



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
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Director

May 27, 2014

Joseph Ferretti, President
Palco, Inc. d/b/a Certified Products Co.
269 Kearney Avenue
Jersey City, NJ 07305

**RE: *Palco, Inc d/b/a/ Certified Products Co.
Reconsideration of Chapter 51/EO 117 Ineligibility***

Dear Mr. Ferretti:

This letter is in response to your letter to this office dated January 27, 2014 ("Letter"). The Letter appeals or seeks reconsideration of an initial ineligibility determination by the Chapter 51 Unit of the Division of Purchase and Property that contributions made by Palco, Inc. d/b/a Certified Products Co. ("Palco") have extended Palco's ineligibility for State of New Jersey ("State") contracts. Palco made two (2) contributions that are the subject of the instant reconsideration. On April 6, 2013, Palco contributed \$400 to Union City First, a municipal political party committee. On October 7, 2013, Palco contributed \$500 to the Hudson County Democratic Organization, a county political party committee. (Copies of the front and back of these checks are attached hereto and incorporated herein.) I have reviewed the matter and determined that the above contributions are prohibited by Chapter 51/Executive Order 117 ("EO 117") and Palco's ineligibility is extended appropriately until April 7, 2015, barring any other prohibited contributions.

The pertinent statute, P.L. 2005, c. 51, codified at N.J.S.A. 19:44A-20.13, et seq. ("Chapter 51"), prohibits the State or any of its purchasing agents or agencies or its independent authorities from contracting with business entities that have solicited or made any contribution of money to any candidate committee or election fund of any candidate for or any holder of the public office of the Governor, or to any State or county political party committee within specified time frames. Effective November 15, 2008, EO 117 expanded upon Chapter 51 to include contributions made to any legislative leadership committee or any **municipal political party committee** in the same manner as those provisions apply to a contribution to any candidate committee, election fund, or State or county political party committee identified in Chapter 51.

The legislative findings associated with Chapter 51 place the utmost importance on the State's compelling interests in prohibiting the award of government contracts to business entities that are contributors to certain political parties and holders of public office. N.J.S.A. 19:44A-20.13. The State is charged with the duty of assuring the public that the selection of State contracts is based upon merit and not political contributions made by such contractors. Id. The legislative intent is to safeguard not only against political contributions that pose the risk of improper influence or purchase of access, but also against those contributions that create the perception or appearance thereof. Id.

A review of the facts leading up to and surrounding these contributions reveals that on January 10, 2013, Palco was previously disqualified for two (2) prohibited Chapter 51/EO 117 contributions. Both prior contributions were made to the Hudson County Democratic Organization, a county political party committee. The first contribution was on September 18, 2012, in the amount of \$375. The second contribution was on October 10, 2012, in the amount of \$1250. Based upon the later of those contributions (October 10, 2012), Palco was disqualified for eighteen (18) months from the date of that contribution and deemed ineligible until April 10, 2014.

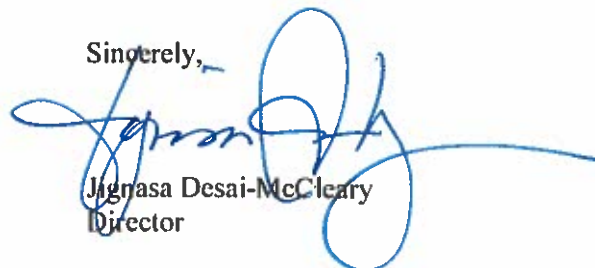
However, on December 26, 2013, Palco submitted to the Chapter 51 Unit its new Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions form ("Certification") also dated December 26, 2013. (A copy of the Certification is attached hereto and incorporated herein.) By this Certification, Palco disclosed the additional, prohibited contributions that are the subject of this reconsideration: Union City First on April 6, 2013, for \$400; and again, the Hudson County Democratic Organization on October 7, 2013, for \$500. Upon receiving this information, the Chapter 51 Unit requested copies of the cancelled checks to verify these contributions. Upon verification, Palco's ineligibility was extended for eighteen (18) months from the last known prohibited contribution to the Hudson County Democratic Organization on October 7, 2013, or until April 7, 2015.

The Letter in support of reconsideration states that Palco recently underwent management changes prior to the two checks in question being issued. Specifically, the letter explains that the \$400 donation to Union City First, a municipal political party committee, was believed to be given to a non-profit, civic organization that focuses on using donated funds for human services. As to the donation of \$500 (instead of an allowable \$300 contribution) to the Hudson County Democratic Organization, the Letter explains that it was erroneously issued and only noticed at a later date.

Unfortunately, these explanations do not provide a basis for relief. A business entity must conduct its own due diligence when making contributions. Chapter 51 provides a narrow window within which a business entity may neutralize the effect of a prohibited contribution and maintain its eligibility for State contracts. "If a business entity inadvertently makes a contribution that would otherwise bar it from receiving a contract or makes a contribution during the term of a contract in violation of this act, the entity may request, a full reimbursement from the recipient and, if such reimbursement is received within 30 days after the contribution was made, the business entity would again be eligible to receive a contract or would no longer be in violation, as appropriate." N.J.S.A. 19:44A-20.20. While this provision could provide a business entity with a limited window to seek reimbursement of an inadvertent contribution, the 30-day window has passed and no request for any refund was demonstrated.

I have reviewed the information submitted as it relates to the provisions of Chapter 51/EO 117. Based upon this review and for the reasons discussed above, I am unable to overturn the eligibility determination rendered by the Chapter 51 Unit in this matter. I must also affirm the underlying extension of ineligibility until April 7, 2015.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jignasa Desai-McCleary", with a long horizontal flourish extending to the right.

Jignasa Desai-McCleary
Director

c: Margaret Quinn, DPP
Katherine Antinoro, DPP
Vance Bequer, DPP
Robert Shaughnessy, DPMC