

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Shawn Wooden
(Self-Report), Hartford

File No. 2018-024

AGREEMENT CONTAINING CONSENT ORDER

This agreement by and between Shawn T. Wooden of the City of Hartford, County of Hartford, State of Connecticut (hereinafter "Respondent") and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with § 9-7b-54 of the Regulations of Connecticut State Agencies and § 4-177(c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. Respondent self-reported a potential violation of Connecticut General Statutes § 9-612. He admits that he, as a partner of the law firm Day Pitney (the "Firm"), has "...direct, extensive and substantive responsibilities with respect to the negotiation of the Firm's contracts with the Office of the Treasurer." Additionally, Respondent asserted that:
In the course of preparing a gift and campaign contribution certification and disclosure form, [the Firm] undertook an investigation to determine whether any [the Firm] principal had made any campaign contributions in support of a candidate for the Office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, or had made any campaign contributions to support a candidate for the General Assembly, from January 1, 2011, to the present. Among other efforts to identify any such contributions, [the Firm] undertook a search of the Elections Enforcement Commission's Campaign Reporting Information System. That search revealed that, in 2017, I made a \$40 contribution to the Urban Progression PAC. That contribution was made on July 27, 2017 and filed to the State by the Urban Progression PAC on October 10, 2017.
[Emphasis added.]
2. Finally, Respondent admits that he may have violated the state contractor contribution ban and asks that upon any such finding by the Commission, that it also determine "mitigating circumstances" pursuant to § 9-612 (g), so that the Firm can continue its contracting with the State of Connecticut.

3. There is no dispute that, the Firm, "has been and remains a party to various State contracts with the Executive Branch whose value equals or exceeds \$100,000.00." Further, the Firm appears on the *Commission's List Two – Contractors Prohibited from Contributing to Statewide Candidates*.
4. The Firm is a general practice law firm with offices in, among other locations, Hartford, Connecticut. The Firm provides legal services to the State of Connecticut and to entities and agencies of the state, including: the Office of the Treasurer, the Connecticut Housing Finance Authority ("CHFA"), Materials Innovation and Recycling Authority (MIRA), the Connecticut Higher Education Supplemental Loan Authority ("CHESLA"), the Connecticut Health and Educational Facilities Authority ("CHEFA"), the Connecticut Green Bank ("Green Bank"), the Connecticut Lottery Corporation ("Lottery"), and the University of Connecticut Health Center Finance Corporation ("UCHCFC").
5. General Statutes § 9-612, provides in pertinent part:
 - (f) (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 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, ..., 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;

...

(C) If a state contractor or principal of a state contractor makes or solicits a contribution as 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, ... void the existing contract with such 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;

(D) If a prospective state contractor or principal of a prospective [Emphasis added.]

6. Respondent asserts that he learned of the potentially prohibited contribution in this instance in the ordinary course of the Firm's compliance protocol; and consequently self-reported to the Commission his contribution to Urban Progression PAC. Further, Respondent asserts that there was no indication, at the time of his contribution, that his contribution to attend a panel of municipal candidates in Hartford, would trigger the state contractor contribution ban. Moreover, because the event was solely advertised as focusing on three candidates for municipal government, no red flags, or possible conflicts pertaining his status as the principal of a state contractor were raised in his mind at the time of the contribution.

7. Upon investigation, the Commission finds that the fundraising invitation clearly solicited contributions to participate in an "Evening Board of Education Candidates," which was an event hosted by Urban Progression PAC. The invitation plainly advertised a panel discussion event pertaining to Hartford municipal candidates for the Board of Education and indicated a "suggested donation" of \$25.00.
8. Further, the Commission notes that was no indication that the event was connected to any statewide candidates or that Urban Progression PAC was holding the event to benefit candidates for the General Assembly or for statewide office. Nevertheless, after investigation, the Commission finds that Urban Progression Pac qualified as a political committee that was authorized to make contributions to statewide candidates pursuant to General Statutes § 9-612.
9. Respondent claims that the \$40.00 contribution to Urban Progression PAC was made in good faith to attend a civic event that what was advertised as a panel discussion by three municipal candidates in Hartford. At the time of the contribution, as required by law, Respondent accurately disclosed and certified to Urban Progression PAC that he is a principal of a state contractor. Further, Respondent asserts that he had no understanding, or reason to know at the time of the contribution, that it was an impermissible contribution pursuant to General Statutes § 9-612. Finally, the Commission finds that the Respondent has been cooperative and forthcoming during this complaint and investigation and that there is no evidence to contradict Respondent's aforementioned assertions.
8. After investigation, it was confirmed that Respondent, as the principal of a state contractor, and pursuant to General Statutes § 9-612, made a single prohibited contribution in the amount of \$40.00 to a political committee that was authorized to make contributions to statewide candidates, which was therefore prohibited by that section

10. The Commission finds that pursuant to General Statutes § 9-612 (f), a *mitigating circumstances* analysis is not reached unless the Commission determines that a violation has occurred. It follows that the violation by Respondent of the state contractor contribution prohibition, as detailed herein, allows the Commission to determine whether *mitigating circumstances* exist concerning such violations pursuant to General Statutes § 9-612 (f) (2) (C).
11. General Statutes § 9-612(f) (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* 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.
12. In determining whether circumstances are "mitigating," the Commission deems it necessary to consider any circumstances pertaining to the contribution by Respondent and the recipient political committee and its agents, as well as the contracts and agreements between the Firm and the State and covered entities, that would, although not excusing the conduct, tend to reduce the harm General Statutes § 9-612 (f) and the state contractor contribution ban is designed to prevent.
13. The Commission has consistently determined that pursuant to General Statutes § 9-612 (f) the state contractor prohibition 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 could wield over those state actors awarding such contracts and prevent awarding of contracts in exchange for campaign contributions. See *In the Matter of a Complaint by Carla Squatrito, et al.*, File No. 2010-112; *In the Matter of a 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, *In the Matter of a Complaint by Curtis Robinson*, Plainville, File No. 2014-169; and, *In the Matter of a Complaint by Raymond Baldwin*, Trumbull, File No. 2015-009; and most recently, *In the Matter of a Complaint by Michael A. Neal*, Naples, FL, File No. 2018-028.

14. Moreover, the purpose of this self-reported potential violation of the state contractor contribution prohibition by Respondent to the Commission, was so that the Commission may determine and conclude if violations have occurred based on its review and investigation and if *mitigating circumstances* concerning such violations, and pursuant to General Statutes § 9-612, existed.
15. The Commission determines, pertaining to the circumstances surrounding Respondent's \$40.00 contribution to Urban Progression PAC, that the following *mitigating circumstances* exist pursuant to General Statutes § 9-612, in that:
 - (1) There was a single small dollar contribution that resulted in this self-reported complaint;
 - (2) The prohibited contribution was not made in connection with any request for or offers of assistance between the recipient political committee and the state contractor pertaining to any contract or agreement or related to any proposal to which the state contractor and the State of Connecticut, or any State agency or Quasi-public agency were parties.
 - (3) Upon identifying the contribution in question as a potential violation, the contributor undertook to investigate the contribution and the circumstances surrounding it, and promptly self-reported the matter to the Commission.
 - (4) There was no evidence of a discussion or agreement by or between the state contractor and the representatives of the recipient political committee, the State of Connecticut, or any State agency

or Quasi-public agency, or their agents, suggesting or implying that the principal or the state contractor might receive some favored treatment in exchange for the contribution to the political committee; and,

(5) There was no evidence that a discussion, agreement or understanding that any official of the political committee or participant in the political committee or its agents would provide assistance to the principal of the state contractor in efforts to compete for the award of any state contract in exchange for the contribution.

16. The Commission concludes pursuant to General Statutes § 9-612 (f) (2) (C) that *mitigating circumstances* existed pertaining to the violation found in connection with the contribution by Respondent to Urban Progression PAC, such that the Firm is not statutorily barred from continuing its contracts and/or negotiations to effectuate or implement any amendments to existing contracts between it and: the Office of the Treasurer, CHFAMIRA, CHESLA, CHEFA, Green Bank, the Lottery, UCHCFC, or other entities covered by that section.
16. The Commission determines after investigation that the policy behind General Statutes § 9-612 (f) to address "pay-to-play" schemes relating to campaign contributions and the awarding of state contracts was not circumvented under these narrow facts and circumstances, and therefore, allowing the Company to continue its contractual relationships, obligations or bid proposals with the State does not compromise the state's interests to insure integrity in its campaign financing system.

17. Accordingly, the Commission concludes that these mitigating circumstances concerning the violation by Respondent do not bar the Office of the Treasurer, CHFAMIRA, CHESLA, CHEFA, Green Bank, the Lottery, UCHCFC, or other entities covered by General Statutes § 9-612(f), from negotiating contracts or continuing their existing contract obligations with the Firm and the aforementioned state agencies/actors may exercise their discretion consistent with their authority under that section.
18. 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 § 9-7b-56 of the Regulations of Connecticut State Agencies.
19. 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 by either party as an admission in any subsequent hearing or against the Company in any proceeding, if the same becomes necessary.
20. 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.
21. Upon Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against Respondent or proceedings against the Firm pertaining to this matter, and this agreement and order does not serve as a prospective ban on future contracts between the Firm and state agencies.

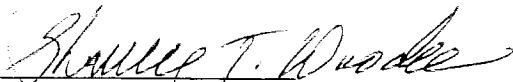
ORDER

IT IS HEREBY ORDERED THAT the Respondent shall henceforth strictly comply with the requirements of General Statutes § 9-612(f); and

IT IS HEREBY FURTHER ORDERED THAT the Respondent shall make a remittance in the amount of one hundred dollars (\$100.00) to the Commission , prior to the adoption of this matter, in full and final resolution of this matter.

The Respondent:

BY:



Shawn T. Wooden
242 Trumbull Street
Hartford, Connecticut

For the State of Connecticut:

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:

8/17/18

Dated:

8/23/18

Adopted this 6th day of September, 2018 at Hartford, Connecticut



Anthony J. Castagno, Chairman Stephen T. Remy
By Order of the Commission

RECEIVED
STATE ELECTIONS

AUG 23 2018

ENFORCEMENT COMMISSION