

**STATE OF CONNECTICUT**  
**STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Michael Albano (Self-Report),  
Hartford

File No. 2019-093

**AGREEMENT CONTAINING CONSENT ORDER**

This agreement by and between Jose Ramirez of the Town of South Windsor, 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. The complaint was self-reported by Attorney Michael Albano, on behalf of Respondent.
2. Respondent, at all times relevant to this complaint, was the Managing Member of Asylum 289 Condominiums, LLC (hereinafter "Company"), which has a financing agreement with Capital Regional Development Authority (CRDA). The self-reported potential violation is excerpted below:

*Asylum 289 Condominiums, LLC ... is herein self-reporting a possible violation of the campaign contribution restrictions enumerated in Conn. Gen. Stat. Sec. 9-612 relating to "state contractors." 289 is the developer and declarant of the condominium project located at 283-291 Asylum Street in Hartford Consisting of eight residential units and one commercial unit (the "Project"). ... [The Company] recently received Office of Policy and Management ("OPM") state ethic forms (the "Forms") from CRDA. These forms apparently were meant to be circulated and executed at the signing of [the Company'] loan contract with CRDA in June of 2017 with regard to the Project. ... [Respondent] made a personal, \$375.00 campaign contribution to Chris Mattei exploratory committee on September 22, 2017.*
3. By way of background, the Company is a domestic LLC with principal offices in Hartford. The Company is developing condominiums in the City of Hartford on Asylum Avenue. It has an existing financing agreement with CRDA. Respondent asserts that if the financing for development with CRDA is suspended it would "create considerable financial hardship" to the Company.

4. There is no dispute that the Company is a “state contractor” pursuant to General Statutes § 9-612 and that CRDA is a “quasi-public agency” according to that section. The parties agree that Respondent as owner of the Company is a “principal of a state contractor” pursuant to § 9-612, and is therefore subject to the state contractor contribution ban for purposes of that section.

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, on and after January 1, 2011, 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. [Emphasis added.]

5. After investigation, it was confirmed that Respondent, as the principal of a state contractor, made a single prohibited contribution in the amount of \$375.00 on September 22, 2017 to “Mattei for Connecticut” (hereinafter the “Committee”), an exploratory committee for statewide office registered in connection with the November 6, 2018 election.
6. The Commission finds that the Committee was subject to the state contractor contribution ban pursuant to General Statutes § 9-612 (f). The Commission further finds that Respondent as the principal of a state contractor was prohibited by that section from making contributions to the Committee. The Commission concludes therefore that Respondent violated General Statutes § 9-612 (f) by making the September 22, 2019 contribution in the amount of \$375.00 to the Committee.
7. The following facts and assertions, remain credible after the investigation: (1) Respondent made a single contribution in the amount of \$375.00 to an exploratory committee for statewide office; (2) Respondent was made aware of the prohibitions pertaining to state contractor contributions in formalizing his contract with the state after making the contribution in question; (3) Respondent took steps to self-report his prohibited contribution to the state after being made aware of restrictions on political contributions pertaining to state contractors; and, (4) Respondent was new to the state contracting process at the time of the negotiations between the Company and the CRDA to secure financing for a development project in Hartford.
8. Nevertheless, because Respondent was owner of the Company, he is subject to the restrictions contained in General Statutes§ 9-612 (f) (l) (F) (ii). The Commission concludes therefore that as a result of Respondent’s position, the \$375.00 contribution to the Committee, an exploratory committee that was established for a potential campaign for statewide office, was a prohibited contribution in violation of § 9-612 (f) (2) (A).
9. 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 above, allows the Commission to determine whether “mitigating circumstances” exist concerning such violations pursuant to General Statues § 9-612 (f) (2) (C).

10. 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.
11. 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 of Connecticut, that would, although not excusing the conduct, tend to reduce the harm the state contractor contribution ban is designed to prevent.
12. Concerning what constitutes a “mitigating factor” the Commission has previously stated that:

*In determining whether mitigating circumstances exist regarding the violation, the Commission may take into consideration the following list of mitigating circumstances, which it should be noted, is not exhaustive:*

  - (a) The amount of the prohibited contribution or instance of solicitation;*
  - (b) The type of principal committing the violation;*
  - (c) Past history of noncompliance with election laws;*
  - (d) Whether the contractor or prospective state contractor exercised due diligence in notifying the principals of the statutory prohibitions;*
  - (e) The economic harm to the State;*
  - (f) The disruption of an essential State service; and*
  - (g) Any other circumstance that the contractor, prospective state contractor or contracting state agency may raise that, in the Commission’s determination, is relevant to whether such contractual consequences should be imposed.<sup>1</sup>*

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<sup>1</sup> *In the Matter of Northeast Utilities Service Company*, File No. 2007-381, Commission Finding of Mitigating Circumstances.

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; *In the Matter of a Complaint by Raymond Baldwin*, Trumbull, File No. 2015-009; *In the Matter of a Complaint by Raymond Baldwin*, Trumbull, File No. 2015-009; *Complaint by John Traynor*, Bridgeport, File No. 2018-002; and *Complaint by Shawn T. Wooden*, Hartford, File No. 2018-024.
14. Respondent, based on this self-reported complaint, requests that the Commission determine and conclude whether violations have occurred based on its review and investigation and if mitigating circumstances concerning such violations existed. The Commission determines in this instance that the following *mitigating circumstances* exist:
- (1) There was only a single contribution to the exploratory of a single non-incumbent candidate in a field of many, made in September 2017 after entering the June 2017 agreement.
  - (2) Respondent as principal did not receive the ethics forms until 2019 and did not notice the reference to the restrictions in the 60-plus page document.
  - (3) There is no past history of non-compliance with Respondent.
  - (4) Respondent self-reported this complaint.
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 to the Committee.

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.
17. 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.
18. 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.

**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 five hundred dollars (\$500.00) to the Commission, in full and final resolution of this matter.

The Respondent:

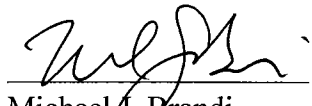
BY:

  
\_\_\_\_\_  
Jose Ramirez  
23 Brownell Avenue, Suite D  
Hartford, Connecticut

Dated: \_\_\_\_\_

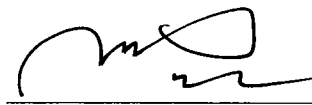
For the State of Connecticut:

BY:

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

Dated: 1/15/2020

Adopted this 15<sup>th</sup> day of January, 2020 at Hartford, Connecticut

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