

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Morna Murray,
Glastonbury

File No. 2014-078

AGREEMENT CONTAINING CONSENT ORDER

This agreement by and between Morna Murray of the Town of Glastonbury, County of Hartford, State of Connecticut (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. Complaint was self-reported on behalf of Respondent the President and CEO of Connecticut Community Providers Association (CCPA) by her attorney, Robert F. Shea, Jr. Specifically, Respondent indicated her intention to "self-report ... an improper \$100 campaign contribution [she] made ... on January, 29 2014 to the Merrill 2014 candidate committee." *Merrill 2014* is the candidate committee for Secretary of the State of Denise Merrill who is seeking re-election at the November 4, 2014 state election.
2. Respondent in the matter has no prior history with the Commission. Further, Respondent indicates that she is "...*sorry for her mistake, and she respectfully requests that the SEEC find that mitigating circumstances exist to allow CCPA to continue its good work with the State of Connecticut on behalf of Connecticut's disabled citizens.*"
3. CCPA is a not-for-profit state trade association representing organizations that provide health and human services and supports for children, adults and families in the areas of mental health, substance use disorders, developmental disabilities, child and family health and well-being. Further, the CCPA facilitates the purchase and provision of products and services made by people with disabilities by state agencies and has contracts with the Department of Administrative Services ("DAS").
4. There is no dispute that CCPA is a state contractor for purposes of General Statutes § 9-612. Further, the Commission notes that at the time of Respondent's January 29, 2014 contribution the CCPA appeared on the Commission "*List Two – State Contractors Prohibited from Contributing to State Wide Office Candidates.*"
5. General Statutes § 9-612 provides, in pertinent part:

...

(f)(1)(F) "Principal of a state contractor or prospective state contractor" means ... *(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, ...

...

(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. Respondent asserts that she learned of the state contractor contribution ban through a colleague at CCPA and subsequently self-reported to the Commission her contribution to *Merrill 2014*. Further, Respondent asserts that she mistakenly completed a contributor card that incorrectly affirmed that she was not a principal of a state contractor or prospective state contractor.¹ After investigation, the Commission finds a lack of evidence contrary to the aforementioned assertions.

¹ The Commission notes that a treasurer is entitled to rely on contributor card certifications, which provide the treasurer with a good faith reliance defense should the contributor later be deemed to be a principal of a state contractor or prospective state contractor.

7. The Commission concludes that Respondent as President and CEO of the not-for-profit CCPA is a “principal” for purposes of the state contractor contribution ban and therefore subject to the prohibitions contained in General Statutes § 9-612 (f) (1) (F) (iii). Further, the Commission concludes that the \$100.00 contribution by Respondent as a principal of a state contractor to *Merrill 2014* a candidate committee for statewide office was prohibited by § 9-612 (f) (2) (A) (i). The Commission concludes therefore that Respondent violated the state contractor contribution ban pursuant to § 9-612 (f).
8. 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 ban, as detailed in paragraph 7 above, allows the Commission to determine whether “mitigating circumstances” exist concerning such violations pursuant to General Statutes § 9-612 (f) (2) (C).
9. 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 contracting 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.
10. 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 contracts and agreements between the CCPA and DAS, that would tend to reduce the harm of “pay-to-play” politics in the awarding of state contracts that the state contractor contribution ban is designed to prevent.
11. More specifically, the Commission has consistently 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 and exploratory committees for statewide office could wield over those state actors awarding such contracts and to prevent awarding of contracts in exchange for campaign contributions. See *In the Matter of a Complaint by Antinozzi Associates*, Bridgeport, File No. 2014-009; *In the Matter of a Complaint by Roger Pilc*, Stamford, File No. 2014-027; *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 and, *In the Matter of a Complaint by Gerald T. Weiner, et al.*, File No. 2010-099.

12. The Commission finds in this instance that the following “mitigating circumstances” pertaining Respondent’s contribution to *Merrill 2014* exist:
 - (1) The candidate committee for statewide office and/or their representatives or agents that received the contribution from Respondent was not involved in obtaining contracts between the CCPA and DAS;
 - (2) Respondent self-reported the suspected prohibited state contractor contribution to the Commission by causing this complaint to be filed; and,
 - (3) The damaging effects to the public trust and public finances resulting from “pay-to-play” relationships, that result in the awarding of state contracts in exchange for political contributions, were not present under these specific facts and circumstances relating to Respondent, the recipient candidate committee, CCPA and DAS.
 - (4) The fact that Respondent joined the CCPA and moved to Connecticut less than a year prior to the contribution having been made, she was not fully sensitive to the campaign finance restrictions in Connecticut that apply to certain officers of the CCPA.
13. 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 January 29, 2014 contribution in the amount of \$100.00 made by Respondent to the statewide candidate committee *Merrill 2014*, such that the DAS is *not* required to void existing contracts or barred from awarding future contracts or extending contracts through amendment with CCPA.
14. Accordingly, the Commission concludes that these *mitigating circumstances* pursuant to General Statutes § 9-612 (g) (2) (C) allows DAS to exercise its discretion pertaining its existing obligations and agreements with the CCPA consistent with its authority under that section.
15. Finally, the Commission determines after investigation that the policy behind General Statutes § 9-612 (f) to address and combat “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 CCPA to continue its contracting process with DAS does not compromise the state’s interests to insure integrity in its campaign financing system.
16. Respondent admits all jurisdictional facts and agree 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.

17. 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, if the same becomes necessary.
18. 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.
19. Upon Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings against Respondent pertaining to this matter.

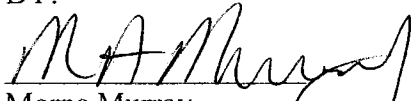
ORDER

IT IS HEREBY ORDERED THAT the Respondent shall henceforth strictly comply with the requirements of General Statutes § 9-612 (f).

IT IS HEREBY FURTHER ORDERED THAT the Respondent shall pay a civil penalty of two hundred dollars (\$200.00) to the Commission on or before November 18, 2014.

The Respondent:

BY:



Morna Murray

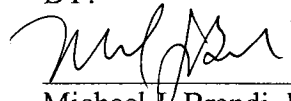
~~21 Hubbard Drive~~

S. Glastonbury, Connecticut

Dated: 11/3/2014

For the State of Connecticut:

BY:



Michael J. Brandi, Esq.,

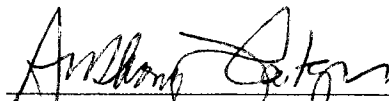
Executive Director and General Counsel
and Authorized Representative of the
State Elections Enforcement Commission

20 Trinity Street, Suite 101

Hartford, Connecticut

Dated: 11/12/14

Adopted this 18th day of October, 2014 at Hartford, Connecticut



Anthony J. Castagno, Chairman

By Order of the Commission

**RECEIVED
STATE ELECTIONS**

NOV 12 2014

ENFORCEMENT COMMISSION