

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Chandler Howard
And Miriam Howard, Middletown

File No. 2017-027

AGREEMENT CONTAINING CONSENT ORDER

This agreement by and between Chandler Howard and Miriam Howard, Middletown. (hereinafter "Respondents") 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 4-1 77(c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. This Complaint was self-reported by Respondents who are spouses. Respondents asserted that: "... *each made a single three hundred and seventy-five (\$375.00) dollar contribution to the Drew for CT exploratory campaign committee in violation of Conn. Gen. Stat. §9-612, et seq.*"
2. Respondents filed this complaint based on their belief and discovery that the aforementioned contributions were prohibited by the "state contractor contribution ban." "Drew for CT" (hereinafter "Committee"), at the time of the relevant contributions, was an exploratory committee for statewide office. The Committee, as an exploratory committee for statewide office, was covered by the state contractor contribution ban pursuant to General Statutes § 9-612.
3. At all times relevant to this complaint, Respondent Chandler Howard was the President and CEO of Liberty Bank, which is headquartered in Middletown, Connecticut. Further, Respondent Miriam Howard at all times relevant to this complaint was the spouse of Chandler Howard. Respondents have no prior history with the Commission.
4. General Statutes § 9-612 provides, in pertinent part:
(f)(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, ... (v) ***the spouse or a dependent child who is eighteen years of age or older of an individual described in this subparagraph, ...***

...

(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.]

5. By way of background Respondent is the Chief Executive Officer of Liberty Bank, in Middletown, Connecticut. As a part of Liberty Bank's banking transactions, it purchases mortgages from the Connecticut Housing Finance Authority ("CHFA") and has some banking transactions involving Connecticut Development Authority/Connecticut Innovations ("CDA").

6. CHFA and CDA are quasi-public agencies for purposes of the state contractor contribution ban and pursuant to General Statutes § 9-612 (f). Further, the Commission
7. The Commission finds that, at all times relevant to this matter, Liberty Bank had contracts with the State of Connecticut in connection with its contracts with CHFA and/ or CDA in excess of \$50,000. The Commission concludes therefore that Liberty Bank satisfies the requirements for being a “state contractor” for purposes of General Statutes § 9-612 (f) and the application of the state contractor contribution ban under these circumstances.
8. After investigation the Commission further concludes that, as President of the state contractor Liberty Bank, Respondent Chandler Howard is the principal of a state contractor and Respondent Miriam Howard is the spouse of the principal of a state contractor pursuant to General Statutes § 9-612 (f) (1) (F) (ii) & (v), respectively.
9. The Commission finds that on January 25, 2017 Respondent Chandler Howard and Respondent Miriam Howard *each* made a \$375.00 contribution to the Committee.
10. The Commission concludes that Respondent Chandler Howard’s January 25, 2017 contribution to the Committee, was made while he was the principal of a state contractor and therefore prohibited by the state contractor contribution ban and in violation of General Statutes § 9-612 (f).
11. The Commission further concludes that Respondent Miriam Howard’s January 25, 2017 contribution to the Committee, was made while she was the spouse of the principal of a state contractor and therefore was prohibited by the state contractor contribution ban and in violation of General Statutes § 9-612 (f).
12. The Commission notes that the Committee reimbursed the Respondents in the amount of each self-reported contribution, though not within the statutory 30 day “safe harbor” for such returns. Further, it was determined upon investigation that Liberty Bank was not included on the *Prohibited State Contractor and Prospective State Contractor Lists* that are maintained by the Commission. Finally, the Commission notes that Respondents fully cooperated with the Commission throughout its investigation.

13. The Commission has held that, that pursuant to General Statutes§ 9-612 (f), a separate "mitigating circumstances" analysis is not reached unless the Commission determines that a violation has occurred. Therefore, the Commission finds that the violations by Respondents of the state contractor contribution ban, as detailed herein, allows the Commission to determine whether mitigating circumstances exist concerning such violations pursuant to General Statutes§ 9-612 (f) (2) (C). *Complaint by Attorney Brendon M. Fox on Behalf of Joseph DaSilva*, Danbury, File No. 2015-179.
14. General Statutes§ 9-612 (f) (2) (C) provides possible relief from the mandatory voiding of the existing state contract and prohibition from the state contractor entering into future state contracts for one year after the election for which such contribution is made or solicited, if the Commission finds 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 (f) (2) (C) occurs, even if mitigating circumstances are found pursuant to that section. *See Id.*
15. In determining whether circumstances are "mitigating," the Commission deems it necessary to consider any circumstances pertaining to the contributions by Respondents, as well as any contracts, agreements or related proposals between Liberty Bank and Connecticut, CHFA and/or CDA that would, although not excusing the conduct, tend to reduce or militate against the harm of pay-to-play and/or influence peddling the state contractor contribution ban is designed to prevent.
16. Specifically, the Commission has consistently and historically determined that pursuant to General Statutes §9-612 (f) 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 for statewide office and/or party committees could wield over those state actors awarding such contracts and to prevent the awarding of contracts in exchange for campaign contributions and various pay-to-play campaign finance schemes. *See Complaint by Carla Squatrito, et al.*, File No. 2010-112; *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*; *In Re Antinozzi Associates*, File No. 2014-009, *Complaint by Curtis Robinson*, Plainville, File No. 2014-169; *Complaint by Raymond Baldwin*, Trumbull, File No. 2015-009; and, *Complaint by Bradford Dimeo (Self-reported)*, New Haven, File No. 2017-026.

17. The Commission, finds after investigation, that there is a lack of evidence that the Committee, as recipient of prohibited contributions from Respondents, had any nexus with, or ability to influence, the awarding of contracts or contract amendments or related proposals by Liberty Bank in connection with the State of Connecticut, CHFA and/or CDA.
18. Additionally, the Commission finds a lack of evidence that the contributions described in this agreement were made in connection with any requests for or offers of assistance between the Committee and the Respondents pertaining to any contracts, agreements or related proposals to which Liberty Bank, Connecticut, CHFA and/or CDA were parties.
19. Pertaining to Respondents and the prohibited contributions detailed herein, the Commission determines that the following *mitigating circumstances* exist:
 - (1) Respondents consulted counsel regarding the January 25, 2017 contributions to the Committee that they made, and upon learning of potential campaign finance violations caused this complaint to be filed on their behalf;
 - (2) There was no discussion or agreement by or between Respondents and the representatives of the recipient committee, the State of Connecticut, CHFA and/or CDA that Respondents might receive some favored treatment in exchange for the contributions that Respondents made as either a state contractor or the spouse of a state contractor.
 - (3) There was no discussion, agreement, or understanding that any of the parties or their agents would provide assistance to Respondents in efforts to compete for awards of State contracts in exchange for contributions to the recipient committee.
20. The Commission concludes pursuant to General Statutes § 9-612 (f) (2) (C) that mitigating circumstances existed pertaining to the violations found in connection with the contributions by Respondents such that Liberty Bank is not statutorily barred from continuing, effectuating or otherwise implementing existing contracts, contractual obligations or being awarded contracts based on pending bids or RFPs between it and the State of Connecticut generally and/or in connection with CHFA and CDA specifically.

21. The Commission determines after investigation that the policy behind General Statutes § 9-612 (f) to address "pay-to-play" and/or influence peddling schemes relating to campaign contributions and the awarding of state contracts was not circumvented under these narrow facts and circumstances and therefore allowing Liberty Bank to continue its contractual relationships, obligations or bid proposals with the State of Connecticut, CHFA and/or CDA does not compromise the state's interests to insure integrity in its campaign financing system.
22. Accordingly, the Commission concludes that these mitigating circumstances concerning the violations by Respondents do not bar State of Connecticut, CHFA and/or CDA pursuant to General Statutes § 9-612 (f) (2) (C) from negotiating or fulfilling its contracts, other contractual obligations, or awarding or entering into such agreements with Liberty Bank and they may exercise discretion consistent with authority under § 9-612 (f) (2) (C).
23. The Commission notes that it has historically and consistently assessed civil penalties for violations of General Statutes § 9-612 (f). The commission assessed a penalty in the self-reported *Complaint by Curtis Robinson*, Southington, File No. 2014-169, in the amount of \$750.00 for two contributions totaling \$3,100.00 and prohibited by § 9-612 (f).
24. Additionally, in the Commission self-reported *Complaint by Morna Murray*, Glastonbury, File No. 2014-078 the commission negotiated a civil penalty in the amount of \$200.00 with Respondent who was the director of a nonprofit who made a *single* prohibited contribution in violation of § 9-612 (f) to the campaign of a candidate for statewide office. Most recently, in *Complaint by Bradford Dimeo (Self-Reported)*, New Haven File No. 2017-026, the Commission settled the matter with a \$2,000.00 civil penalty for two violations of § 9-612 (f) pertaining to a \$250.00 contribution to an ongoing political committee and a \$100.00 ad purchase from a political (town) committee by a state contractor.
25. For the reasons so stated, the Commission believes that in this instance the payment by Respondents of \$250.00 for *each* violation, or a total of \$500.00 for two violations of General Statutes § 9-612 (f), is sufficient to insure their future compliance with the provisions of the state contractor contribution ban.

26. Respondents admit 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. Respondents shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
27. 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 Respondents and may not be used by either party as an admission in any subsequent hearing, if the same becomes necessary.
28. Respondents 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.
29. Upon Respondents' compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against Respondents pertaining to this matter, and this agreement and order does not serve as a prospective ban on future contracts between Respondents and state agencies.

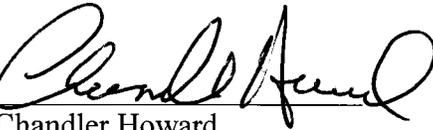
ORDER

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

IT IS HEREBY FURTHER ORDERED THAT the Respondents shall pay a total civil penalty in the amount of \$250.00 *each* (for a total of \$500.00), for full settlement of this matter.

The Respondents:

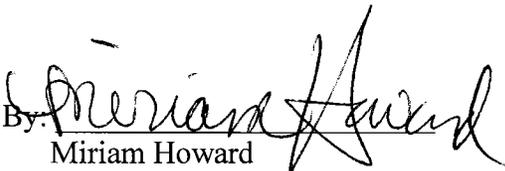
For the State Elections Enforcement Commission:

By: 
Chandler Howard
~~35 High Street~~
~~Middletown, Connecticut~~
28 WAKEFIELD LA.
FARMINGTON, CT

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: 12/6/17

Dated: 12/8/17

By: 
Miriam Howard
~~35 High Street~~
~~Middletown, Connecticut~~
28 WAKEFIELD LA.
FARMINGTON, CT

Dated: 12-7-2017.

Adopted this 20th day of December, 2017 at Hartford, Connecticut


~~Anthony J. Castagno, Chair~~
By Order of the Commission
Salvatore A. BRAMANTE

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ENFORCEMENT COMMISSION