

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

Commission Initiated Investigation Regarding
Contributions by Employees of "Matt Smith"

File No. 2014-165

AGREEMENT CONTAINING CONSENT ORDER

This agreement by and between Matthew Smith, of the Town of Dix Hills, County of Suffolk, State of New York, hereinafter referred to as "Respondent," and the authorized representative of the State Elections Enforcement Commission, is entered into in accordance with Connecticut General Statutes § 4-177 (c) and section 9-7b-54 of the Regulations of Connecticut State Agencies. In accordance herewith, the parties agree that:

1. The Commission initiated an investigation into whether Respondent may have violated provisions of the campaign finance laws in connection with contributions to (hereinafter "Committee") a candidate committee formed by Representative Jay M. Case to finance his campaign for re-election as State Representative from the 63rd General Assembly District.
2. Specifically, during the Commission Audit Validation of the Committee pertaining to its participation in the Citizen's Election Program ("CEP") and based on the audit validation findings for that committee pertaining thereto, the Commission inquired as to whether certain contributions by employees of a company located in New York State were funded by the company's owner, the Respondent, notwithstanding the individual employees' signatures on the contribution cards.
3. Specifically, the Commission audit validation process proceeded with further inquiry regarding 19 contributions of \$100.00 each and totaling \$1,900.00, which were delivered together to the Committee.
4. Consistent with the audit validation findings, there is no indication or evidence that Representative Case, his agents or the Committee had involvement or knowledge of Respondent's activity, other than his status as a solicitor for the Committee. The aforementioned have cooperated fully with this process.
5. Further, there is no evidence that Respondent solicited any contributions on behalf of or as an agent of the Committee beyond what is alleged, or that officers or employees of the Respondent's company knew of Respondent's activities pertaining to the improper contributions.

6. By way of background, Respondent is a resident of New York and owns a home in Winsted, Connecticut. Respondent is the principal and owner of a business located in New York State. Respondent Matthew Smith, has no prior history with the Commission.
7. Additionally, Respondent's son and employee Patrick Smith was initially identified as a Respondent in this matter. After investigation, the Commission declines to take further action regarding Patrick Smith and does not consider him a Respondent regarding this complaint and investigation.
8. General Statutes § 9-622 provides, in pertinent part, the following persons shall be guilty of illegal practices:

...

(7) *Any person who, directly or indirectly, individually or through another person, makes a payment or promise of payment to a campaign treasurer in a name other than the person's own, and any campaign treasurer who knowingly receives a payment or promise of payment, or enters or causes the same to be entered in the person's accounts in any other name than that of the person by whom such payment or promise of payment is made;*

....

(10) *Any person who solicits, makes or receives a contribution that is otherwise prohibited by any provision of this chapter;*
[Emphasis added.]

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

(a) The State Elections Enforcement Commission shall have the following duties and powers: ...

...

(2) To levy a civil penalty not to exceed ... (D) two thousand dollars per offense or twice the amount of any improper payment or contribution, whichever is greater, against any person the commission finds to be in violation of any provision of chapter 155 or 157. ...

10. Respondent explained that he had supported Representative Case in the past, and shared civic interests with the Representative by supporting charitable causes in and around the Winsted area. a community in which he has been involved throughout his fifty-three year life. and in which he owns a home and property. According to Respondent therefore his support of the Committee was consistent with such shared interests.

11. Respondent asserts that he solicited the various contributions attributed to contributors from his company and as residents from New York, which he was permitted to do as an authorized solicitor of the Committee. The Committee in the course of this investigation identified Respondent as the solicitor of the contributions from New York contributors that gave rise to this investigation as a result of the audit validation process for the Committee.
12. The Commission notes that the contributions that serve as the basis for this investigation and settlement did *not* serve as qualifying contributions towards the Committee or in its successfully qualifying for the CEP grant for the 2014 election.
13. Respondent denies any wrongdoing of any kind regarding the above-referenced contributions, and enters into this agreement for the sole purposes of avoiding the cost of further litigation.
14. Section 9-7b-48 of the Regulations of Connecticut State Agencies provides that the Commission may consider mitigating or aggravating circumstances when determining whether to impose a civil penalty. The Commission may consider:
 1. the gravity of the act or omission;
 2. the amount necessary to insure immediate and continued compliance;
 3. the previous history of similar acts or omissions; and,
 4. whether the person shown good faith in attempting to comply with the applicable provisions of the General Statutes.
15. In this instance, although the Commission views the giving contributions in the name of another in violation of General Statutes § 9-622 (7) and (10) as grave misconduct, Respondent denies any misconduct, has no prior history of similar acts or omissions, and Respondent wholly intends to comply in the future with § 9-622 (7) and (10).
16. The Commission views the assessment of a civil penalty totaling three thousand five hundred dollars (\$3,500.00) under these circumstances as a meaningful deterrent regarding the seriousness with which the Commission will judge and treat violations concerning the giving contributions in the name of another pursuant to General Statutes § 9-622 (7) and (10). Respondent agrees to pay this sum within ten (10) days of adoption of this Agreement and Order by the Commission.

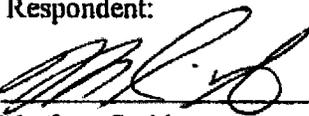
- 17 The Commission agrees to accept this payment in full satisfaction of all liabilities or claims against Respondent Matthew Smith, any of the individual contributors whose names appear on the nineteen contribution pages that are the subject of this inquiry, Patrick Smith, or any agents, servants, employees, or business entities of Matthew Smith, related to the above-referenced contributions to the Committee.
- 18 Notwithstanding the seriousness with which the Commission regards violations of General Statutes § 9-622 (7) and (10), the Commission nevertheless declines to exercise its authority pursuant to General Statutes § 9-7b (8) to refer this matter to the Chief State's Attorney because the Respondent has entered into this agreement and exhibited an interest to resolve this matter through conciliation.
- 19 Furthermore, the Commission stresses that it has been Commission practice that when matters do not implicate the candidate or campaign such cases are not referred to the Chief State's Attorney. See *Lippey* and *In the Matter of a Complaint by Sarah Hemingway*, Sandy Hook, File No. 2010-104.
- 20 The 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. The Respondent shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
- 21 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 parties and may not be used as an admission by either in any subsequent hearing, if the same becomes necessary.
- 22 The 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.
- 23 Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against the Respondent, or the other eighteen contributors referenced hereinabove, pertaining to this matter.
- 24 This agreement may be signed in counterpart, and facsimile or .pdf signatures shall be deemed original.

ORDER

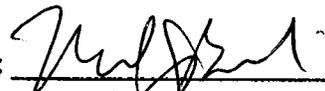
IT IS HEREBY ORDERED that henceforth the Respondent shall strictly comply General Statutes § 9-622 (7) and (10).

IT IS HEREBY FURTHER ORDERED that Respondent shall pay a civil penalty of three thousand five hundred dollars (\$3,500.00) within 10 days of adoption of this agreement by the Commission.

The Respondent:

By: 
Matthew Smith
3 Fathers Court
Dix Hills, New York

For the State Elections Enforcement Commission:

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

Adopted this ___th day of _____, 2015 at Hartford, Connecticut.

Anthony J. Castagno, Chairman
By Order of the Commission

ORDER

IT IS HEREBY ORDERED that henceforth the Respondent shall strictly comply General Statutes § 9-622 (7) and (10).

IT IS HEREBY FURTHER ORDERED that Respondent shall pay a civil penalty of three thousand five hundred dollars (\$3,500.00) within 10 days of adoption of this agreement by the Commission.

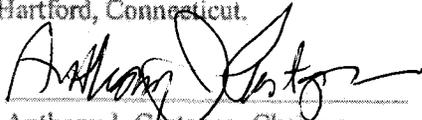
The Respondent:

By: 
Matthew Smith
3 Fathers Court
Dix Hills, New York

For the State Elections Enforcement Commission:

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

Adopted this 2th day of June, 2015 at Hartford, Connecticut.


Anthony J. Castagno, Chairman
By Order of the Commission