

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Rohan A. Freeman
(Self-Report), Hartford

File No. 2019-098

AGREEMENT CONTAINING CONSENT ORDER

This agreement by and between Rohan A. Freeman 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. Respondent asserted that:

My name is Rohan A. Freeman and I am the President and CEO of Freeman Companies, a minority-owned and small business enterprise located in Hartford. I am writing to submit a "Self Reporting Complaint" of an error in our OPM Ethics form 1 (attached) sent to DAS-DCS (and then the State Properties Review Board) as part of the firm's "on-call" engineering contract conditional selection. I just recently became aware of this situation from ... attorney[s] with DCS, who advised [Freeman Companies] to notify SEEC of this mistake. I apparently made a financial contribution of \$ 250 back in July 27, 2017 to an organization called "Urban Progression PAC" not knowing it was an organization that contributed to statewide candidates (information I have just recently learned myself). We are a small firm and this DCS "on call" engineering contract (which is has been put on hold until this matter is resolved) is very important to us.

2. Respondent is the President and CEO of Freeman Companies (hereinafter "Company"). By way of background, the Company was granted a conditional selection to provide "on-call" engineering and consulting services with the State of Connecticut and received notice of this on July 17, 2018.¹

¹ Letter of July 17, 2018 to Respondent and the Company from Department of Administrative Services, Construction Services, Office of Legal Affairs, Policy & Procurement (received by the Commission on July 9, 2019.)

3. The Department of Administrative Services instructed Respondent that he was a state contractor and provided the requisite ethics and elections disclosure forms with the July 17th notice. The Company is a “state contractor” pursuant to General Statutes § 9-612, at all relevant times.
4. Freeman Companies appears on the Commission’s *List Two – Contractors Prohibited from Contributing to Statewide Candidates*, revised as of January 2019, prior to the filing of this complaint. Respondent has no prior history with the Commission.
5. General Statutes § 9-612, provides in pertinent part:
 - (f) (1) (D) “**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 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;
[Emphasis added.]

6. By way of background, the fundraising invitation clearly solicited contributions to participate in an “Evening with Board of Education Candidates.” The Commission finds that the fundraising event by Urban Progression, was plainly an event pertaining to Hartford municipal candidates for the Board of Education.
7. The Commission further finds no indication that Respondent’s contribution was connected to an event associated with statewide candidates or that Urban Progression PAC was holding the event to benefit candidates other than those running for municipal office.
8. The investigation confirmed that Respondent, as the principal of a state contractor, made a single prohibited contribution in the amount of \$250.00 to Urban Progression PAC, a political committee that was authorized to make contributions to statewide candidates.²

² See Urban Progression PAC September 21, 2012 *Political Committee (PAC) Registration* (SEEC Form 3) and Urban Progression PAC November 1, 2018 *Biennial Re-Registration Without Changes* (SEEC Form 3NC). Between each of the aforementioned filings the committee has consistently filed consecutive SEEC Form 3NCs.

9. The Commission concludes therefore that Respondent's \$250.00 contribution to Urban Progression PAC was in violation of General Statutes § 9-612.
10. 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 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.
13. Moreover, 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 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; and, *In the Matter of a Complaint by Shawn T. Wooden*, Hartford, File No. 2018-024.

14. The Commission makes a determination that “mitigating circumstances” exist in this instance. The Commission deems the following as mitigating circumstance pertaining to Respondent’s prohibited contribution:
- (1) Respondent remained unaware of any nexus between the Urban Progression PAC to which the contribution was made and any statewide candidates.
 - (2) The contribution described herein was not made in connection with any request for or offers of assistance between the Urban Progression PAC and the Company pertaining to DAS’ conditional selection of the Company to serve as an on-call engineering and consulting services with the State of Connecticut.
 - (3) There was no discussion or agreement by or the Company and the representatives of the Urban Progression PAC, the State of Connecticut, or any State agency or Quasi-public agency suggesting or implying that Respondent or the Company might receive some favored treatment in exchange for the contribution to Urban Progression PAC.
 - (4) Upon being made aware of the contribution in question as a potential violation, Respondent undertook to self-report the matter to the Commission.
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 Urban Progression PAC, such that the Company is not statutorily barred from continuing its contracts and/or negotiations pertaining to its provision of on-call engineering and consulting services to the State of Connecticut.
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 continuing services with the State of Connecticut 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 state agencies and other entities covered by General Statutes § 9-612 (f), from negotiating contracts or continuing their existing contract obligations with the Company and those state agencies and entities 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 and state agencies.

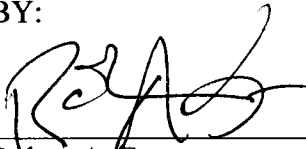
ORDER

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 pay a civil penalty in amount of three hundred dollars (\$300.00) to the Commission, in full and final resolution of this matter.

The Respondent:

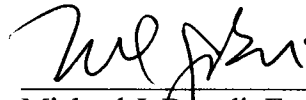
BY:



Rohan A. Freeman
36 John 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
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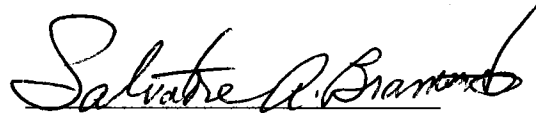
Dated:

9/4/2019

Dated:

9/9/19

Adopted this 18 day of September, 2019 at Hartford, Connecticut



~~Anthony J. Castagno, Chairman~~
By Order of the Commission
Salvatore Bramante