

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint by John Flannery and Lee Cooper (Self-Reported),
New Britain,

File No. 2018-074A

AGREEMENT

This agreement by and between John Flannery of the City of Boston, County of Suffolk, State of Massachusetts (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. The Complaint was self-reported by Attorney Brendan M. Fox, Jr. on behalf of Respondent and General Electric and its affiliated entities (hereinafter the "Company").
2. Complaint was self-reported by Attorney Brendan M. Fox, Jr. on behalf of Respondent (former General Electric CEO and former Chair of the Board of Directors) and Lee Cooper (CEO and President of GE Healthcare US and Canada) pertaining to potential violations, by his clients, of the state contractor contribution ban pursuant to General Statutes § 9-612 by his clients. Attorney Fox indicated that:

We serve as an outside counsel to General Electric Company and its affiliated entities (collectively, "GE" or the "Company"), as well as certain officers, as it relates to regulatory matters before the State Elections Enforcement Commission (the "SEEC"), and we wish to self-report a matter regarding Connecticut General Statute § 9-612 ("Statute"). Specifically, and as previously disclosed on August 29, we wish to report personal contributions made to the "Bob for Governor" campaign by [Respondents].
3. By way of background, Respondent has no prior history with the Commission. Additionally, subsidiaries of the Company were on the "List Two – State Contractors Prohibited from Contributing to Statewide Candidates" maintained and published by the Commission. The Company, at all times relevant to this complaint, was a global conglomerate within various industries, with headquarters in Boston, Massachusetts.
4. Robert V. Stefanowski, Jr., was the Republican nominee for governor at the 2018 election and he formed the candidate committee "Bob for Governor, Inc." (the "Committee") for that purpose. By way of background, the Committee registered with the Commission on September 15, 2017 and campaigned for the Office of Governor at the November 2018 election.

5. There was no dispute that Respondents were principals of a state contractor for purposes of General Statutes § 9-612 or that the Company (and/or its various subsidiaries) were state contractors for purposes of that section.
6. The contributions that are the subject of this complaint were made between December 2017 and July 2018 and Respondent made his Respondent to the Committee. Additionally, Respondent asserts, and the Committee and Mr. Stefanowski concur, that the contributions were largely based on the longstanding relationship/friendship that Mr. Stefanowski had with Respondent both professionally and personally.
7. Respondent and the Committee assert, through their attorneys, that there was no expectation of benefit between the parties regarding business opportunities or contracts resulting between the Company and the State of Connecticut based on these prohibited contributions.
8. This agreement and order is limited to Respondent. Any additional potential settlement with other individual Respondents pertaining to this matter are treated under separate dispositions. Respondent has no prior history with the Commission.
9. General Statutes § 9-612 provides, in pertinent part:

...

(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,

...

(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.]

10. The Commission finds, after investigation, that Respondent on December 19, 2017 made a contribution to the Committee in the amount of \$1,000.00. Further, the Commission finds that Respondent on July 27, 2018 made a \$2,500.00 contribution to the Committee. The Commission finds that while the two contributions were refunded by the Committee to Respondent; only the July 27th contribution was refunded to Respondent within the 30 day "safe harbor" of General Statutes § 9-612.
11. 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 two prohibited contributions made by Respondent of the state contractor contribution ban, as detailed above, allows the Commission to determine whether "mitigating circumstances" exist concerning such violations pursuant to General Statutes § 9-612 (f) (2) (C).

12. 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.
13. In determining whether circumstances are "mitigating," the Commission deems it necessary to consider any circumstances pertaining to the contribution by Respondent and the recipient candidate, the committee and its agents, as well as the contracts and agreements between the Company and the State, that would, although not excusing the conduct, tend to reduce the harm the state contractor contribution ban is designed to prevent.
14. 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.
15. According to Respondent, the purpose of this self-reported potential violation of the state contractor contribution prohibition to the Commission, was so that the Commission may determine and conclude if violations have occurred based on its review and investigation; and consequently to determine if mitigating circumstances concerning any such violations existed pursuant to its authority and General Statutes § 9-612 (f) (2) (C).

16. The Commission determines in this instance that the following mitigating circumstances exist:
 - (1) Respondent self-reported this matter;
 - (2) The potential candidate for statewide office and eventual Republican nominee for statewide office was not involved with awarding contracts between the Company and the State at the time of the prohibited contributions;
 - (3) Respondent sought a return of the funds from the candidate upon realizing their mistake; and,
 - (4) No evidence that the contribution was made to induce the recipient to assist Respondents in state contracting.
17. 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 the committee named herein, such that the Company is not statutorily barred from continuing contracting with the State of Connecticut.
18. 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.
19. Accordingly, the Commission concludes that these mitigating circumstances concerning the violation by Respondent do not bar DRS, DMV or DSS pursuant to General Statutes § 9-612 (f) (2) (C) from negotiating contracts or continuing their existing contract obligations with the Company and that DRS, DMV and DSS may exercise their discretion consistent with their authority under that section.
20. 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.
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 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.

22. 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 Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against Respondent or proceedings against the Company pertaining to this matter, and this agreement and order does not serve as a prospective ban on future contracts between the Company 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 voluntary payment in the amount of five hundred dollars (\$500.00) to the Commission in full and final resolution of this matter.

The Respondent:

BY:



John Flannery
77 Exeter Street, #2309
Boston, Massachusetts

Dated: 3/16/19

For the State of Connecticut:

BY:



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

Dated: 3/20/19

Adopted this 20 day of March, 2019 at Hartford, Connecticut



Anthony J. Castagno, Chairman

By Order of the Commission

Salvatore Bramante, Chair