53a-453. SEBAC recognizes the right of the Yankee Institute to engage in free speech, even if it is "hurtful and its contribution to public discourse ** negligible." *Snyder v. Phelps*, 131 S. Ct. 1207,1220 (2011). However, such right depends upon the speech being lawful.

The Coalition challenges only the right of the Institute to publish its propaganda under false pretences, and through the use of state resources. The right to free speech is not a license to break the law. The Coalition requests that Attorney General investigate and take all appropriate actions authorized by state law.

June 20 response of the Yankee Institute for Public Policy, from Fergus Cullen, executive director

There are two groups of people in Connecticut: Those who enjoy the security, high pay, and generous benefits of government jobs – and the rest of us who pay for them. The unions think state employees deserve permanent jobs, automatic raises, and guaranteed health and pension benefits worth well over a million dollars per state employee. The Yankee Institute disagrees.

The union alleges that the Yankee Institute is breaking the law by opposing sweetheart labor union deals. We categorically deny all of the union's accusations made in SEBAC's desperate and paranoid June 17 letter to Attorney General Jepsen. If the unions can't provide any evidence to support their charges, they should withdraw them and apologize to the Yankee Institute before their credibility is further damaged. Without such evidence, the Attorney General has no basis for an investigation and he should say so immediately.

We understand the government unions are frustrated to have as effective a critic as the Yankee Institute. But that does not excuse the union's delusional behavior or the union's desperate attempt to use the power of the state to silence us.

We suggest SEBAC cool off with a tall glass of lemonade and some time in the shade.

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