

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Roger Pilc,
Pitney Bowes, Stamford

File No. 2014-027

AGREEMENT CONTAINING CONSENT ORDER

This agreement by and between Roger Pilc of the Town of Greenwich, County of Fairfield, State of Connecticut (hereinafter "Respondent") and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with Section 9-7b-54 of the Regulations of Connecticut State Agencies and Section 4-177(c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. Complaint was self-reported by his Attorney Brendan M. Fox, Jr. on behalf of Respondent and Pitney Bowes (hereinafter "Company").
2. Respondent reported he made a contribution: *"... on or about December 25, 2013, in the amount of \$50.00 to "Foley for CT," an exploratory committee that has been established by Mr. Tom Foley, a potential candidate for Governor in the 2014 election cycle. This contribution was not made at any organized event but rather was made by [Respondent] via the Internet by credit card."*
3. Respondent has no prior history with the Commission. Further, Mr. Foley has since declared as a Republican candidate for the nomination and election to the Office of Governor and has registered a gubernatorial candidate committee with the Commission since the time of Respondent's contribution.
4. There is no dispute that, the Company, headquartered in Stamford, Connecticut, "has been –and remains a party to various State contracts with the Executive Branch whose value equals or exceeds \$100,000.00." This complaint and investigation resulted from Respondent being made aware of a potential violation of General Statutes §9-612 (g) by a news article appearing in the *Hartford Courant*.
5. General Statutes § 9-612 provides, in pertinent part:

...

(g)(1)(F) "*Principal of a state contractor* or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, ... (v) the spouse or a dependent child who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this

subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

...

(2)(A) No state contractor, prospective state contractor, *principal of a state contractor* or principal of a prospective state contractor, with regard to a state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, *shall make a contribution to*, or solicit contributions on behalf of (i) *an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee;*

...

(C) *If a state contractor or principal of a state contractor makes or solicits a contribution prohibited under subparagraph (A) or (B) of this subdivision, as determined by the State Elections Enforcement Commission, the contracting state agency or quasi-public agency may, in the case of a state contract executed on or after the effective date of this section may void the existing contract with said contractor, and no state agency or quasi-public agency shall award the state contractor a state contract or an extension or an amendment to a state contract for one year after the election for which such contribution is made or solicited unless the commission determines that mitigating circumstances exist concerning such violation. ...*
[Emphasis added.]

6. There is no dispute that the Company is a state contractor and presently contracts with the Department of Administrative Services (DAS), which is part of the Executive Branch. The Commission notes that at all times relevant to this complaint the Company appeared on the Commission "List Two – State Contractors Prohibited from Contributing to State Wide Office Candidates." The Company did not appear on Commission List One or Three.
7. Respondent's Counsel represents, and it was confirmed upon investigation, that Respondent "... *joined the Company in June 2013, having served in various senior executive capacities in other computer-oriented companies, all of which are located outside the State of Connecticut.*"
8. After investigation, the Commission finds that Respondent has worked outside of

Connecticut since 2001, and there is credible evidence therefore that Respondent was relatively new to Connecticut (having been employed here for 6-7 months) at the time he made his one contribution on record with the Commission.

9. Nevertheless, because Respondent is an Executive Vice President at the Company, he is subject to the restrictions contained in General Statutes § 9-612(g) (1) (F) (ii), regardless of how long he has been working in Connecticut. The Commission concludes therefore that as a result of Respondent's position, the \$50.00 contribution to the exploratory committee that is subject of this self-reported complaint was a prohibited contribution in violation of § 9-612 (g) (2) (A).
10. The Commission finds that pursuant to General Statutes § 9-612 (g), a mitigating circumstances analysis is not reached unless the Commission determines that a violation has occurred. It follows that the violation by Respondent of the state contractor contribution ban, as detailed in paragraph 9 above, allows the Commission to determine whether "mitigating circumstances" exist concerning such violations pursuant to General Statutes § 9-612 (g) (2) (C).
11. General Statutes § 9-612 (g) (2) (C) provides possible relief from the mandatory contract penalty, and allows the Commission to determine whether "mitigating circumstances" exist concerning the violation. If *mitigating circumstances* are found by the Commission, the contractual penalty is not automatic, but the awarding agency retains discretion to amend a contract or award a new contract. The agency may still void a contract at its discretion if a violation of § 9-612 (g) (2) (C) occurs, even if mitigating circumstances are found pursuant to that section.
12. In determining whether circumstances are "mitigating," the Commission deems it necessary to consider any circumstances pertaining to the contribution by Respondent and the recipient candidate, committee and its agents, as well as contracts and agreements between the Company and DAS, that would, although not excusing the conduct, tend to reduce the harm the state contractor contribution ban is designed to prevent.
13. The Commission has consistently determined that pursuant to General Statutes §9-612 (g) the state contractor ban is designed to eliminate the undue influence over the awarding of contracts that principals of state contractors who make contributions to candidate committees and exploratory committees for statewide office could wield over those state actors awarding such contracts and prevent awarding of contracts in exchange for campaign contributions. See *In the Matter of a Complaint by Carla Squatrito, et al.*, File No. 2010-112, *In the Matter of a Complaint by Gerald T. Weiner, et al.*, File No. 2010-099, *In Re David Baxter, et al.*, File No. 2009-080, *In Re Charles Shivery*, File No. 2007-381, *In the Matter of Ronald Nault and Luchs Consulting Engineers, LLC*, File No. 2007-353, *In Re JCJ Architecture*, File 2008-120 and, *In the Matter of a Complaint by Gerald T. Weiner, et al.*, File No. 2010-099.

14. The purpose of this self-reported potential violation of the state contractor contribution ban by Respondent to the Commission, was so that the Commission may determine and conclude if violations have occurred based on its review and investigation and if mitigating circumstances concerning such violations existed. The Commission determines in this instance that the following mitigating circumstances exist:
 - (1) Respondent self-reported the suspected prohibited state contractor contribution to the Commission by causing this complaint to be filed;
 - (2) If the Company is barred from contracts with DAS, it will potentially lead to various detrimental economic impacts to DAS, the State of Connecticut and its taxpayers due to the loss of services and associated costs of such contracts and contractual relations between the Company and DAS; and,
 - (3) The damaging effects to the public trust and public finances resulting from “pay-to-play” relationships, that result in the awarding of state contracts in exchange for political contributions, which General Statutes § 9-612 (g) was enacted to combat, were not present under these specific facts and circumstances relating to Respondent, the Company and DAS.
15. The Commission concludes pursuant to General Statutes § 9-612 (g) (2) (C) that *mitigating circumstances* existed pertaining to the violation found in connection with the contribution by Respondent to the committee named herein, such that the Company is not statutorily barred from continuing its negotiations to effectuate or implement any amendments to existing contracts between it and DAS.
16. The Commission determines after investigation that the policy behind General Statutes § 9-612 (g) to address “pay-to-play” schemes relating to campaign contributions and the awarding of state contracts was not circumvented under these narrow facts and circumstances and therefore allowing the Company to continue its contracting process with DAS does not compromise the state’s interests to insure integrity in its campaign financing system.
17. Accordingly, the Commission concludes that these mitigating circumstances concerning the violation by Respondent do not bar DAS pursuant to General Statutes § 9-612 (g) (2) (C) from negotiating contracts or continuing its existing contract obligations with the Company and that DAS may exercise its discretion consistent with its authority under that section.
18. Respondent admits all jurisdictional facts and agree that this Agreement and Order shall have the same force and effect as a final decision and Order entered after a full hearing and shall become final when adopted by the Commission. Respondent shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.

19. It is understood and agreed that this agreement will be submitted to the Commission at its next meeting and, if it is not accepted by the Commission, it is withdrawn by the Respondent and may not be used by either party as an admission in any subsequent hearing, if the same becomes necessary.
20. Respondent waives:
- a. any further procedural steps;
 - b. the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, separately stated; and
 - c. all rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered into pursuant to this agreement.
21. Upon Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against Respondent pertaining to this matter.

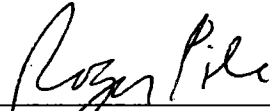
ORDER

IT IS HEREBY ORDERED THAT the Respondent shall henceforth strictly comply with the requirements of General Statutes § 9-612 (g).

IT IS HEREBY FURTHER ORDERED THAT the Respondent shall pay a civil penalty of two-hundred fifty dollars (\$250.00) to the Commission on or before July 16, 2014.

The Respondent:

BY:

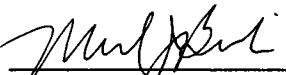


Roger Pilc
53 Winthrop Drive
Greenwich, Connecticut

Dated: 7/14/14

For the State of Connecticut:


BY:



Michael J. Brandi, Esq.,
Executive Director and General Counsel and
Authorized Representative of the
State Elections Enforcement Commission
20 Trinity Street, Suite 101
Hartford, Connecticut

Dated: 7/16/14

Adopted this 16th day of July, 2014 at Hartford, Connecticut



Anthony J. Castagno, Chairman
By Order of the Commission

**RECEIVED
STATE ELECTIONS**

JUL 16 2014

ENFORCEMENT COMMISSION