CITY OF PHILADELPHIA
BOARD OF ETHICS

Contact: J. Shane Creamer, Jr., Executive Director, 215-686-9450
For Immediate Release: May 23, 2016

PHILADELPHIA – On May 18, 2016, the Board of Ethics approved two settlement agreements listed below with City employees resolving violations of the Philadelphia Home Rule Charter's restrictions on political activity and political fundraising by City employees. Copies of the approved agreements are attached.

Charles Younger: resolving six violations of the Philadelphia Home Rule Charter's political activity and political fundraising restrictions.

Peter Cutty: resolving two violations of the Philadelphia Home Rule Charter's political activity restrictions.

The Philadelphia Board of Ethics is a five-member independent board established by ordinance, approved by Philadelphia voters in May 2006, and installed on November 27, 2006. It is charged with administering, enforcing, and interpreting the City's campaign finance law, lobbying law, political activity restrictions, and standards of conduct and ethics laws.

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SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made and entered into by the Board of Ethics of the City of Philadelphia, J. Shane Creamer Jr., the Executive Director of the Board, and Charles Younger, jointly referred to as "the Parties."

RECITALS

A. The Board of Ethics of the City of Philadelphia is a five-member, independent board established by ordinance, approved by Philadelphia voters in May 2006, and installed on November 27, 2006. Pursuant to section 4-1100 of the Home Rule Charter, the Board is charged with, among other things, enforcing the sections of the Philadelphia Home Rule Charter that impose restrictions on the political activity of City employees.

B. Charles Younger is a Social Work Services Manager II at the Philadelphia Department of Human Services (DHS). He has been an appointed employee of the City of Philadelphia since 2008.

C. Subsection 10-107(3) of Philadelphia's Home Rule Charter provides, in part, that no City officer "shall, from any person, and no officer or member of a committee of any political party or club shall, from any civil service employee, directly or indirectly demand, solicit, collect or receive, or be in any manner concerned in demanding, soliciting, collecting or receiving, any assessment, subscription or contribution, whether voluntary or involuntary, intended for any political purpose whatever."

D. Pursuant to Philadelphia Code Section 20-606(1)(h), if the Board finds a violation of Subsection 10-107(3) of the Home Rule Charter, it may impose a civil monetary penalty of $300.

E. Subsection 10-107(4) of the Philadelphia Home Rule Charter provides that a City employee may not engage in certain types of political activity. The political activity restrictions in the Home Rule Charter ensure that government operates effectively and fairly and that employees are free from improper influences and perform their duties without bias or favoritism for or against any political party, candidate, or partisan political group.

F. Pursuant to Philadelphia Code Section 20-606(1)(h), if the Board finds a violation of Subsection 10-107(4) of the Home Rule Charter, it may impose a civil monetary penalty of $300.

G. Ethics Board Regulation No. 8, which became effective March 28, 2011, provides a detailed interpretation of Charter Subsections 10-107(3) and 10-107(4) as applied to appointed City officers and employees.

H. Pursuant to Regulation No. 8, Paragraph 8.1(f), a contribution intended for a political purpose is money or things having a monetary value received by a political committee, political party, or partisan political group.

I. Pursuant to Regulation No. 8, Paragraph 8.1(k), an appointed officer or employee is on duty during normal working hours, which for those with fixed work schedules includes the time between the start and end of the workday excluding a lunch break.

J. Pursuant to Regulation No. 8, Paragraph 8.1(n), political activity is an activity directed toward the success or failure of a political party, candidate, or partisan political group.

K. Pursuant to Regulation No. 8, Paragraph 8.1(l), a partisan political group is any committee, club, or other organization that is affiliated with a political party or candidate or whose primary purpose is to engage in political activity.

L. Pursuant to Regulation No. 8, Paragraph 8.3, an appointed officer or employee shall not engage in political activity while on duty or while using City-owned or leased resources, including printers, computers, or other supplies or equipment.

M. Pursuant to Regulation No. 8, Paragraph 8.5, a City employee shall not directly or indirectly be in any manner concerned in the collection, receipt, or solicitation of contributions intended for a political purpose.

N. Pursuant to Regulation No. 8, Paragraph 8.11, an appointed officer or employee shall not take any part in the management or affairs of any political party, political campaign or partisan political group, which includes any political activity that is performed in concert or coordination with a political party, candidate, or partisan political group. Prohibited conduct includes participating in get-out-the-vote activities organized or sponsored by a political party, candidate, or partisan political group.

O. In 2015, prior to the 2015 Philadelphia Primary Election, while an employee of DHS, Mr. Younger served as a Trustee for the American Federation of State, City, and Municipal Employees (AFSCME), District Council 47. Mr. Younger also worked with the group AFSCME PEOPLE, a political action committee representing AFSCME.

P. AFSCME PEOPLE is a partisan political group.

Q. In March and April of 2015, Mr. Younger helped promote and organize an event for AFSCME called Party with a Purpose. The event was an opportunity for AFSCME District Council 47 members to meet the candidates in the 2015 Primary Election that AFSCME District Council 47 had endorsed. These candidates included candidates for City elective office and judicial office. Funds raised for the event were deposited into AFSCME PEOPLE's checking account and used to fund subsequent political activities. Mr. Younger solicited individuals to purchase tickets and collected ticket money. He promoted and organized the event while on duty for DHS. He also used City resources to promote and organize the event by extensively using his City email account and City computer and by using City paper, City postage, and City envelopes.

R. In March of 2015, Mr. Younger helped promote and organize a Fish Fry for AFSCME PEOPLE. The purpose of the Fish Fry was to encourage AFSCME District Council 47 members to take part in activities to support candidates endorsed by AFSCME District Council 47. Funds raised for the event were deposited into AFSCME PEOPLE's checking account and used to fund subsequent political activities. Mr. Younger solicited individuals to purchase tickets. He promoted and organized the event while on duty for DHS. He also used City resources to promote and organize the event by extensively using his City email account and City computer.

S. In 2015, prior to the 2015 Philadelphia Primary Election, Mr. Younger participated in and promoted AFSCME PEOPLE's get-out-the vote (GOTV) efforts for candidates endorsed by AFSCME District Council 47. Mr. Younger engaged in these activities while on duty for DHS. Mr. Younger also used City resources to assist and promote the GOTV efforts, specifically his City email account and his City computer.

T. In 2015, prior to the 2015 Philadelphia Primary Election, Mr. Younger created literature supporting and opposing certain candidates for City elective office and judicial office. Mr. Younger created the literature while on duty for DHS. Mr. Younger extensively used his City computer to create the literature.

U. On March 31, 2015, Mr. Younger spoke at an AFSCME District Council 47 endorsement rally for Mayoral candidate Jim Kenney. Mr. Kenney attended the rally and spoke at the rally. Mr. Younger created his speech supporting Mr. Kenney while on duty for DHS. He used his City computer and email to create his speech for the rally.

V. At all times, Mr. Younger fully cooperated with the Board's investigation.

W. The Parties desire to enter into this Agreement in order to resolve the matters described herein.

AGREEMENT

The Parties agree that:

1. By promoting and organizing AFSCME's Party With A Purpose Event, Mr. Younger violated Subsection 10-107(4) of the Philadelphia Home Rule Charter because he acted in concert and coordination with candidates endorsed by AFSCME District Council 47 and also because he used City time and City resources to promote and organize the event. The civil monetary penalty for this violation is $300.

2. By promoting and organizing AFSCME's Party With A Purpose Event, Mr. Younger violated Subsection 10-107(4) of the Philadelphia Home Rule Charter because he acted in concert and coordination with AFSCME PEOPLE and also because he used City time and City resources to promote and organize the event. The civil monetary penalty for this violation is $300.

3. By soliciting and collecting contributions intended for a political purpose as part of the AFSCME Party with a Purpose and AFSCME PEOPLE Fish Fry events, Mr. Younger violated Subsection 10-107(3) of the Home Rule Charter. The civil monetary penalty for this violation is $300.

4. By using City time and City resources to promote AFSCME PEOPLE's GOTV initiative for AFSCME District Council 47 endorsed candidates, Mr. Younger violated Subsection 10-107(4) of the Philadelphia Home Rule Charter. The civil monetary penalty for this violation is $300.

5. By using City time and City resources to promote and attack certain candidates for City elective office and certain candidates for judicial office, Mr. Younger violated Subsection 10-107(4) of the Philadelphia Home Rule Charter. The civil monetary penalty for this violation is $300.

6. By speaking at an endorsement rally for Jim Kenney, which Jim Kenney attended, and also by preparing a speech to support Mr. Kenney at the rally using City time and City resources, Mr. Younger violated Subsection 10-107(4) of the Philadelphia Home Rule Charter. The civil monetary penalty for this violation is $300.

7. Mr. Younger shall pay the aggregate civil penalty of $1,800 for the six violations described above on the following schedule:

   7.1: $500 within 14 days of the execution of the Agreement;

   7.2: $500 within 60 days of the execution of the Agreement;

   7.3: $500 within 90 days of the execution of the Agreement; and

   7.4: $300 within 120 days of the execution of the Agreement.

   Payment shall be by check or money order made payable to the City of Philadelphia and delivered to the offices of the Board of Ethics.

8. Within six months of the effective date of the Agreement, Mr. Younger shall attend ethics training at the offices of the Board.

9. Mr. Younger releases and holds harmless the Board and its staff from any potential claims, liabilities, and causes of action arising from the Board's investigation, enforcement, and settlement of the matters described in the Agreement.

10. In consideration of the above and in exchange for Mr. Younger's compliance with all of the terms of the Agreement, the Board waives any further penalties or fines against him for the violations described in the Agreement.

11. The Parties will not make any public statements that are inconsistent with the terms of the Agreement.

12. If the Ethics Board is forced to seek judicial enforcement of the Agreement, and prevails, Mr. Younger shall be liable for attorneys' fees and costs reasonably expended in enforcing compliance with the Agreement. Fees for time spent by Board staff attorneys shall be calculated based upon standard and customary billing rates in Philadelphia for attorneys with similar experience.

13. The Agreement contains the entire agreement between the Parties.

14. The Executive Director, or his designee, will submit a signed copy of the Agreement to the Board for approval.

15. The Agreement shall become effective upon approval by the Board. The effective date of the Agreement shall be the date the Board Chair signs the Agreement.

16. If the Board rejects the proposed Agreement, presentation to and consideration of the Agreement by the Board shall not preclude the Board or its staff from participating in, considering, or resolving an administrative adjudication of the matters described in the Agreement. If the Board rejects the proposed Agreement, nothing in the proposed Agreement shall be considered an admission by either party and, except this paragraph, nothing in the Agreement shall be effective.

By the Executive Director of the Board of Ethics:

Dated: 5/11/16

J. Shane Creamer, Jr.
Executive Director

By Charles Younger:

Dated: 5/2/16

Approved by the Board of Ethics:

Dated: 5/18/2016

Michael H. Reed, Esquire
Chair

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made and entered into by the Board of Ethics of the City of Philadelphia, J. Shane Creamer Jr., the Executive Director of the Board, and Peter Cutty, jointly referred to as "the Parties."

RECITALS

A. The Board of Ethics of the City of Philadelphia is a five-member, independent board established by ordinance, approved by Philadelphia voters in May 2006, and installed on November 27, 2006. Pursuant to Section 4-1100 of the Home Rule Charter, the Board is charged with, among other things, enforcing the sections of the Philadelphia Home Rule Charter that impose restrictions on the political activity of City employees.

B. Peter Cutty is a Water Operations Repair Helper at the Philadelphia Water Department (PWD). He has been an appointed employee of the City of Philadelphia since March 9, 2015.

C. Subsection 10-107(4) of the Philadelphia Home Rule Charter provides that a City employee may not engage in certain types of political activity. The political activity restrictions in the Home Rule Charter ensure that government operates effectively and fairly and that employees are free from improper influences and perform their duties without bias or favoritism for or against any political party, candidate, or partisan political group.

D. Pursuant to Philadelphia Code Section 20-606(1)(h), if the Board finds a violation of Subsection 10-107(4) of the Home Rule Charter, it may impose a civil monetary penalty of $300.

E. Ethics Board Regulation No. 8, which became effective on March 28, 2011, provides a detailed interpretation of Charter Subsection 10-107(4) as applied to appointed City officers and employees.

F. Pursuant to Regulation No. 8, Paragraph 8.1(n), political activity is an activity directed toward the success or failure of a political party, candidate, or partisan political group.

G. Pursuant to Regulation No. 8, Paragraph 8.1(o), a political campaign is action taken by a candidate or his or her supporters to obtain the candidate's nomination or election to public elective office.

H. Pursuant to Regulation No. 8, Paragraph 8.11, an appointed officer or employee shall not take any part in the management or affairs of any political party, political campaign, or partisan political group, which includes any political activity that is performed in concert or coordination with a political party, candidate, or partisan political group. Prohibited conduct includes the following activities: circulating or initiating nomination petitions or papers for public elective office; being a candidate for public elective office or political party office; participating in get-out-the-vote activities organized or sponsored by a political party, candidate, or partisan political group; and engaging in political activity using resources or materials paid for or provided by a political party, candidate, or partisan political group.

I. In January of 2016, while an employee of PWD, Mr. Cutty responded to an email solicitation from the Pennsylvania Democratic Party and submitted an online application to be a candidate for Pennsylvania delegate at the 2016 Democratic National Convention ("DNC") in support of United States Presidential candidate Senator Bernie Sanders.

J. During late January and early February of 2016, Mr. Cutty circulated nominating petitions and collected signatures in the Pennsylvania 1st Congressional District to appear as a candidate on the 2016 Pennsylvania Primary Election ballot. Mr. Cutty collected petition signatures while off duty from PWD.

K. After he obtained the requisite petition signatures, Mr. Cutty gave his petitions to the Sanders campaign, which submitted the petitions. Mr. Cutty was subsequently listed on the 2016 Pennsylvania Primary Election ballot as a candidate for delegate to the DNC in support of Senator Sanders.

L. In late January and early February of 2016, while an employee of PWD, Mr. Cutty also participated in activities supporting Senator Sanders' Presidential campaign. He and other DNC delegate candidates circulated petitions to collect signatures for Senator Sanders to appear as a candidate for President on the 2016 Pennsylvania Primary Election ballot. Additionally, in late March of 2016, Mr. Cutty canvassed in Philadelphia for the Sanders campaign three times a week on nights and weekends. He knocked on the doors of homes designated by the Sanders campaign and distributed literature provided by the Sanders campaign.

M. At all times, Mr. Cutty fully cooperated with the Board's investigation of the violations described in this Agreement. After Board enforcement staff informed him that his candidacy for delegate to the DNC violated the City's political activity restrictions, Mr. Cutty promptly filed a petition in the Commonwealth Court of Pennsylvania to obtain a court order to remove himself from the 2016 Pennsylvania Primary Election ballot. On April 19, 2016, the Commonwealth Court granted his petition and ordered him removed from the Primary Election ballot.

N. The Parties desire to enter into this Agreement in order to resolve the matters described herein.

AGREEMENT

The Parties agree that:

1. By being a candidate for party office and by promoting his candidacy by circulating nominating petitions, Mr. Cutty violated § 10-107(4) of the Philadelphia Home Rule Charter. The maximum civil monetary penalty for this violation is $300. However, the penalty is waived to reflect Mr. Cutty's cooperation with the Board's investigation and his prompt remedial action to remove himself from the 2016 Pennsylvania Primary Election ballot.

2. By engaging in political activity in concert and coordination with Senator Sanders' campaign, Mr. Cutty violated § 10-107(4) of the Philadelphia Home Rule Charter. The civil monetary penalty for this violation is $300, which Mr. Cutty shall pay on the following schedule:

   2.1 $100 within 14 days of the execution of the Agreement;

   2.2 $100 within 45 days of the execution of the Agreement; and

   2.3 $100 within 60 days of the execution of the Agreement.

   Payment shall be by check or money order made payable to the City of Philadelphia and delivered to the offices of the Board of Ethics.

3. Within six months of the effective date of the Agreement, Mr. Cutty shall attend ethics training at the offices of the Board.

4. Mr. Cutty releases and holds harmless the Board and its staff from any potential claims, liabilities, and causes of action arising from the Board's investigation, enforcement, and settlement of the matters described in the Agreement.

5. In consideration of the above and in exchange for Mr. Cutty's compliance with all of the terms of the Agreement, the Board waives any further penalties or fines against him for the violations described in the Agreement.

6. The Parties will not make any public statements that are inconsistent with the terms of the Agreement.

7. If the Ethics Board is forced to seek judicial enforcement of the Agreement, and prevails, Mr. Cutty shall be liable for attorneys' fees and costs reasonably expended in enforcing compliance with the Agreement. Fees for time spent by City attorneys shall be calculated based upon standard and customary billing rates in Philadelphia for attorneys with similar experience.

8. The Agreement contains the entire agreement between the Parties.

9. The Executive Director, or his designee, will submit a signed copy of the Agreement to the Board for approval.

10. The Agreement shall become effective upon approval by the Board. The effective date of the Agreement shall be the date the Board Chair signs the Agreement.

11. If the Board rejects the proposed Agreement, presentation to and consideration of the Agreement by the Board shall not preclude the Board or its staff from participating in, considering, or resolving an administrative adjudication of the matters described in the Agreement. If the Board rejects the proposed Agreement, nothing in the proposed Agreement shall be considered an admission by either party and, except this paragraph, nothing in the Agreement shall be effective.

By the Executive Director of the Board of Ethics:

Dated: 4/26/16

J. Shane Creamer, Jr.
Executive Director

By Peter Cutty:

Dated: 4/21/16

Approved by the Board of Ethics:

Dated: 5/18/2016

Michael H. Reed, Esquire
Chair