

**STATE OF CONNECTICUT**  
**STATE ELECTIONS ENFORCEMENT COMMISSION**

In Re "Committee to Elect Romano,"  
Commission Initiated Complaint

File No. 2012-036

**AGREEMENT CONTAINING CONSENT ORDER AND  
CIVIL PENALTY FOR A VIOLATION OF GENERAL STATUTES**

This agreement, by and between Brian J. Smith, City of Norwalk, 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. This complaint was predicated upon audit results and was authorized by the Commission at its March 21, 2012 monthly Commission meeting.
2. Specifically, this complaint was based on the audit finding pertaining to the receipt of goods or services for a fundraiser by "Committee to Elect Romano" (hereinafter "Committee") in excess of \$100.00 that appeared to have been donated by a business entity, as prohibited by General Statutes § 9-613. Respondent was at all times relevant to this complaint the designated treasurer of the Committee.
3. By way of background, the Committee was registered by Joanne T. Romano on May 20, 2010 for the November 2, 2010 election for the 137<sup>th</sup> Senatorial District. Ms. Romano did not participate in the Citizens' Election Program (CEP), and raised \$3,210 in contributions.
4. The donation by a business entity of goods or services for a fundraising event may be a permissible source of funds if the aggregate value of the goods or services does not exceed \$100.00. General Statutes § 9-601a (b) (12).<sup>1</sup>
5. The Respondent was cooperative, consistent and responsive with the Commission staff throughout the investigation. Respondent asserts that the Committee inadvertently accepted the in-kind goods and services described herein, and claims that he was unaware of the prohibition at the time of its receipt. Respondent indicated the restaurant is out of business and he is unable to contact the owner. The Commission finds no evidence to contradict the aforementioned representations and assertions.

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<sup>1</sup> If the aggregate value of the item or services exceed \$100.00 this is an impermissible business contribution. General Statutes § 9-613 (a). The Commission notes that a business entity may only donate goods or services that it sells or provides as part of its business.

6. General Statutes § 9-613, provides in pertinent part:

***No business entity shall make any contributions or expenditures to, or for the benefit of, any candidate's campaign for election to any public office or position subject to this chapter*** or for nomination at a primary for any such office or position, or to promote the defeat of any candidate for any such office or position. No business entity shall make any other contributions or expenditures to promote the success or defeat of any political party, except as provided in subsection (b) of this section. No business entity shall establish more than one political committee. A political committee shall be deemed to have been established by a business entity if the initial disbursement or contribution to the committee is made under subsection (b) of this section or by an officer, director, owner, limited or general partner or holder of stock constituting five per cent or more of the total outstanding stock of any class of the business entity.  
[Emphasis added.]

7. General Statutes § 9-601a, provides in pertinent part:

...  
(b) As used in this chapter and sections 9-700 to 9-716, inclusive, "contribution" does not mean:

...  
(12) ***The donation of goods or services by a business entity to a committee for a fund-raising affair***, including a tag sale or auction, ***to the extent that the cumulative value donated does not exceed one hundred dollars***;  
[Emphasis added.]

8. Upon investigation, the Commission finds that Respondent provided the following explanation for the in-kind contribution by a restaurant: "*Ambrosia's Restaurant— Peter Alatsas, Owner, donated \$250.00 towards food for October 20, 2010 Cocktails and Conversation Fundraiser for Committee to Elect Romano. Ambrosia's donated goods or services that is sells or provides as part of their business as a restaurant.*" The Commission further finds that since the time of the fundraiser the restaurant has closed and is no longer in business.

9. The Commission notes that the Respondent reported the transaction, as detailed in paragraph 8 above, under Section J3 (In-Kind Donations Not Considered Contributions) on the committee's *Itemized Campaign Finance Statement* (SEEC Form 30), as summarized below:

<b>Section of Report</b>	<b>Identifying Field (per SEEC 30)</b>	<b>Date of transaction</b>	<b>Amount of In-Kind Donation</b>	<b>Type of Report</b>
J3 In-Kind Donation Not Considered Contribution	Ambrosia's Restaurant	10/20/2010	\$250.00	Termination

10. Pursuant to General Statutes § 9-613, in-kind contributions from a business entity to a candidate committee are prohibited. The Commission finds that the Committee disclosed an as an "in-kind contribution" goods and services from a business entity valued at \$250.00, as detailed in paragraphs 8 and 9 above. The Commission concludes that Ambrosia's Restaurant as a business entity was limited by § 9-601a (b) (12) of to the donation of \$100.00 in goods in services to the Committee, and that the provision therefore of goods and services valued at \$250.00 was therefore a prohibited business entity contribution under § 9-613.
11. The Commission concludes, for the reasons stated in paragraphs 8 through 10 above, that Respondent violated General Statutes § 9-613, by receiving in-kind goods and services for a fundraiser from Ambrosia's Restaurant that exceeded the \$100.00 provision of goods and services from a business entity contribution exception pursuant to 9-601a (b) (12), thereby constituting the receipt of a prohibited business entity contribution in the amount of \$250.00.
12. The Commission notes, in this instance, there was a *single* audit examination finding resulting in this referral based on an in-kind prohibited business entity contribution in the amount of \$250.00. Further, Respondent claims that the campaign inadvertently accepted the donation of food and services during a fundraiser by a restaurant owner, and the Commission finds no evidence to contradict this explanation. Finally, the Commission notes that Respondent has no prior history with the Commission, was cooperative with Commission staff during the investigation, and has shown contrition for his error.
13. Respondent admits all jurisdictional facts and agrees 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.
14. 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 as an admission in any subsequent hearing, if the same becomes necessary.

15. 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.

16. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against Respondent.

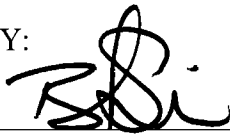
**ORDER**

IT IS HEREBY ORDERED that Respondent shall pay a civil penalty in the amount of two hundred and fifty dollars (\$250.00) no later than June 27, 2012 and shall henceforth strictly comply with General Statutes §§ 9-601a and 9-613.

The Respondent

For the State of Connecticut

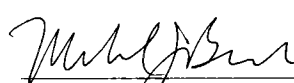
BY:



Dated:

6.15.12

BY:



Dated:

6/18/12

Brian J. Smith  
26 Prospect Avenue, #E3  
Norwalk, Connecticut

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

Adopted this 27<sup>th</sup> day of June, 2012 at Hartford, Connecticut by a vote of the Commission.



Stephen F. Cashman, Chairperson

**RECEIVED  
STATE ELECTIONS**

**JUN 18 2012**

**ENFORCEMENT COMMISSION**