

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Murray Martin,
Wilton

File No. 2013-006

AGREEMENT CONTAINING CONSENT ORDER

This agreement by and between Murray Martin of the Town of Wilton, County of Fairfield (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 self reported by Respondent, by affidavits prepared by his attorney. Complainant sought rulings on an alleged prohibited state contractor contribution by Respondent so that Pitney Bowes Inc. (PBI) could continue under future or existing contracts between it and the following Connecticut entities: Judicial Branch, Department of Motor Vehicles, Department of Information Technology, Office of Emergency Management, Department of Administrative Service; Central Mailing Services; Department of Labor, Department of Revenue, State of Connecticut Office of State Comptroller, and Department of Social Services (hereinafter and collectively referred to as "State of Connecticut").
2. In 2006, PBI entered into a contract with the State of Connecticut. The purpose of this contract was presorting services and print and insert. Since that time, PBI and the State of Connecticut entered into nine contracts which are currently in effect, and three bids for contracts pertaining to the State of Connecticut.
3. At the times relevant to this complaint and when the contribution referred to in this complaint was made Respondent was President and CEO of PBI.
4. The Commission confirms the contribution by Respondent as admitted and detailed by his complaint:

<u>Respondent</u>	<u>Committee</u>	<u>Amount/Date</u>
Martin Murray	Ridgefield Republican Town Committee (RRTC)	\$40/ 10/13/2012

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, (ii) ***an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president***, treasurer or executive vice president, (iii) ***an individual who is the chief executive officer*** of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has managerial or discretionary responsibilities with respect to a state contract, (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.** No violation of the prohibitions contained in subparagraph (A) or (B) of this subdivision shall be deemed to have occurred if, and only if, **the improper contribution is returned to the principal by the later of thirty days after receipt of such contribution by the recipient committee treasurer or the filing date that corresponds with the reporting period in which such contribution was made, ...**

[Emphasis added.]

6. The Commission concludes that Respondent as President and CEO of a state contractor, at the time of the contribution, was a principal of a state contractor pursuant to § 9-612 (g) (1) (F) (1) (ii) & (iii).
7. The Commission finds that Respondent by making the contribution as described in paragraph 4 above made a total of 1 contribution in 2012 in the total amount of \$40.
8. The Commission finds that the contribution described in paragraph 4 above was not returned within the statutory “safe harbor” of 30 days from the time of the contribution or not later than 30 days from the filing date of the reporting period in which it was made pursuant to § 9-612 (g) (2) (C).
9. The Commission concludes that the evidence establishes that Respondent was, at the time of the contribution, a principal of an executive branch state contractor pursuant to § 9-612 (g) (1) (F) (ii) & (iii), and therefore violated General Statutes § 9-612 (g) (2) by virtue of making a prohibited state contractor contribution to the RRTC.
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. Therefore, the Commission finds that the violation of the state contractor contribution ban by Respondent, as concluded 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 concerning the violation 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.
12. In determining whether circumstances are “mitigating,” the Commission deems it necessary to consider any circumstances pertaining to the contribution by Respondent, as well as contracts and agreements between PBI and the State of Connecticut, that would, although not excusing the conduct, tend to reduce the harm the state contractor contribution ban is designed to prevent.¹
13. The Commission finds a lack of evidence that the contribution described in this agreement were made in connection with any request for or offers of assistance between Respondent and the agents or representatives of RRTC, and the State of Connecticut, for the purpose of obtaining agreements with Executive Branch agencies.
14. Additionally, the Commission finds that there is a lack of evidence that the RRTC was in the position to influence the decision making of the State of Connecticut, or was employed by or affiliated with Executive Branch agencies. Finally, the Commission finds a lack of evidence that either the RRTC or their agents or representatives acted on behalf of either party in relation to the agreements between PBI and the State of Connecticut.
15. The Commission determines that the following mitigating circumstances exist pertaining Respondent, and his prohibited contribution described herein, as follows:
 - a. The Respondent self-reported this violation to the Commission by filing of this complaint;
 - b. When Respondent made the aforementioned contribution to the RRTC, there was no discussion with any candidate for statewide office about helping PBI with obtaining contracts or contract extensions with the State of Connecticut, and there was no expectation that the RRTC would provide assistance to PBI in obtaining such contracts or contract extensions;
 - c. When Respondent made the aforementioned contribution to the RRTC, there was no discussion about the committee helping PBI obtaining contracts or

¹ The 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, and party committees, could wield over those state actors awarding such contracts and prevent awarding of contracts in exchange for campaign contributions.

- contract extensions with the State of Connecticut, and there was no expectation that the committee would provide assistance to PBI in obtaining such contracts or contract extensions;
- d. The amount of a single contribution was not substantial;
 - e. Respondent at the time of the contribution was not sensitive to the restrictions on campaign contributions by principals of state contractors as applied to party committees; and,
 - f. At all times relevant to this complaint and investigation the RRTC was not in a position to influence the awarding of contracts or contract extensions by the State of Connecticut to PBI under these circumstances.
16. 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 respective contribution by Respondent to the RRTC, such that PBI is *not* prevented from its contracts or prospective state contracts with the State of Connecticut.
 17. The Commission further concludes that the policy behind General Statutes § 9-612 (g) and its ban to avoid “pay-to-play” was *not* circumvented under the facts and circumstances of this case, and therefore allowing the process to move forward, despite the prohibited contribution and violations by Respondent, does not compromise the state’s interests to insure integrity in its campaign financing system as it relates to the awarding of state contracts.
 18. Accordingly, the Commission concludes that these mitigating circumstances concerning the violation by Respondent do not bar the State of Connecticut pursuant to General Statutes §9-612 from negotiating future contracts with or satisfying its existing contract obligations with PBI.
 19. 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.
 20. 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.

21. 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.
22. Upon Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against him 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).

For the State of Connecticut

DATED: 4/16/13

BY:



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

The Respondent

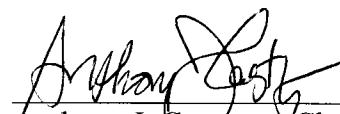
DATED: 4/11/2013

BY:



Murray Martin
24 Riding Club Road
Wilton, Connecticut

Adopted this 17th day of April 2013, at Hartford, Connecticut by a vote of the Commission.



Anthony J. Castagno, Chairperson
By Order of the Commission