

## SETTLEMENT AGREEMENT

This Settlement Agreement is made and entered into by the Board of Ethics of the City of Philadelphia, Teamsters Local 830, and J. Shane Creamer, Jr., the Executive Director of the Board of Ethics, jointly referred to as “the Parties.”

### **RECITALS**

- A. The Board of Ethics of the City of Philadelphia is an independent, five-member City board established in 2006 through voter approval of an amendment to the Philadelphia Home Rule Charter. Pursuant to Section 4-1100 of the Home Rule Charter and Chapter 20-1200 of the Philadelphia Code, the Board is charged with administering and enforcing Philadelphia’s Lobbying Law.
- B. Teamsters Local 830 (“Local 830”) is an affiliate of the International Brotherhood of Teamsters.
- C. Philadelphia’s Lobbying Law is found at Chapter 20-1200 of the Philadelphia Code and Board Regulation No. 9, which provides a detailed interpretation of Chapter 20-1200.
- D. Under the City’s Lobbying Law, a principal is a person who engages in lobbying on its own behalf or who pays someone else (a lobbyist) to engage in lobbying. Lobbying is an effort to influence governmental administrative or legislative action through direct communication, indirect communication, or by providing gifts, transportation, hospitality, or lodging to City officers or employees. If a principal incurs expenditures of more than \$2,500 for lobbying expenses in a quarter, the principal must register with the Board.

- E. Under the City’s Lobbying Law, indirect communication is:

An effort to encourage others, including the general public, to take action, the purpose or foreseeable effect of which is to directly influence legislative or administrative action, such as letter-writing campaigns, mailings, telephone banks, print and electronic media advertising, billboards, publications and educational campaigns on public issues, but not including regularly published periodic newsletters primarily designed for and distributed to members of a bona fide association or charitable or fraternal nonprofit corporation.

Board Regulation No. 9, Paragraph 9.1(p).

- F. A principal must file an expense report for each quarter in which the principal incurs lobbying expenditures of more than \$2,500. In an expense report, the principal must disclose its expenditures incurred that quarter for direct communications, indirect communications, and gifts, transportation, hospitality and lodging to City officers and employees as well as detailed information about the nature of those expenditures.

- G. Pursuant to Code Section 20-1207(1)(b) and Regulation No. 9, Paragraph 9.26, the failure to register as a principal or to file an expense report is subject to a civil penalty not exceeding \$250 for each late day up to a maximum of \$2,000 for any one registration or report.
- H. In 2016, Local 830 paid Frank Keel \$5,000 per month to provide public relations services on behalf of its union membership related to the proposed 2016 Philadelphia soda tax being considered by Philadelphia City Council. Specifically, Mr. Keel authored letters to the editor and opinion pieces that encouraged the public to urge their Council members to vote against the proposed soda tax. These letters and opinion pieces constituted indirect communications under Philadelphia's Lobbying Law.
- I. In addition to the activity by Mr. Keel, from March through June of 2016, Local 830 incurred expenditures on behalf of its union membership for public outreach and meetings with community groups and civic associations to promote its opposition to the proposed soda tax. Local 830 also incurred expenditures for printed materials, including buttons, banners, and handouts, which were used to oppose the proposed soda tax. These activities constituted indirect communications under Philadelphia's Lobbying Law.
- J. Local 830 also incurred expenditures on behalf of its union membership for direct communications with members of City Council regarding the proposed soda tax from March through June of 2016.
- K. In the 1<sup>st</sup> quarter of 2016, Local 830 incurred expenditures of more than \$2,500 for the activities described in Paragraphs H through J and therefore should have registered as a principal and filed a 2016 1<sup>st</sup> quarter expense report. However, Local 830 did not register as a principal or file a 1<sup>st</sup> quarter expense report.
- L. In the 2<sup>nd</sup> quarter of 2016, Local 830 also incurred expenditures of more than \$2,500 for the activities described in Paragraphs H through J. As such, Local 830 should have filed a 2016 2<sup>nd</sup> quarter expense report. However, Local 830 did not file a 2<sup>nd</sup> quarter expense report.
- M. At all times, Local 830 cooperated with the Board's investigation.
- N. The Parties desire to enter into this Agreement in order to resolve the issues described herein.

## **AGREEMENT**

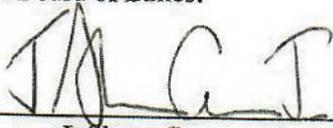
The Parties agree that:

1. The failure of Local 830 to register as a principal in 2016 violated Code Section 20-1207(1)(b) and is subject to a civil monetary penalty of \$2,000. However, in light of the cooperation of Local 830, the Board waives the penalty for this violation.
2. The failure of Local 830 to file an expense report for the 1<sup>st</sup> quarter of 2016 violated Code Section 20-1207(1)(b) and is subject to a civil monetary penalty of \$2,000. However, the Board reduces the penalty for this violation to \$1,000 in light of the cooperation of Local 830.
3. The failure of Local 830 to file an expense report for the 2<sup>nd</sup> quarter of 2016 violated Code Section 20-1207(1)(b) and is subject to a civil monetary penalty of \$2,000. However, the Board reduces the penalty for this violation to \$1,000 in light of the cooperation of Local 830.
4. Local 830 shall pay the aggregate civil monetary penalty of \$2,000 within 14 days of the effective date of the Agreement. Payment shall be by check made out to the City of Philadelphia and delivered to the offices of the Board.
5. Within 14 days of the effective date of the agreement, Local 830 shall file a registration statement for 2016 and shall file expense reports for the 1<sup>st</sup> and 2<sup>nd</sup> quarters of 2016. When it files its 2016 registration statement, Local 830 shall pay the 2016 registration fee of \$100.
6. Local 830 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 this Agreement.
7. In consideration of the above and in exchange for the compliance of Local 830 with all of the terms of the Agreement, the Board waives any further penalties or fines against it for the violations described in this Agreement.
8. The Parties will not make any public statements that are inconsistent with the terms of the Agreement.
9. If the Board or the City is forced to seek judicial enforcement of this Agreement, and prevails, Local 830 shall be liable for attorneys' fees and costs reasonably expended in enforcing compliance with the Agreement. Fees for time spent by Board or City attorneys shall be calculated based upon standard and customary billing rates in Philadelphia for attorneys with similar experience.
10. The Agreement contains the entire agreement between the Parties.
11. The Executive Director will submit a signed copy of the Agreement to the Board for approval.
12. The Agreement shall become effective upon approval by the Board.

13. 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 for this paragraph, nothing in the Agreement shall be effective.

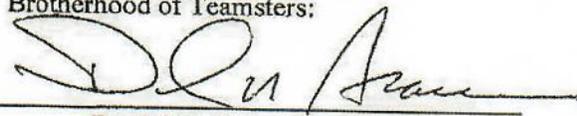
By the Executive Director of  
the Board of Ethics:

Dated: 4/11/17

  
\_\_\_\_\_  
J. Shane Creamer, Jr.

By Local 830 of the International  
Brotherhood of Teamsters:

Dated: 4/10/2017

  
\_\_\_\_\_  
Daniel H. Grace, Secretary-Treasurer

Approved by the Board of Ethics:

Dated: 4/19/17

  
\_\_\_\_\_  
Michael H. Reed  
Chair