

Philadelphia Board of Ethics

Contact: J. Shane Creamer, Jr., Executive Director, 215-686-9450

For Immediate Release: April 8, 2015

PHILADELPHIA – On April 7, 2015, the Board of Ethics approved a settlement agreement with the Williams for Mayor campaign relating to excess pre-candidacy contributions, acceptance of excess contributions, and material misstatements and omissions made in campaign finance reports filed with the Board.

A copy of the approved settlement agreement is attached.

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 providing ethics training for all City employees and enforcing among other things, City campaign finance, financial disclosure, lobbying, and conflict of interest laws. The Ethics Board has authority to render advice, investigate complaints and issue fines.

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SETTLEMENT AGREEMENT

This Settlement Agreement is made and entered into by the Board of Ethics of the City of Philadelphia, J. Shane Creamer, Jr., Executive Director of the Board of Ethics, the Honorable Anthony Hardy Williams, and Williams for Mayor, 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 administering and enforcing Philadelphia’s Campaign Finance Law. The Ethics Board has provided a detailed interpretation of the campaign finance law in its Regulation No. 1 (Campaign Finance).
- B. State Senator Anthony Hardy Williams is a candidate for Mayor of Philadelphia in the upcoming May 2015 Democratic primary election. Senator Williams announced his candidacy for Mayor of Philadelphia on November 19, 2014.
- C. Senator Williams has designated the political committee Williams for Mayor as the one committee which will accept contributions and make expenditures for his campaign for Mayor. Prior to November 19, 2014, this political committee was named Friends of Anthony H. Williams. Prior to September 18, 2014, this political committee was named Williams for Senate.
- D. When Senator Williams became a candidate for City elective office, he became subject to the City’s Campaign Finance Law, as set forth in Philadelphia Code Chapter 20-1000 and interpreted by Board of Ethics Regulation No. 1.
- E. Pursuant to Philadelphia Code § 20-1002(1) and Regulation No. 1, Paragraph 1.2(a), an individual cannot contribute more than \$2,900 per calendar year to a candidate for City elective office.
- F. Pursuant to Philadelphia Code § 20-1002(2) and Regulation No. 1, Paragraph 1.3(a), a political committee cannot contribute more than \$11,500 per calendar year to a candidate for City elective office.
- G. Before an individual becomes a candidate, the contribution limits do not apply. However, pursuant to Regulation No. 1, Paragraph 1.44(a) and (b), within ten days after becoming a candidate, a candidate must exclude all excess pre-candidacy contributions received during the accounting period from his or her candidate political committee checking account by either transferring them to a segregated pre-candidacy excess contribution account, or returning them to their contributors.

- H. An excess pre-candidacy contribution is the portion of a pre-candidacy contribution to a political committee that, had it been made to a candidate for City elective office, would have been in excess of the contribution limits.
- I. The accounting period is the period from January 1 of the year following the previous election that was held for the City elective office a candidate is seeking through 5:00pm of the day before he or she became a candidate. In this instance, for Senator Williams, the accounting period was January 1, 2012 through 5:00pm on November 18, 2014.
- J. Pursuant to Regulation No. 1, Paragraph 1.44(b), a candidate determines the amount of money to exclude either by using a dollar-for-dollar calculation or an accounting-based calculation. Under an accounting-based calculation, a candidate does not have to exclude any excess pre-candidacy contributions that he or she demonstrates, using a reasonable accounting method, were actually spent before becoming a candidate. However, any pre-payments the committee made do not constitute expenditures of excess pre-candidacy contributions when using this accounting method. A pre-payment is a payment made during the accounting period for anything used or to be used by a candidate's campaign.
- K. Pursuant to Regulation No. 1, Paragraph 1.43(a), a candidate may not spend any excess pre-candidacy contributions for the purpose of influencing the outcome of a City election in which he or she is a candidate.
- L. From January 1, 2012 through November 18, 2014, the Williams for Mayor committee accepted approximately \$438,000 in excess pre-candidacy contributions.
- M. In late November 2014, the Williams campaign contacted Board enforcement staff to discuss the campaign's handling of excess pre-candidacy contributions. In the course of several meetings and conversations with Board enforcement staff about the requirements of the City's Campaign Finance Law, the campaign explained that they believed they had spent all of the excess pre-candidacy contributions they had accepted and therefore did not need to exclude any money from the Williams for Mayor checking account.
- N. In response, Board enforcement staff obtained and reviewed documents and took statements from witnesses to determine whether the Williams campaign's accounting of excess pre-candidacy contributions complied with the City's Campaign Finance Law. The Williams campaign remained in close contact with Board enforcement staff and provided certain information and documents upon request. The Board also retained an accountant to analyze the committee's financial transactions and to advise the Board what amount of money the Williams for Mayor committee should exclude from its account.

- O. After a thorough review of the Williams for Mayor committee's financial records, the Board's accountant advised that, based on a last-in, first-out accounting method, the committee had spent most, but not all of the excess pre-candidacy contributions it had accepted. After accounting for certain pre-payments, the Board proposed and the Williams campaign agreed that \$62,927 was an appropriate amount for the Williams for Mayor committee to exclude from its account.
- P. In 2014, after Senator Williams became a candidate for Mayor, Williams for Mayor accepted and disclosed the following six contributions, which exceeded the limits when combined with contributions the donors had made to Senator Williams in 2014 before he was a candidate.
1. \$10,000 from Carpenters PAC of Philadelphia & Vicinity on 12/23/2014;
 2. \$2,900 from George Bochetto on 12/18/14;
 3. \$250 from Melissa Heller on 12/18/2014;
 4. \$600 from Nehemiah Kent on 12/18/2014;
 5. \$600 from Wallace Coleman on 12/18/2014; and
 6. \$2,900 from Theodore Pagano on 11/22/2014.
- Q. Pursuant to Philadelphia Code § 20-1002(12) and Regulation No. 1, Paragraph 1.7, a candidate may not accept any contribution that exceeds the contribution limits. Pursuant to Philadelphia Code § 20-1002(8) and Regulation No. 1, Paragraph 1.8, a pre-candidacy contribution made in the same calendar year that an individual becomes a candidate counts toward the contribution limits for that year.
- R. Pursuant to Philadelphia Code § 20-1301(1) and Regulation No. 1, Paragraph 1.51, accepting an excess contribution is subject to a civil monetary penalty of three times the excess portion of the contribution or \$2,000, whichever is less.
- S. Pursuant to Philadelphia Code § 20-1006(1)(a) and Regulation No. 1, Paragraph 1.21(a), candidates for City office and their political committees are required to electronically file campaign finance reports with the Board. Pursuant to Philadelphia Code § 20-1006(4) and Regulation No. 1, Paragraph 1.24, the making of a material misstatement or omission in a report filed with the Board is a violation of the City's Campaign Finance Law.
- T. Separate and apart from the matters described above, the 2014 cycle 6 and 7 campaign finance reports Williams for Mayor filed with the Board contained several material misstatements and omissions.
- U. Pursuant to Philadelphia Code §20-1302, the base penalty for a violation of Philadelphia Code § 20-1006(4) and Regulation No. 1, Paragraph 1.24 is \$1,000.
- V. The Parties desire to enter into this Agreement in order to resolve the issues described herein.

AGREEMENT

The Parties agree that:

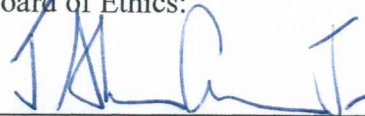
1. Within three days of the effective date of the Agreement, Williams for Mayor will transfer \$62,927 to a segregated pre-candidacy excess contribution account. As long as Senator Williams is a candidate for City office in 2015, he will not spend any monies held in this account nor will he transfer such monies to a litigation fund. Nor, at any time will he use such monies for post-candidacy expenditures.
2. By accepting the six excess contributions described in Paragraph P, Senator Williams and Williams for Mayor violated Philadelphia Code § 20-1002(12) and Regulation No. 1, Paragraph 1.7. The aggregate civil monetary penalty for these violations is \$10,350. However, for the purposes of settlement, the penalty is reduced to \$6,000.
3. The total amount of the excess contributions described in Paragraph P was \$17,250, which, within three days of the effective date of the Agreement, Williams for Mayor shall disgorge to the City of Philadelphia. Such disgorgement shall be made by check payable to the City of Philadelphia and delivered to the offices of the Board.
4. By making material misstatements in the 2014 cycle 6 campaign finance report it filed with the Board, Williams for Mayor violated Philadelphia Code § 20-1006(4) and Regulation No. 1, Paragraph 1.24, and is subject to a civil monetary penalty of \$1,000.
5. By making material misstatements and omissions in the 2014 cycle 7 campaign finance report it filed with the Board, Williams for Mayor violated Philadelphia Code § 20-1006(4) and Regulation No. 1, Paragraph 1.24, and is subject to a civil monetary penalty of \$1,000.
6. Within seven days of the effective date of the Agreement, Williams for Mayor shall file electronically with the Board amended 2014 cycle 6 and 7 campaign finance reports correcting all omissions and misstatements made in the reports as originally filed.
7. The aggregate civil monetary penalty, for which Senator Williams and Williams for Mayor are jointly and severally liable, is \$8,000 which shall be paid by check made payable to the City of Philadelphia and delivered to the offices of the Board within seven days of the effective date of the agreement.
8. Williams for Mayor shall reimburse the City \$10,000 for costs incurred for the accountant the Board retained for this matter, which shall be paid by check made payable to the City of Philadelphia and delivered to the offices of the Board by May 31, 2015.
9. Senator Williams and Williams for Mayor 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 matters described in this Agreement.

10. In consideration of the above and in exchange for Senator Williams' and Williams for Mayor'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 this Agreement.
11. The Parties will not make any public statements that are inconsistent with the terms of the Agreement.
12. If the Board or the City is forced to seek judicial enforcement of this Agreement, and prevails, Senator Williams and Williams for Mayor 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.
13. The Agreement contains the entire agreement between the Parties.
14. The Executive Director 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, nothing in the proposed Agreement shall be considered an admission by either party and nothing in the Agreement shall be effective.

By the Executive Director of
the Board of Ethics:

Dated: _____

4/7/15

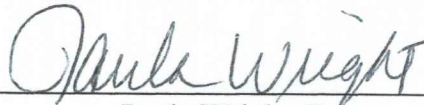


J. Shane Creamer, Jr.

By Williams for Mayor:

Dated: _____

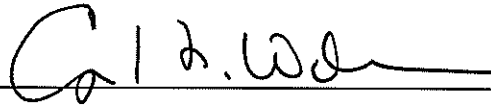
4/6/15



Paula Wright, Treasurer

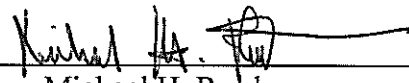
By Hon. Anthony Hardy Williams:

Dated: 4-6-15



Approved by the Board of Ethics:

Dated: 4/7/2015


Michael H. Reed
Chair