



FEDERAL ELECTION COMMISSION
Washington, DC 20463

David Vicinanzo
Nixon Peabody LLP
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Boston, MA 02110
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DEC 20 2018

Re: MUR 7472
Barletta *et al*

Dear Mr. Vicinanzo:

On December 13, 2018, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of a violation of 52 U.S.C. §§ 30118(a) and 30122, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 52 U.S.C. § 30109(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1618.

Sincerely,

A handwritten signature in black ink, appearing to read "Kimberly D. Hart" with a stylized flourish at the end.

Kimberly D. Hart
Attorney

Enclosure
Conciliation Agreement

UNCLASSIFIED

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
 Vincent Barletta)
 Adphalt Corp.) MUR 7472
 Barletta Engineering Corporation)
 First Fidelity Corp.)

CONCILIATION AGREEMENT

This matter was initiated by a *sua sponte* submission ("the Submission") made to the Federal Election Commission ("the Commission") by Vincent Barletta, and three business entities under his control, Barletta Engineering Corporation ("BEC"), First Fidelity Corp. ("First Fidelity") and Adphalt Corp. ("Adphalt"). The Submission disclosed that between 2011 and 2015, Barletta caused the three corporations to reimburse \$39,800 in contributions to federal candidates and committees that had been made in the names of BEC employees or their spouses.

The Commission found reason to believe that BEC, First Fidelity, and Adphalt violated 52 U.S.C. §§ 30118(a) and 30122; and 11 C.F.R. §§ 110.4(b)(1) and 114.2(b); and Vincent Barletta violated 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(e) of the Federal Election Campaign Act of 1971, as amended ("Act") and Commission regulations with respect to reimbursed corporate contributions made in the names of others.

NOW, THEREFORE, the Commission and Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

- I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 52 U.S.C. § 30109(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts and law in this matter are as follows:

1. Vincent Barletta owns or controls a number of Massachusetts-based construction businesses. Barletta is the President, and majority owner of the voting stock of BEC, which is an active Massachusetts corporation. Barletta also controls and funds First Fidelity, a corporation used to loan money to other Barletta-controlled entities. Barletta owned and controlled Adphalt, a corporation that was involuntarily dissolved by court order on June 30, 2016.

2. After receiving requests from industry associations or unions for contributions, Barletta asked BEC employees if they, or their spouses, would consider making political contributions. Barletta approved reimbursements to any contributing employee or spouse who asked.

3. The reimbursements were made from whichever Barletta-controlled company had extra funds on hand.

4. Between 2011 and 2015, Barletta caused BEC, First Fidelity, and Adphalt to reimburse the following eighteen federal contributions totaling \$39,800 made by BEC employees or their spouses.

<u>Date</u>	<u>Contributor</u>	<u>Recipient Committee</u>	<u>Contribution Amount</u>
2/22/11	Ann-Marie Gardella	Capuano for Congress	\$2,500
2/25/13	Daniel Gardella	Lynch for Senate	\$2,600
4/26/13	Martin Naughton	Lynch for Senate	\$2,600
6/09/14	Leonard Brown	Lynch for Congress	\$500
6/09/14	Linda Brown	Lynch for Congress	\$500
6/09/14	Daniel Gardella	Lynch for Congress	\$500
6/09/14	Ann-Marie Gardella	Lynch for Congress	\$500
6/09/14	Kevin Huie	Lynch for Congress	\$2,000
6/09/14	Christopher Spencer	Lynch for Congress	\$2,000

8/18/14	Christopher Spencer	Massachusetts Democratic State Committee	\$5,000
8/27/14	Ryan Ondrejko	Massachusetts Democratic State Committee	\$5,000
6/05/15	Dallas Babineau	Lynch for Congress	\$2,600
6/05/15	Daniel Gardella	Lynch for Congress	\$2,600
6/05/15	Ann-Marie Gardella	Lynch for Congress	\$2,600
6/05/15	Ryan Ondrejko	Lynch for Congress	\$2,600
7/22/15	Dallas Babineau	Schuster for Congress	\$500
9/28/15	John Dargin	Capuano for Congress	\$2,600
9/28/15	Thomas Day	Capuano for Congress	\$2,600
			Total Contr. Amt. = \$39,800

5. In 2015, the Massachusetts Office of Campaign and Political Finance (“OCPF”) investigated state campaign contributions made by employees of Barletta-controlled entities. In September 2016, OCPF, Barletta, and his companies entered into a Disposition Agreement regarding the reimbursement of \$35,500 in state contributions. The Disposition Agreement also required Respondents to notify the Commission regarding alleged corporate reimbursements of federal contributions.

6. Respondents stopped reimbursing contributions after becoming aware of the OCPF investigation. Respondents also implemented a compliance and training program to educate current and future employees on the Act’s requirements and restrictions.

7. The Act and Commission regulations prohibit a corporation from making a contribution to a federal committee (other than an independent expenditure-only committee) and any person, including a corporation, from making a contribution in the name of another person. 52 U.S.C. §§ 30118(a) and 30122. The term “person” for purposes of the Act and Commission regulations includes corporations. *Id.* § 30101(11); 11 C.F.R. § 100.10.

8. Further, the Act prohibits an officer or director of a corporation from consenting to the making of a corporate contribution in the name of another. *Id.* § 30118(a), 11 C.F.R. § 114.2(e).

9. The prohibition extends to knowingly permitting one's name to be used to effect the making of a contribution in the name of another. 11 C.F.R. § 110.4(b)(1)(i).

V. For purposes of settling this matter and without admitting liability, Respondents agree not to contest the Commission's findings that Barletta Engineering Corporation, First Fidelity Corp. and Adphalt, Corp. violated 52 U.S.C. §§ 30118(a) and 30122 and 11 C.F.R. §§ 110.4(b)(1), 114.2(b) and that Barletta violated 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(e) by using corporate funds to make \$39,800 in federal contributions in the names of others between 2011 and 2015.

VI. Respondents will take the following actions:

1. Respondents will cease and desist from violations of 52 U.S.C. §§ 30118(a) and 30122 and 11 C.F.R. §§ 110.4(b)(1), 114.2(b) and 114.2(e).

2. Respondents will pay a civil penalty of Fifty Six Thousand Dollars (\$56,000), pursuant to 52 U.S.C. § 30109(a)(5)(A).

3. Respondents will waive the right to any refund of all contributions referenced in Paragraph IV.4 of this agreement, and will request that Capuano for Congress, Lynch for Senate, Lynch for Congress, Massachusetts Democratic State Committee, and Schuster for Congress disgorge the \$39,800 in contributions referenced in Paragraph IV.4 of this agreement to the United States Treasury. Respondent will inform the Commission when it notifies these committees of its waiver of a refund and its request to disgorge.

VII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Except as otherwise provided, Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This conciliation agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained within this written agreement shall be enforceable.

FOR THE COMMISSION:


Lisa J. Stevenson
Acting General Counsel

BY: Kathleen M. Guith
Kathleen M. Guith
Associate General Counsel
for Enforcement

12-18-18
Date

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1 FOR THE RESPONDENTS:


David A. Vicinanza, Esq.
NIXON PEABODY LLP
100 Summer Street
Boston, MA 02110-2131
Counsel for Respondents

11/5/18
Date

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