

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into between the Board of Ethics of the City of Philadelphia, Jacque Whaumbush, Harris Brooks, and Whaumbush for Sheriff, 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 City’s campaign finance law which is found at Chapter 20-1000 of the Philadelphia Code.
- B. Jacque Whaumbush was a candidate for Philadelphia Sheriff in the 2011 primary election. Whaumbush for Sheriff is Whaumbush’s authorized candidate political committee. Harris Brooks is the treasurer of Whaumbush for Sheriff.
- C. As a declared candidate for City elective office during the 2011 primary election, Whaumbush was subject to the City’s campaign finance law.
- D. Philadelphia Code § 20-1003 requires all candidates for City office to provide information about their candidate committees to the Ethics Board, as explained in Paragraph 1.32 of Board of Ethics Regulation No. 1, which provides:

Notice of formation of candidate political committee. Within three business days of the formation of a candidate political committee or within three business days of becoming a candidate, the candidate shall notify the Board of the following information by postal mail or email sent to the attention of the Board’s Executive Director:

- a. The committee’s name and street address (other than a P.O. box);
- b. The name of the bank where the committee’s checking account is established; and
- c. The name and telephone number of the treasurer of the committee. If the treasurer has an email address, he or she shall also provide that email address.

A candidate may satisfy the requirements of this Paragraph by providing the Board with a copy of the Political Committee Registration Statement he or she filed with the City Commissioners or Secretary of State as long as the candidate includes the information described in (a)-(c) above.

- E. On March 15, 2011, as a courtesy, Ethics Board staff sent Respondent Whaumbush a letter by U.S. Postal mail explaining his obligation to provide the information required by Regulation No. 1.
- F. However, Whaumbush did not provide the required information about his candidate committee to the Ethics Board in response to the March 15th letter.
- G. On April 12, 2011, as a courtesy, Ethics Board staff sent Whaumbush a letter, by hand delivery, notifying him that he had failed to provide the information required by Regulation No. 1. The letter set an extended deadline of April 15 for him to provide the required information and informed him that, if he did not provide the information by April 15th, Board staff would initiate an administrative enforcement action against him.
- H. However, Whaumbush did not provide the required information about his candidate committee to the Ethics Board as required by Code § 20-1003 and Regulation No. 1, Paragraph 1.32 by April 15th.
- I. On May 17th, the Ethics Board's Executive Director served a Notice of Administrative Enforcement Proceeding on Whaumbush alleging a violation of Code § 20-1003 for the failure to provide required information about his candidate committee to the Ethics Board.
- J. On July 13, 2011, Whaumbush provided required information about his candidate committee to the Ethics Board, as required by Code section 20-1003 and Regulation No. 1, Paragraph 1.32.

- K. Pursuant to Philadelphia Code § 20-1006(1)(a) and Regulation No. 1 Paragraph 1.42:

Whenever a candidate for City elective office (or such a candidate's treasurer or agent) files a campaign finance report with the City Commissioners or the Secretary of State pursuant to the Pennsylvania Election Code, he or she shall file electronically a copy of that report with the Board, through the Department of Records.

- L. Pursuant to Philadelphia Code § 20-1006(1)(a) and Regulation No. 1 Paragraph 1.43:

Whenever a political committee (or a political committee's treasurer or agent), files a campaign finance report with the City Commissioners or the Secretary of State, the political committee shall file electronically a copy of that report with the Board, through the Department of Records, if the report filed with the City Commissioners or Secretary of State discloses, or should disclose, any contributions or expenditures made to influence the outcome of a covered election, including contributions from or expenditures to a candidate for City elective office.

- M. Under the Pennsylvania Election Code, May 6, 2011 was the deadline for municipal candidates and political committees to file 2011 pre-primary (cycle 2) campaign finance reports with the City Commissioners.
- N. Because Whaumbush was a candidate for City elective office, his candidate political committee, Whaumbush for Sheriff, should have electronically filed a cycle 2 campaign finance report with the Ethics Board by May 6, 2011.
- O. On May 11, 2011, as a courtesy, Ethics Board staff sent Whaumbush and Brooks a letter, by hand delivery and email, informing them of the committee's failure to electronically file a cycle 2 campaign finance report with the Ethics Board.
- P. The letter informed Whaumbush and Brooks of the penalties for failure to file a required report with the Ethics Board, but told them that if the committee filed the report by May 13th, Ethics Board staff would not pursue enforcement of the failure to file. However, the Whaumbush for Sheriff did not file a 2011 cycle 2 report with the Ethics Board by May 13th.
- Q. On May 17th, the Ethics Board's Executive Director served a Notice of Administrative Enforcement Proceeding on Whaumbush, Brooks, and Whaumbush for Sheriff alleging a violation of Code § 20-1006 for the failure to electronically file a 2011 cycle 2 campaign finance report with the Ethics Board.
- R. Whaumbush for Sheriff did not electronically file its 2011 cycle 2 campaign finance report with the Ethics Board until July 20, 2011.
- S. Pursuant to Code § 20-1301(2), the penalty for failure to file a campaign finance report in electronic format as required is civil penalty of \$250. Each day the report remains unfiled is a separate offense for which an additional civil penalty of \$250 may be imposed, provided that the penalty that may be imposed for failure to file a particular report shall not exceed \$2,000 for the first thirty days the report remains unfiled, plus \$1,000 for each additional thirty day period (or part thereof) the report remains unfiled.
- T. The Parties desire to enter into this Agreement in order to resolve the issues described herein.

AGREEMENT

The Parties agree that:

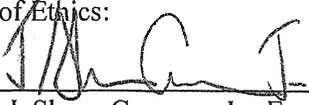
1. Jacque Whaumbush's failure to provide required information about his candidate committee to the Ethics Board violated Code section 20-1003.
2. Whaumbush will pay a civil penalty of \$500 for the failure to provide required information about his candidate committee to the Ethics Board.
3. Jacque Whaumbush's, Harris Brooks' and Whaumbush for Sheriff's failure to electronically file a 2011 cycle 2 campaign finance report with the Ethics Board by May 6th violated § 20-1006 of the Philadelphia Code.
4. Whaumbush will pay a civil penalty of \$500 for the failure to electronically file a 2011 cycle 2 with the Ethics Board by May 6, 2011.
5. The civil penalties shall be paid by Whaumbush in the following increments:
 - 5.1. \$500 by August 15, 2011.
 - 5.2. \$500 by December 31, 2011

Payment shall be made by check made out to the City of Philadelphia and delivered to the offices of the Board at 1441 Sansom Street.

6. Whaumbush, Brooks, and Whaumbush for Sheriff release and hold 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 violations described in the Agreement.
7. In consideration of the above and in exchange for Whaumbush's, Brooks' and Whaumbush for Sheriff's compliance with all of the terms of the Agreement, the Board waives any further penalties or fines against them for the violations described in the Agreement.
8. The Parties will not make any public statements that are inconsistent with the terms of the Agreement.
9. If the Ethics Board is forced to seek judicial enforcement of the Agreement, Whaumbush, Brooks, and Whaumbush for Sheriff shall be jointly and severally liable for attorneys' fees and costs reasonably expended in enforcing compliance with this Agreement. Fees for time spent by Ethics Board staff 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.

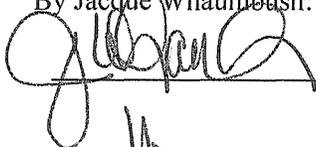
11. The Parties will submit a signed copy of the Agreement to the Board for approval.
12. The Agreement shall become effective upon approval by the Board.
13. If the Board rejects the proposed Agreement, presentation to and consideration of the Agreement by the Board, it shall not preclude the Board from further participation, consideration, or resolution of the pending Administrative adjudication of these matter described in the Agreement.

Dated: 8/2/11

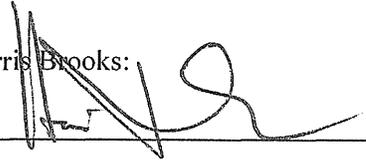
By the Executive Director of the Board of Ethics:


J. Shane Creamer, Jr., Esquire

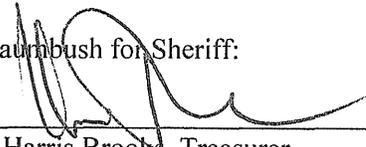
Dated: 7/29/11

By Jacque Whaumbush:


Dated: 7/29/11

By Harris Brooks:


Dated: 7/29/11

By Whaumbush for Sheriff:


Harris Brooks, Treasurer

Approved by the Board of Ethics:

Dated: 8/23/11



Richard Glazer, Esquire
Chair