

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into between the Board of Ethics of the City of Philadelphia, Citizens for David Oh, the Honorable David Oh, 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 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. The Ethics Board has provided a detailed interpretation of the campaign finance law in its Regulation No. 1 (Campaign Finance).
- B. David Oh is a member of Philadelphia’s City Council and was a candidate for a City Council At-Large seat in the May 2015 Philadelphia primary election. Mr. Oh announced his candidacy for City Council in January of 2015.
- C. Citizens for David Oh is a political committee based in Philadelphia and is Councilman Oh’s candidate political committee for his candidacy for City Council.
- D. The Committee to Elect David Henderson is a political committee based in Philadelphia and is the authorized candidate committee of David Henderson, a former candidate for State office.
- E. When Councilman Oh became a candidate for City elective office in January 2015, 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.
- F. Pursuant to Philadelphia Code § 20-1002(12) and Regulation No. 1, Paragraph 1.7, a candidate for City elective office cannot accept contributions of more than \$2,900 per calendar year from an individual, including contributions made through one or more political committees.
- G. Pursuant to Regulation No. 1, Paragraph 1.4(a)(i), a contribution is made through a political committee if a person or political committee makes a contribution to a political committee and directs, suggests, or requests, whether in a direct, indirect, express, or implied manner, that the recipient political committee use all or part of the contributed money to make an expenditure to a specific candidate.
- H. Pursuant to Regulation No. 1, Paragraph 1.4(b), a contribution made through a political committee is from both the original contributing person and the recipient political committee through which the contribution is made and the entire amount of the contribution counts towards the contribution limits for both the original contributing person and the recipient political committee through which the contribution is made.

- I. Pursuant to Philadelphia Code § 20-1301(1) and Regulation No. 1, Paragraph 1.52, the acceptance of an excess contribution by a candidate for City office is subject to a civil monetary penalty of three times the excess portion or \$2,000, whichever is less.
- J. Before an individual becomes a candidate, the contribution limits do not apply. However, pursuant to Regulation No. 1, Paragraphs 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. 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.
- K. In early April 2015, Board enforcement staff received a complaint alleging that John Lee had made excess contributions to Citizens for David Oh through the Committee to Elect David Henderson. Because the complaint stated potential violations of the City's Campaign Finance Law, enforcement staff accepted the complaint and opened an investigation. In the course of the investigation, enforcement staff interviewed witnesses, obtained documents, and obtained a statement under oath from John Lee.
- L. In late November 2014, Mr. Lee met with Councilman Oh and told him that he wanted to support his upcoming candidacy for City Council. Mr. Lee said that he was willing to commit \$20,000. He told Mr. Lee that he would follow up with specifics.
- M. On November 26, 2014, Councilman Oh sent Mr. Lee the following text message:

John,

Great talking to you. Thanks for your help and support!

For Philadelphia Council races, an individual is limited to \$2,900 per year. A joint account of two adults is limited to \$5,800. Corporate checks are prohibited so it must be a personal or partnership check.

Your personal check should be made payable to "Citizens for David Oh." I can send someone to pick it up at your office or you can mail it to David Oh, 5813 Thomas Ave., Philadelphia, PA 19143.

If you and your wife can contribute \$5,000 this year and again in January 2015, that would be a big help at \$10,000. In addition, if your parents-in-law are able to contribute \$5,000 in 2014, as a couple, that would be a total of \$15,000.

Finally, please write a check to "Committee to Elect Dave Henderson" in the amount of \$5,000. Mail it to me or bring it to your office and I'll have someone pick it up. The total would be \$20,000.

If your parents-in-law are not able to contribute \$5,000, then please write the check to "Committee to Elect Dave Henderson" in the amount of \$10,000.

Thanks very much!

David

- N. On December 5, 2014, following Councilman Oh's instructions, Mr. Lee signed a check for \$5,000 made payable to Citizens for David Oh and a check for \$5,000 made payable to the Committee to Elect David Henderson. Both checks were sent to the committee address for Citizens for David Oh. The memo line on the check to the Committee to Elect David Henderson stated: "Committee to Elect David Henderson, David Oh, 5813 Thomas Ave., Philadelphia, PA 19143."
- O. On December 23, 2014, Councilman Oh's campaign returned the \$5,000 check that Mr. Lee had provided to Citizens for David Oh. The campaign explained to Mr. Lee that he and his wife would need to each write a separate check for \$2,500 to comply with the City's Campaign Finance Law.
- P. On December 23, 2014 Mr. Lee and his wife each signed separate checks for \$2,500 made payable to Citizens for David Oh from their joint account.
- Q. On December 26, 2014, the Committee to Elect David Henderson wrote a check for \$5,400 made payable to Citizens for David Oh.
- R. On January 15, 2015, Mr. Lee signed another check for \$5,000 to the Committee to Elect David Henderson. The check was sent to the committee address for Citizens for David Oh. The memo line on the check to the Committee to Elect David Henderson stated: "Committee to Elect David Henderson, David Oh, 5813 Thomas Ave., Philadelphia, PA 19143."
- S. On January 28, 2015, Mr. Lee and his wife again each signed separate checks for \$2,500 made payable to the Citizens for David Oh from their joint account.
- T. On March 23, 2015, the Committee to Elect David Henderson wrote a check for \$5,300 made payable to Citizens for David Oh.
- U. The circumstances in which Mr. Lee made the December 4, 2014 contribution of \$5,000 and the January 15, 2015 contribution of \$5,000 to the Committee to Elect David Henderson created a direction, suggestion, or request that the Committee to Elect David Henderson use those funds to make a contribution to Councilman Oh. Therefore, for the purposes of the City's Campaign Finance Law, as interpreted by the Board in Regulation No. 1, Mr. Lee made a contribution of \$5,000 to Citizens for David Oh through the Committee to Elect David Henderson in 2014 and again in 2015.
- V. Because Mr. Lee had previously made a contribution of \$2,500 to Citizens for David Oh in 2014, his contribution of \$5,000 to Citizens for David Oh through the Committee to Elect David Henderson in December of 2014 would have exceeded the contribution limits by \$4,600 had Councilman Oh been a candidate at the time. Because Councilman Oh was not a candidate at the time, he did not violate the City's Campaign Finance Law when he accepted that contribution.
- W. Because Mr. Lee made a contribution of \$2,500 to Citizens for David Oh in January of 2015, Mr. Lee's contribution of \$5,000 to Citizens for David Oh through the Committee to Elect David Henderson in March of 2015 exceeded the contribution limits by \$4,600.

- X. The contribution limits for the 2015 City Council At-Large race subsequently doubled on May 5, 2015 to \$5,800 per calendar year from an individual, including contributions made through one or more political committees.
- Y. However, a contribution that exceeds the contribution limits at the time it is accepted by a candidate violates Philadelphia Code § 20-1002(12) and Regulation No. 1, Paragraph 1.7 even if the contribution limits subsequently double and the contribution is less than the doubled limits.
- Z. In mid-April 2015, after Board enforcement staff had begun an investigation into Mr. Lee's 2014 donations to Citizens for David Oh, but before they had learned of the 2015 donations, counsel for Citizens for David Oh contacted the Board's Executive Director to inform him that the committee had returned \$4,600 to the Committee to Elect David Henderson. He also asked for guidance on how to segregate the 2014 contributions. Counsel for Citizens for David Oh further explained that the committee was returning the money even though, at the time, Citizens for David Oh did not believe the contributions from John Lee violated the City's Campaign Finance Law.
- AA. At all times during the Board's investigation, Citizens for David Oh fully cooperated with the investigation.
- BB. The Parties desire to enter into this Agreement in order to resolve the issues described herein.

AGREEMENT

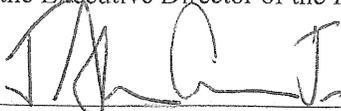
The Parties agree that:

1. In 2014, John Lee made an excess pre-candidacy contribution of \$4,600 to Citizens for David Oh through the Committee to Elect David Henderson. Within 14 days of the effective date of the Agreement, Citizens for David Oh shall segregate \$4,600 from its campaign checking account into a segregated pre-candidacy excess contribution account in accordance with Regulation No. 1, Paragraphs 1.47 and 1.48.
2. In 2015, John Lee made an excess contribution of \$4,600 to Citizens for David Oh through the Committee to Elect David Henderson. The acceptance by Councilman Oh and Citizens for David Oh of this excess contribution violated Philadelphia Code § 20-1002(12) and is subject to a civil monetary penalty of \$2,000, for which Councilman Oh and Citizens for David Oh are jointly and severally liable. The civil monetary penalty of \$2,000 shall be paid within 14 days of the effective date 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.
3. Within 14 days of the effective date of the Agreement, Citizens for David Oh shall disgorge the \$4,600 excess contribution to the City of Philadelphia. Because Citizens for David Oh returned \$4,600 to the Committee to Elect David Henderson in April 2015, this obligation will be satisfied if the Committee to Elect David Henderson makes payment of \$4,600 within 14 days of the effective date 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.

4. Councilman Oh and Citizens for David Oh 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 violation described in the Agreement.
5. In consideration of the above and in exchange for the compliance of Councilman Oh and Citizens for David Oh with the requirements of paragraphs 2 and 3, the Board waives any further penalties or fines against them for the violation described in this Agreement.
6. The Parties will not make any public statements that are inconsistent with the terms of the Agreement.
7. If the Board or the City is forced to seek judicial enforcement of the payment of the civil monetary penalties or disgorgement required by this Agreement, and prevails, Councilman Oh and Citizens for David Oh shall be liable for attorneys' fees and costs reasonably expended in enforcing compliance with the Agreement. Fees shall be calculated based upon standard and customary billing rates in Philadelphia for attorneys with similar experience.
8. This Agreement contains the entire agreement between the Parties in connection with the matters set forth herein.
9. The Executive Director 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.
12. If the Board rejects the proposed Agreement, nothing in the proposed Agreement shall be considered an admission by either party and, except for paragraphs 11 and 12, nothing in the Agreement shall be effective.

By the Executive Director of the Board of Ethics:

Dated: 7/31/15



J. Shane Creamer, Jr.

By the Hon. David Oh:

Dated: 7/30/15



David Oh

By Citizens for David Oh:

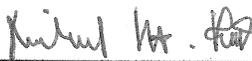
Dated: 7/30/15



Glenn Devitt, Treasurer

Approved by the Board of Ethics:

Effective Date: 8/20/2015



Michael H. Reed, Chair