

**STATE OF RHODE ISLAND  
BEFORE THE RHODE ISLAND ETHICS COMMISSION**

**In re: Michael Salvatore Jr.**

**Complaint No. 2003-1**

**INFORMAL RESOLUTION AND SETTLEMENT**

The Respondent, Michael Salvatore Jr., and the Rhode Island Ethics Commission hereby agree to a resolution of the above-referenced matter as follows:

**A. Findings of Fact and Admissions**

1. The Respondent is a Commissioner of the Rhode Island Resource Recovery Corporation ("RIRRC"), a state appointed position, having been originally appointed in June 2000.
2. The RIRRC funds and manages the state's recycling program, and owns and operates the Central Landfill and Materials Recycling Facility in Johnston, Rhode Island.
3. The Respondent is the owner and principal of Salvatore Auctions & Appraisals, Inc. ("Salvatore Auctions"), a Rhode Island corporation in the business of providing auction and appraisal-related services.
4. In May 2002, the respondent was contacted by the owner of Appraisal & Liquidation Services, Inc. ("A&LS"), a Rhode Island corporation engaged in the business of providing appraisal, liquidation and brokerage services. A&LS had been retained by the Connecticut Bank of Commerce to liquidate the assets of a Connecticut business, Lisa Lee Creations, to satisfy a security interest held by the bank through an SBA loan. Because of Salvatore Auctions' experience in jewelry casting equipment and its licensure in the state of Connecticut, A&LS subcontracted Salvatore Auctions to conduct the auction sale of Lisa Lee's assets. The terms of the agreement were payment by A&LS of

a flat fee to Salvadore Auctions, plus setup costs and costs of newspaper advertising.

A&LS was responsible for all other advertising and promotion.

5. On June 26, 2002, the Connecticut Bank of Commerce was closed by the Connecticut Banking Commissioner, and the FDIC was appointed receiver. This development delayed the auction of Lisa Lee's assets.
6. The RIRRC wished to sell certain of its used heavy equipment (25 vehicles). In the July 2, 2002 edition of the Providence Journal, the corporation ran an advertisement seeking requests for qualifications/proposals ("RFQ/RFP") for auctioneer services to conduct an auction of said used equipment.
7. The RFQ/RFP was created by the legal staff of the RIRRC. The Respondent's only involvement with this RFQ/RFP was his suggestion, upon being contacted by the RIRRC Operations Manager, that the RFQ/RFP require bonding, licensure and familiarity with this type of auction.
8. In response to the advertisement, the RIRRC received five formal proposals. Among these proposals was one from A&LS, and one from the Complainant in this matter, Theodore Loebenberg, on behalf of his company Brokers Unlimited Inc.
9. The five proposals were reviewed by a three-member Staff Evaluation Committee, without input from the RIRRC Commissioners, including the Respondent. The Staff Evaluation Committee scored each of the proposals using predetermined criteria on a written evaluation form. The criteria applied are as follows: 1) Quality of proposal = 20%; 2) Experience of Respondent = 40%; and 3) Fee Proposal = 40%. Based upon these criteria, the highest scoring proposal with the only perfect score of 100% was that submitted by A&LS.

10. On August 7, 2002, the Staff Evaluation Committee forwarded a recommendation to the RIRRC Operations Manager that the contract be awarded to A&LS, and that the matter be placed on the RIRRC agenda for the next meeting for approval of the recommendation. The matter was placed on the agenda for a meeting on August 20, 2002. The minutes of this meeting indicate that the item was deferred until the next meeting on September 24, 2002. The purpose of this deferral was for the RIRRC staff, upon the suggestion of the RIRRC Board of Commissioners, to interview the top candidates.
11. On September 11 & 12, 2002, the RIRRC staff interviewed three of the five auctioneers that submitted bids, including A&LS, Petrowsky Auctioneers and Irving Schectman. The Complainant's company was not selected for an interview. On September 16, 2002, the RIRRC staff issued a memorandum recommending that the contract be awarded to A&LS.
12. At approximately this same time, in mid-September, A&LS was given the go-ahead to liquidate the assets of Lisa Lee Creations. Pursuant to the agreement between Salvadore Auctions and A&LS regarding this auction, Salvadore Auctions prepared the site for auction in October, and placed a listing on its website which included a link to A&LS for directions to the auction site, product listings and descriptions.
13. A meeting of the RIRRC was held on September 24, 2002. At the meeting, the RIRRC staff again recommended that the auctioneer contract be awarded to A&LS. Upon motion made by Commissioner John St. Sauveur and seconded by Commissioner Roger Badeau, the RIRRC unanimously voted to accept the staff's recommendation. The Respondent participated in the discussion and vote relative to this item.

14. By letter dated September 25, 2002, the Complainant in this matter was notified that the RIRRC had awarded the contract to A&LS.
15. An advertisement appeared in the October 13, 2002 edition of the Providence Journal giving notice of the Lisa Lee auction to be held on October 16, 2002 in Woodbridge, Ct. The advertisement lists the auctioneer as Michael Salvadore (the Respondent), and includes the logos and addresses of both Salvadore Auctions and A&LS. The Lisa Lee auction was conducted by Salvadore Auctions on October 16, 2002.
16. In November 2002, the Complainant in this matter, Theodore Loebenberg, filed a protest with the RIRRC regarding the award of the contract to A&LS.
17. On November 16, 2002, A&LS conducted the public auction of RIRRC's equipment. Total sales at the auction amounted to \$406,660. Of this amount, A&LS received a 10% commission of \$40,666 and contract expenses of \$14,500.
18. By letter dated January 9, 2003, the Complainant in this matter wrote to Governor Donald Carcieri requesting that the Governor look into issues surrounding the RIRRC auction.
19. In January 2002, the Complainant in this matter wrote to the Open Meetings/Public Records Division of the Department of Attorney General seeking investigation of matters surrounding the RIRRC auction.
20. On April 3, 2003, the Complainant filed the instant complaint with the Rhode Island Ethics Commission, alleging that the Respondent should not have participated in the RIRRC decision to award the auction contract to A&LS due to the Respondent's business relationship with A&LS relative to the Lisa Lee Creations auction.

**B. Conclusions of Law**

1. The Respondent, a member of the Board of Commissioners of the Rhode Island Resource Recovery Corporation, a state appointed position, was at all relevant times subject to the Code of Ethics in Government.
2. The Respondent was a business associate of A&LS by virtue of the agreement between Salvadore Auctions and A&LS relative to the liquidation of the assets of Lisa Lee Creations. This business association existed on September 24, 2002, on which date the RIRRC voted to award a contract to A&LS.
3. Because it was reasonably foreseeable that the Respondent's business associate, A&LS, would derive a direct monetary gain through the award of the RIRRC contract, the Respondent had an interest that was in conflict with the proper discharge of his duties in the public interest. Respondent's participation in the vote notwithstanding this conflict is a violation of the Code of Ethics, specifically R.I. Gen. Laws § 36-14-5(a).

**C. Mitigating Factors**

In mitigation of the conduct detailed above, the Respondent makes the following representations, of which the investigation in this matter has produced no evidence to the contrary:

1. The Respondent has fully cooperated with the Commission staff's investigation into the allegations of the complaint. The Respondent has responded to the allegations of the complaint in writing, has made himself available numerous times by telephone, and has traveled to the Ethics Commission offices to be interviewed by Commission investigators and attorneys.

2. The Respondent represents that he has never, including during the time he has been a Commissioner on the Board of the RIRRC, received training or information relative to identifying and avoiding conflicts of interest under the Rhode Island Code of Ethics. Legal counsel to the RIRRC confirmed that recusal forms were not available for use during meetings, and that in his approximately three years as legal counsel he does not recall a Commissioner ever recusing on a matter.
3. The Respondent represents that he was approached by A&LS to conduct the Lisa Lee auction prior to the RIRRC putting out its auction RFP, and that his selection as auctioneer was based solely upon his expertise in the materials to be auctioned and upon his qualification to do business in Connecticut. He further states that there was no understanding or discussion of a "quid pro quo," either express or implied, conditioning or relating his work on the Lisa Lee auction with A&LS's proposal to the RIRRC.
4. The Respondent represents that he was unaware that under the Code of Ethics he was considered to be a "business associate" of A&LS by virtue of a single agreement to provide auctioneer services at a flat rate in the Lisa Lee Creations liquidation.
5. The Respondent represents that the RIRRC staff, without input from the Respondent or any of the Commissioners, evaluated and ranked all of the submitted proposals, conducted interviews of the top ranked applicants and independently recommended that A&LS be awarded the contract. The Respondent further represents that he relied upon the judgment and recommendation of the RIRRC staff in participating in the unanimous vote to award the RIRRC contract to A&LS.
6. The Respondent represents that he now understands that he should have recused from participation in the matter, and that in the future he will be more diligent in identifying

potential conflicts of interest. In that regard, the Respondent represents that he has approached the other Commissioners on the Board of the RIRRC to suggest that they schedule a workshop devoted to understanding the requirements of the Rhode Island Code of Ethics.

**D. Settlement**

The Respondent agrees that, pursuant to the above Findings of Fact, Conclusions of Law and Mitigating Factors, the Prosecution will recommend, pursuant to R.I. Gen. Laws § 36-14-13(d), the imposition of a civil penalty of One Hundred (\$100) Dollars. While agreeing to the imposition of such penalty if approved by the Commission, the Respondent respectfully requests, and reserves the right to request at hearing, the imposition of a lessor or no penalty.

The above terms represent the full and complete Informal Resolution and Settlement for Complaint No. 2003-1.

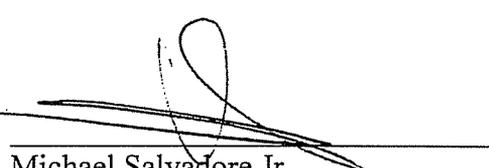
Dated:

9-30-03

  
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Jason Gramitt  
Commission Prosecutor

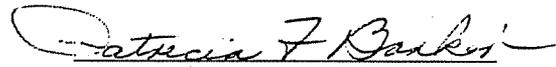
Dated:

9-30-03

  
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Michael Salvadore Jr.  
Respondent

CERTIFICATE OF SERVICE

I, Patricia F. Barker, hereby certify that on the 8th day of October, 2003, I mailed (postage prepaid) a copy of the within document to Michael Salvadore, Jr., 100 Bellows Street #13, Warwick, RI 02888 and Theodore Loebenberg PO Box 2535, Providence, RI 02906

Handwritten signature of Patricia F. Barker in cursive script.

Signature