

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Donna M. Black and Timothy R. Black

File No. 2016-046

AGREEMENT CONTAINING A CONSENT ORDER

The parties, Donna M. Black and Timothy R. Black (the “Respondents”) and the undersigned authorized representative of the State Elections Enforcement Commission (the “Commission”), enter into this agreement as authorized by Connecticut General Statutes § 4-177 (c) and Regulations of Connecticut State Agencies § 9-7b-54. In accordance with those provisions, the parties agree that:

ALLEGATIONS

1. The Respondents in this matter self-reported this Complaint to the Commission claiming that they, as principals of a state contractor, made improper contributions to John Scott 2016, a candidate committee for General Assembly candidate participating in the Citizens Election Program.

LAW

2. General Statutes § 9-612 (f) (1) (F) provides:

“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.

Emphasis added.

3. General Statutes 9-612 (f) (2) prohibits state contractors from making contributions to candidates for offices in the branch with which they have a contract. The statute specifically provides, in pertinent part:

(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 or 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, on and after January 1, 2011, knowingly solicit contributions from the state contractor's or prospective state contractor's employees or from a subcontractor or principals of the subcontractor 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;

(B) No state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or a state contract solicitation with or from the General Assembly or a holder, or principal of a holder, of a valid prequalification certificate, shall make a contribution to, or, on and after January 1, 2011, knowingly solicit contributions from the state contractor's or prospective state contractor's employees or from a subcontractor or principals of the subcontractor on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of state senator or state representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee;

4. General Statutes 9-704 (c) – (e) further provides:

(c) The following shall not be deemed to be qualifying contributions under subsection (a) of this section and shall be returned by the treasurer of the candidate committee to the contributor or transmitted to the State Elections Enforcement Commission for deposit in the Citizens' Election Fund:

(1) A contribution from a principal of a state contractor or prospective state contractor;

(2) A contribution of less than five dollars, and a contribution of five dollars or more from an individual who does not provide the full name and complete address of the individual;

(3) A contribution under subdivision (1) or (2) of subsection (a) of this section from an individual who does not reside in the state, in excess of the applicable limit on contributions from out-of-state individuals in subsection (a) of this section; and

(4) A contribution made by a youth who is less than twelve years of age.

(d) After a candidate committee receives the applicable aggregate amount of qualifying contributions under subsection (a) of this section, the candidate committee shall transmit any additional contributions that it receives to the State Treasurer for deposit in the Citizens' Election Fund.

(e) As used in this section, "principal of a state contractor or prospective state contractor" has the same meaning as provided in subsection (g) of section 9-612, and "individual" shall include sole proprietorships.

FACTUAL BACKGROUND

5. This Complaint was self-reported by Respondents Timothy and Donna Black.
6. At all times relevant hereto, Respondent Timothy Black was a 50% owner of B&W Paving & Landscaping, LLC ("B&W" or the "Company").
7. B&W has been a prospective state contractor in Connecticut since at least 2011 and was a state contractor in 2016.
8. The value of B&W's state contracts in 2016 was approximately \$2,625,189.00.
9. B&W's state contracts were with the Department of Transportation and the Department of Military Affairs – both executive branch state agencies.
10. At all times relevant hereto, Respondent Donna Black was married to Respondent Timothy Black.
11. The Respondents reported that they made two contributions totaling \$25 to John Scott 2016, John Scott's state representative campaign committee.

12. Specifically, Respondent Timothy Black reported making a \$20 contribution to John Scott 2016 on February 20, 2016. Respondent Donna Black reported making a \$5 contribution to John Scott 2016 on February 20, 2016. Evidence confirms that both of these contributions were made to the John Scott 2016 candidate committee as reported.
13. There were no other improper contributions reported or discovered.
14. The Respondents both acknowledge that they checked the “No” box to the question “Is contributor a principal of a state contractor or prospective state contractor?” on the contributor forms associated with these contributions. Respondent Timothy Black claims that he did so because he “was not paying attention.” Respondent Donna Black states that she checked no because she “did not understand the question.”
15. In 2016, the Commission offered to complete a pre-application review of contributions made to committees that intended to later apply for a grant under the Citizens Election Program. In response to the pre-application review of the John Scott 2016 committee, representatives of John Scott 2016 contacted the Respondents and notified them that their contributions may have been prohibited.
16. In June of 2016, the Respondents engaged in several conversations with the Commission’s Compliance Unit concerning whether these contributions were prohibited and what should be done. The result of these conversations was that on June 16, 2016 the Respondents self-reported the instant Complaint and on July 19, 2016 the contributions were returned to the Respondents.

FACTUAL BACKGROUND

17. It is clear that a contribution from a state contractor can never be considered a “qualifying contribution” under the Citizen’s Election Program. General Statutes § 9-704.
18. However, the Commission has also held that a contributor is not subject to a sanction when a state contractor contributes to a candidate for an office of a different branch than with which he has a contract, even when the candidate is a participant in the Citizens Election Program. See *In the Matter of A Complaint by Scott A. Adamsons, Portland*, File No. 2008-129.
19. In this case the Respondents are and were, at all times relevant hereto, principals of an entity that had contracts exclusively with the executive branch of the State of Connecticut.
20. However, their small contributions were made to a candidate for office within the legislative branch.

21. Thus, while the contributions in questions could not count as qualifying contributions to the John Scott 2016 candidate committee, the Respondents did not commit a violation of Connecticut's election laws by making them.
22. However, in addition to making the contributions, each of the Respondents completed a contributor certification card indicating that they were not state contractors which was untrue.
23. Providing false information on a contributor certification card is impermissible.
24. However, as there was very little money involved, the contribution was not counted as part of the candidate's grant application, and the Complaint was self-reported, the Commission has elected to permit the Respondents to close this matter upon the Respondents' execution of the attached Order whereby the Respondents agree to henceforth "take extreme care to provide only truthful information on all documents prepared by, filed with, or subject to the jurisdiction of the State Elections Enforcement Commission."

TERMS OF GENERAL APPLICATION

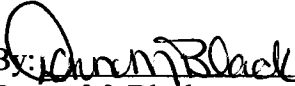
25. The Respondents admit to all jurisdictional facts and agrees that this Agreement and Order shall have the same force and effect as a final decision and order entered into after a full hearing and shall become final when adopted by the Commission.
26. The Respondents waive:
 - a. Any further procedural 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 to contest the validity of the Order entered into pursuant to this Agreement.
27. Upon the Respondents' agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against the Respondents regarding this matter.
28. It is understood and agreed by the parties to this Agreement that the Commission will consider this Agreement at its next available meeting and, if the Commission rejects it, the

Agreement will be withdrawn and may not be used as an admission by the Parties in any subsequent hearing, proceeding or forum.

ORDER


It is hereby ordered that the Respondents shall henceforth take extreme care to provide only truthful information on all documents prepared by, filed with, or subject to the jurisdiction of, the State Elections Enforcement Commission.

Respondent Donna M. Black:

By: 
Donna M. Black
210 Gungywamp Road
Groton, CT 06340

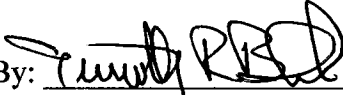
Dated: 11-20-17

For the State of Connecticut:

By: 
Michael J. Brandi
Executive Director and General Counsel and
Authorized Representative of the
State Elections Enforcement Commission
20 Trinity St.
Hartford, CT 06106

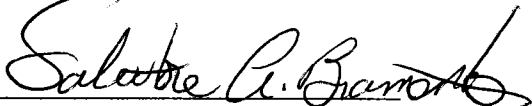
Dated: 11/21/17

Respondent Timothy R. Black:

By: 
Timothy R. Black
210 Gungywamp Road
Groton, CT 06340

Dated: 11-20-17

Adopted this 20 day of December, 2017 at Hartford, Connecticut by vote of the Commission.


~~Anthony J. Castagno, Chairman~~
By Order of the Commission
7 SALVATORE A. BRAMANTE

RECEIVED
STATE ELECTIONS

NOV 21 2017

ENFORCEMENT COMMISSION