

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Mark Shipman, Bloomfield

File No. 2019-034

AGREEMENT CONTAINING CONSENT ORDER

This agreement by and between Mark Shipman (hereinafter "Respondent") 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 4-177(c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. The complaint in this matter was self-reported by Respondent.
2. This self-reported complaint alleges that Respondent, as principal of an executive branch state contractor, made an impermissible contribution to an exploratory committee for a candidate exploring for statewide executive branch office.
3. Under Connecticut law, a principal of an executive branch state contractor is, and was at all times relevant hereto, prohibited from making contributions to Connecticut exploratory for a candidates exploring for statewide executive branch office.
4. Specifically, General Statutes § 9-612 provides in pertinent part:

(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 . . . ;

. . .

(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, ...

5. General Statutes § 9-612 (f) (1) (F) further defines “principal of a state contractor” as follows:

“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.

6. Connecticut law further defines a “state contract” is to be:

an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. “State contract” does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan, a loan to an individual for other than commercial purposes or any agreement or contract between the state or any state agency and the United States Department of the Navy or the United States Department of Defense.

General Statutes § 9-612 (f) (1) (C).

7. General Statutes § 9-612 (f) (1) (D) defines a “state contractor” is to be:

a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. “State contractor” does not include a municipality or any other political subdivision of the state, including any entities or associations duly

created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

8. At all times relevant hereto, ABL Associates, LLC was a limited liability company which owned at 699 East Middle Turnpike, Manchester, Connecticut (hereinafter the "Property").
9. The Property consisted of a building containing 25,370 square feet of net useable square feet.
10. At all times relevant hereto, Respondent Mark Shipman was a member and an owner of more than five percent of ABL Associates, LLC.
11. At all times relevant hereto, the State of Connecticut Department of Public Works (hereinafter "DPW") was an executive branch state agency of the State of Connecticut.
12. On or about November 5, 2007, ABL Associates, LLC entered into a contract with the DPW whereby the DPW would pay to ABL Associates, LLC a sum in excess of \$50,000 annually for occupancy of the Property for a period of five years (hereinafter the "Lease").
13. Both Article 19 of the Lease and the SEEC Form 11 appended thereto included notices to principals of ABL Associates, LLC that they were prohibited from making campaign contributions like the contribution that is the subject of this self-reported complaint.
14. While the Lease contemplated that the DPW could execute an option to extend the Lease for an additional five years at a higher annual rent, and subsequently for another five years at yet another rent increase, DPW, in fact, has continually occupied the space since November 5, 2007 at the original base rent.
15. On or about January 11, 2010, Respondent Shipman made a \$100 contribution to the *Friends of Susan 2010, Inc.* committee.
16. From its registration until February 2, 2010, *Friends of Susan 2010, Inc.* was an exploratory committee for a candidate exploring statewide executive branch office.
17. Sometime prior to the filing of the instant complaint, ABL Associates, LLC and DPW entered into negotiations concerning a new lease for the Property. In the course of the negotiations, it was discovered that the aforementioned contributions may have been made in violation of General Statutes § 9-612 (f). Based upon that discovery, the Respondent filed the instant complaint.
18. In his communications with Commission investigators, Respondent Shipman stated that he did not have a specific recollection of the contributions in question, but states that the violation was the result of a mistake for which he takes responsibility.

19. Accordingly, based upon the foregoing, the Commission concludes that Respondent Shipman violated General Statutes § 9-612 (f) when he make a \$100 contribution to *Friends of Susan 2010, Inc.* while he was the principal of the executive branch state contractor ABL Associates, LLC.
20. Once the Commission determines that a principal of a state contractor has made or solicited an impermissible contribution, the contracting state agency:

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 may void the state contractor's contracts and such contractor

General Statutes § 9-612 (f) (2) (C). Such penalty may be avoided, however, if the Commission determines that mitigating circumstances exist.

21. 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). *In the Matter of a Complaint by Attorney Brendon M. Fox on Behalf of Joseph Dasilva, Danbury*, File No. 2015-179.
22. In determining whether circumstances are “mitigating,” the Commission deems it necessary to consider any circumstances pertaining to the contribution by Respondents, as well as how any contracts, agreements or pending bids or responses to between the Companies and the State 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.
23. 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 *In the Matter of a Complaint by Michael A. Neal, Naples, FL*, File No. 2018-028; *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 a Complaint by 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.

24. With regard to Respondent's improper contribution detailed hereinabove, the Commission determines that the following *mitigating circumstances* exist:

- (1) The Lease is more than 12 years old and came into effect at roughly the same time that the state contractor prohibition became effective.
- (2) There is no pattern of contributions that would lead one to suspect that the contributions were intended to influence current or future state contracts.
- (3) The Respondent has no history of prior violations of this type.
- (4) ABL Associates, LLC was receiving rent from the state that was less than the contractual option detailed in the Lease for the relevant period.
- (5) The parties did not revisit the terms of the lease until the renegotiation process that led to this complaint.
- (6) Respondent self-reported this complaint when he was made aware of the potential violation.

25. 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. Therefore, allowing ABL Associates, LLC to continue its contractual relationships, obligations or bid proposals with the State of Connecticut, and allowing them to enter into new such relationships, does not compromise the State's interest to insure integrity in its campaign financing and state contracting systems.

26. Accordingly, the Commission concludes pursuant to General Statutes § 9-612 (f) (2) (C) that mitigating circumstances exist pertaining to the violations found in connection with the Respondent's contributions to *Friends of Susan 2010, Inc.* such that ABL Associates, LLC is not statutorily barred from continuing, effectuating or otherwise implementing existing contracts, contractual obligations or being awarded contracts with State of Connecticut.

27. 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. Respondent shall receive a copy

hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.

28. 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.
29. 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 contest the validity of the Order entered into pursuant to this agreement.
30. 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 Respondent shall henceforth strictly comply with the requirements of General Statutes § 9-612.

IT IS HEREBY FURTHER ORDERED THAT Respondent Mark Shipman shall pay a civil penalty in the amount of one hundred dollars (\$100).

The Respondent:

For the State of Connecticut:

By:



Mark S. Shipman
83 Kenmore Road
Bloomfield, CT 06002

By:



Michael J. Brandi, Esq.,
Executive Director and General
Authorized Representative of the State
Elections Enforcement Commission
20 Trinity Street, Suite 101
Hartford, CT 06103

Dated: December 9, 2019

Dated: 1/3/2020

Adopted this 15 day of January, 20²⁰~~19~~ at Hartford, Connecticut



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