

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into between the Board of Ethics of the City of Philadelphia (“Ethics Board”) and McCaffery for District Attorney (“the McCaffery Committee”). The Ethics Board and the McCaffery Committee are referred to jointly as “the Parties.”

RECITALS

- A. The Philadelphia Board of Ethics is an independent board that was established by Charter amendment, approved by voters, and installed on November 27, 2006. It is charged with providing ethics training for all city employees and enforcing city campaign finance, financial disclosure and conflict of interest laws. The Board has the authority to render advice, investigate complaints and issue fines.
- B. McCaffery for District Attorney is the candidate committee of Dan McCaffery.
- C. Dan McCaffery was a candidate for District Attorney of Philadelphia in the May 2009 primary election.
- D. Joe Fernandes is the treasurer of McCaffery for District Attorney.
- E. Because the McCaffery Committee’s 2008 cycle 7 and 2009 cycle 2 campaign finance reports disclosed contributions and expenditures related to an election for City office, the Committee was required to, and did, electronically file copies of those campaign finance reports with the Ethics Board, via the Philadelphia Department of Records, pursuant to §20-1006 of the City’s campaign finance law.
- F. Section 20-1006 of the City’s campaign finance law prohibits the making of material omissions or misstatements in any campaign finance report filed with the Ethics Board.
- G. In March 2009, pursuant to its mandate, the Ethics Board commenced an investigation into contributions received by the McCaffery Committee in 2008 and 2009.
- H. During the course of its investigation, the Ethics Board reviewed campaign finance reports filed by multiple committees and obtained bank records and other documents through Administrative Subpoenas.

- I. On or about January 27, 2009 the Pennsylvania Good Government Fund (“the Fund”) delivered a check for \$10,500 to the McCaffery Committee. The McCaffery Committee deposited the check on or about January 29, 2009.
- J. The McCaffery Committee asked the Fund to allocate \$7,400 of the contribution for 2008 and \$3,100 for 2009. The Fund agreed to such an allocation. Based on its knowledge of Federal campaign finance regulations, the McCaffery Committee mistakenly thought such an allocation would be permissible under Philadelphia’s campaign finance law.
- K. Philadelphia’s campaign finance law does not permit such an allocation of a contribution.
- L. Relying on its mistaken belief that Philadelphia’s campaign finance law permitted the Fund to allocate part of its contribution for 2008 and part for 2009, the McCaffery Committee disclosed a December 31, 2008 contribution of \$7,400 in its 2008 cycle 7 campaign finance report and a January 29, 2009 contribution of \$3,100 in its 2009 cycle 2 campaign finance report.
- M. Under Philadelphia’s campaign finance law, the McCaffery Committee should have disclosed only a January 27, 2009 contribution of \$10,500 from the Fund.
- N. Neither the McCaffery Committee, Dan McCaffery, nor Joseph Fernandes intended to violate Philadelphia’s campaign finance, financial disclosure, or conflict of interest laws.
- O. The Parties desire to enter into this Agreement in order to resolve the violations described herein.

AGREEMENT

The Parties agree as follows:

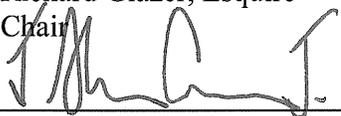
- 1. The McCaffery Committee admits that its 2008 cycle 7 campaign finance report which disclosed a December 31, 2008 contribution of \$7,400 from the Pennsylvania Good Government Fund, violated §20-1006(4) of the Philadelphia Code.
 - 1.1. Upon execution of the Agreement, the McCaffery Committee will pay a civil penalty of \$750 for this violation.
 - 1.2. Within 30 days of the execution of the Agreement, the McCaffery Committee will amend its 2008 cycle 7 campaign finance report in order to correct the violation.

2. The McCaffery Committee admits its 2009 cycle 2 campaign finance report which disclosed a January 29, 2009 contribution of \$3,100 from the Pennsylvania Good Government Fund, violated §20-1006(4) of the Philadelphia Code.
 - 2.1. Upon execution of the Agreement, the McCaffery Committee will pay a civil penalty of \$750 for this violation.
 - 2.2. Within 30 days of the execution of the Agreement, the McCaffery Committee will amend its 2009 cycle 2 campaign finance report in order to correct the violation.
3. Within fourteen days of the execution of the Agreement, the Ethics Board will discontinue *Board of Ethics v. McCaffery for District Attorney, et al.*, Philadelphia Court of Common Pleas, May 2009 Term, No. 0985.
4. In consideration of the above and in exchange for the McCaffery Campaign's compliance with all of the terms of the Agreement, the Board waives any further penalties or fines against the McCaffery Committee for the violations described in the Agreement.
5. The Parties will not make any public statements that are inconsistent with the terms of the Agreement.
6. The Agreement contains the entire agreement between the Parties.
7. The Agreement shall become effective on execution by the Parties.

By the Board of Ethics of the City of Philadelphia:

Dated: _____

Dated: 9/30/09

 Richard Glazer, Esquire
 Chair


 J. Shane Creamer, Jr., Esquire
 Executive Director

By McCaffery for District Attorney

Dated: _____

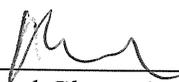
 9/24/09

 Joe Fernandes, Treasurer

2. The McCaffery Committee admits its 2009 cycle 2 campaign finance report which disclosed a January 29, 2009 contribution of \$3,100 from the Pennsylvania Good Government Fund, violated §20-1006(4) of the Philadelphia Code.
 - 2.1. Upon execution of the Agreement, the McCaffery Committee will pay a civil penalty of \$750 for this violation.
 - 2.2. Within 30 days of the execution of the Agreement, the McCaffery Committee will amend its 2009 cycle 2 campaign finance report in order to correct the violation.
3. Within fourteen days of the execution of the Agreement, the Ethics Board will discontinue *Board of Ethics v. McCaffery for District Attorney, et al.*, Philadelphia Court of Common Pleas, May 2009 Term, No. 0985.
4. In consideration of the above and in exchange for the McCaffery Campaign's compliance with all of the terms of the Agreement, the Board waives any further penalties or fines against the McCaffery Committee for the violations described in the Agreement.
5. The Parties will not make any public statements that are inconsistent with the terms of the Agreement.
6. The Agreement contains the entire agreement between the Parties.
7. The Agreement shall become effective on execution by the Parties.

By the Board of Ethics of the City of Philadelphia:

Dated: 9/25/2009



 Richard Glazer, Esquire
 Chair

Dated: _____

 J. Shane Creamer, Jr., Esquire
 Executive Director

By McCaffery for District Attorney

Dated: _____

 Joe Fernandes, Treasurer