

MAY 24 2019

ENFORCEMENT COMMISSION

**STATE OF CONNECTICUT  
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Richard Munday (Self-Report),  
New Haven

File No. 2019-028

**AGREEMENT CONTAINING CONSENT ORDER**

This agreement by and between Richard Munday of the City of New Haven, County of New Haven, 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. The complaint was self-reported by Respondent, President of Newman Architects, PC, (hereinafter "Company") a firm with principal offices in New Haven and a contract for the provision of on-call architectural services to UCONN. That contract is between the Company and the Department of Administrative Services ("DAS") and has a maximum value of \$3.9 million.
2. Respondent reported to the Commission details pertaining to a potential violation of the state contractor contribution ban pursuant to General Statutes § 9-612, based on his contribution to an exploratory committee for statewide office on December 31, 2017.
3. More specifically, Respondent indicated that:  
*[On]February 22, 2019, my office received a phone call requesting that I contact a Department of Administrative Services attorney, Kevin Kopetz, regarding a contribution of \$100 I made to the 'Friends of Susan Exploratory Committee' in 2017. ... Yesterday, I saw on the form which I filled in when making the contribution that I responded to a question as to whether or not I was a principal of a state contractor by indicating that I was not. That was incorrect since I am and was then a principal of Newman Architects, PC, which at the time did hold a contract with the University of Connecticut...*

*I assuredly would not have made the contribution if I thought it was not permissible... Please let me know what further steps would be appropriate or necessary to rectify this situation if indeed that is possible.*

4. By way of background, Respondent has no prior history with the Commission.
5. General Statutes § 9-612 provides in pertinent part:

...

(f)(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, (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, ....

...

(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.]**

6. The Commission finds that Respondent, as the President of the Company, disclosed a December 31, 2017 contribution to “Friends of Susan Exploratory Committee” in the amount of \$100.00. The investigation determined that the contribution that is subject of this self-report is the only one that he has made.
7. The Commission further finds that Respondent, because he is the President of the Company, which has a state contract with DAS, is subject to the prohibitions in General Statutes § 9-612; pertaining to the ban on contributions by principals of state contractors.
8. Finally, the Commission finds that “Friends of Susan Exploratory Committee,” as an exploratory committee registered for statewide office in connection with the November 11, 2018 election, was subject to the state contractor contribution ban pursuant to General Statutes § 9-612.
9. The Commission concludes, after investigation, that Respondent satisfies the definition of a “principal of a state contractor,” at all times relevant to this complaint, and therefore prohibited from making contributions to an exploratory committee for statewide office pursuant to General Statutes § 9-612.

10. The Commission concludes Respondent, as a principal of the Company, made a December 31, 2017 prohibited contribution in the amount of \$100.00 to an exploratory committee for statewide office in violation of § 9-612(f) (2) (A).
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. The aforementioned violation by Respondent of the state contractor contribution prohibition, as detailed above, consequently allows the Commission to determine whether "mitigating circumstances" exist concerning such violations pursuant to General Statutes § 9-612 (f) (2) (C).
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 candidate, 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.
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 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; *Complaint by John Traynor*, Bridgeport, File No. 2018-002; *Complaint by Shawn T. Wooden*, Hartford, File No. 2018-024; and, *In the Matter of James Keach*, Middletown, File No. 2019-033.
14. The Commission determines in this instance that the following mitigating circumstances exist:
  - (1) The potential candidate for statewide office was not involved with awarding contracts between the Company and DAS at the time of the prohibited contribution;

- (2) Respondent reported this contribution upon learning of his error in the ordinary course of the state contract validation process and sought return of the funds from the committee;
  - (3) No evidence that the contributions were made to induce the recipient candidate or her agents to assist Respondent and/or Newman Architects in state contracting; and,
  - (4) The harm to the parties, in this narrow and specific instance, of barring this contract outweighs the prophylactic value that its cancellation would provide to generally inhibit such conduct by state contractors in the future.
15. 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 in this instance, such that the Company is not statutorily barred from continuing its contract for the provision of on-call architectural services for UCONN, through its contract with DAS and/or other state entities as delineated within the prohibitions of § 9-612.
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 DAS and 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 DAS pursuant to General Statutes § 9-612 (f) (2) (C) from validating, implementing or otherwise moving forward with their existing contract obligations with the Company and that DAS 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.

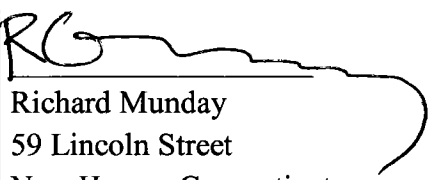
19. It is understood and agreed that this agreement will be submitted to the Commission at its next meeting and, if it is not accepted by the Commission, it is withdrawn by the Respondent and may not be used by either party as an admission in any subsequent hearing or against the Company in any proceeding, 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 Company pertaining to this matter, and this agreement and order does not serve as a prospective ban on future contracts between the Company, its subsidiaries and state actors and/or entities.

**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 pay a civil penalty in the amount of two hundred and fifty dollars (\$250.00) to the Commission, in full and final resolution of this matter.

The Respondent:

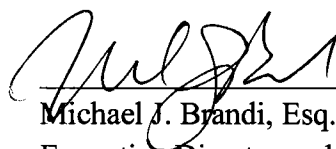
BY:

  
Richard Munday  
59 Lincoln Street  
New Haven, Connecticut

Dated: 5/22/2019

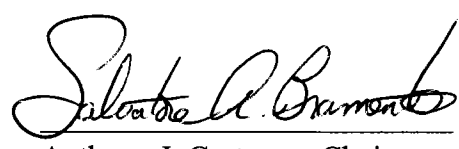
For the State of Connecticut:

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: 5/24/19

Adopted this 5<sup>th</sup> day of June, 2019, at Hartford, Connecticut

  
~~Anthony J. Castagno, Chairman~~  
By Order of the Commission  
Salvatore A. Bramante - Vice Chair