

## SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into by the Board of Ethics of the City of Philadelphia, J. Shane Creamer, Jr., the Executive Director of the Board, the Friends of the 57th Ward Democrats, and Ken Cunningham, the Treasurer of the Friends of the 57th Ward Democrats, 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, the Board is charged with administering and enforcing the City’s Campaign Finance Law.
- B. The Friends of the 57th Ward Democrats is a registered political committee based in Philadelphia.
- C. Ken Cunningham is the Treasurer of the Friends of the 57th Ward Democrats. Pat Parkinson is the ward leader of the 57<sup>th</sup> Democratic ward.
- D. Pursuant to Philadelphia Code § 20-1006(1)(a)(.2) and Regulation No. 1 Paragraph 1.20(d):

Any time any person or political committee is required by the Pennsylvania Election Code to file a campaign finance report or statement with the City Commissioners or the Secretary of State and that report or statement discloses, or is required to disclose, any expenditures or any debt incurred to influence the outcome of a covered election, the person or political committee shall file a copy of the report or statement with the Board of Ethics in a digital electronic format prescribed by the Board no later than the state law due date.
- E. Pursuant to Philadelphia Code §§ 20-1006(4) and 20-1301(2) and Regulation No. 1 Paragraph 1.53, late filing of a campaign finance report violates the City’s Campaign Finance Law and is subject to a civil monetary penalty of \$250 for each day the report is late with maximum total penalties of \$2,000 for the first 30 days the report remains unfiled plus \$1,000 for each additional 30 day period, or part thereof, the report remains unfiled.
- F. June 15, 2017 was the deadline for political committees to file a thirty day post-primary election (Cycle 3) campaign finance report.
- G. The Friends of the 57th Ward Democrats spent over \$12,000 during the Cycle 3 reporting period, much of which was expenditures for get-out-the vote and election-day activities supporting candidates for City office. Therefore, the committee should have electronically filed a Cycle 3 report with the Board by June 15, 2017. The Friends of the 57th Ward Democrats did not file a Cycle 3 report with the Board by June 15, 2017.
- H. December 7, 2017 was the deadline for political committees to file a thirty day post-general election (Cycle 6) campaign finance report.

- I. The Friends of the 57th Ward Democrats spent over \$7,000 during the Cycle 6 reporting period, much of which was expenditures for get-out-the vote and election-day activities supporting candidates for City office. Therefore, the committee should have electronically filed a cycle 6 report with the Board by December 7, 2017. The Friends of the 57th Ward Democrats did not file a Cycle 6 report with the Board by December 7, 2017.
- J. Beginning in June of 2017, Board Enforcement Staff had numerous communications with Mr. Cunningham and Mr. Parkinson informing them of their obligation to file campaign finance reports with the Board. Despite these communications, as of May of 2018, the Friends of the 57th Ward Democrats had not filed their required campaign finance reports with the Board. Accordingly, on May 23, 2018, Board Enforcement Staff initiated an administrative enforcement proceeding against the Friends of the 57th Ward Democrats and Mr. Cunningham. A copy of the Notice of Administrative Enforcement Proceeding is attached hereto as Exhibit A.
- K. On July 24, 2018, the Friends of the 57th Ward Democrats filed its 2017 Cycle 3 and Cycle 6 reports with the Board.
- L. The Parties desire to enter into this Agreement in order to resolve the issues described herein.

## **AGREEMENT**

The Parties agree that:

- 1. The Friends of the 57th Ward Democrats' late filing of its 2017 cycle 3 campaign finance report with the Board violated the City's Campaign Finance Law and is subject to a civil monetary penalty of \$15,000. However, for the purposes of settlement, the aggregate penalty is reduced to \$9,000.
- 2. The Friends of the 57th Ward Democrats' late filing of its 2017 cycle 6 campaign finance report with the Board violated the City's Campaign Finance Law and is subject to a civil monetary penalty of \$9,000. However, for the purposes of settlement, the aggregate penalty is reduced to \$5,000.
- 3. The Friends of the 57th Ward Democrats and Ken Cunningham are jointly and severally liable for the aggregate civil monetary penalty of \$14,000, which shall be paid on the following schedule.
  - 3.1. \$2,000 within 60 days of the effective date of the Agreement; and
  - 3.2. At least \$500 every 90 days thereafter until the full amount is paid, provided that the full amount shall be paid by December 31, 2019.

Payment shall be by check or money order made payable to the City of Philadelphia and delivered to the offices of the Board.

4. The Friends of the 57th Ward Democrats and Ken Cunningham 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 the Agreement.
5. In consideration of the above and in exchange for the compliance of the Friends of the 57th Ward Democrats and Ken Cunningham 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.
6. The Parties will not make any public statements that are inconsistent with the terms of the Agreement.
7. If the Ethics Board is forced to seek judicial enforcement of the Agreement, and prevails, the Friends of the 57th Ward Democrats and Ken Cunningham 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.
8. The Agreement contains the entire agreement between the Parties.
9. The Executive Director will submit a signed copy of the Agreement to the Board for approval. The Agreement shall become effective upon approval by the Board.
10. 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 any party and, except this paragraph, nothing in the Agreement shall be effective.

Dated: \_\_\_\_\_

8/14/2017

By the Executive Director of the Board of Ethics:

Maechel/CoL, G.D. Desjonee  
J. Shane Creamer, Jr.

By Friends of the 57th Ward Democrats:

Dated: 8-13-18

Ken Cunningham  
Ken Cunningham, Treasurer

By Ken Cunningham:

Dated: 8-13-18

Ken Cunningham

Approved by the Board of Ethics on 9/12/2018

Michael H. Reed  
Michael H. Reed  
Chair

# EXHIBIT A

**BOARD OF ETHICS  
OF THE CITY OF PHILADELPHIA**

<hr/>	:	
<b>J. Shane Creamer, Jr.</b>	:	
<b>Executive Director</b>	:	
<b>Board of Ethics</b>	:	
<b>of the City of Philadelphia</b>	:	
1515 Arch Street, 18 <sup>th</sup> Floor	:	
Philadelphia, PA 19102	:	
	:	Matter No. 1806CF18
v.	:	
	:	
<b>Friends of the 57<sup>th</sup> Ward Democrats</b>	:	
8827 Brocklehurst Street	:	
Philadelphia, PA 19152	:	
	:	
<b>Ken Cunningham</b>	:	
<b>Treasurer, Friends of the 57<sup>th</sup> Ward</b>	:	
<b>Democrats</b>	:	
8827 Brocklehurst Street	:	
Philadelphia, PA 19152	:	
	:	
<hr/> Respondents,	:	

**NOTICE OF ADMINISTRATIVE ENFORCEMENT PROCEEDING**

By serving this Notice on you, the Executive Director of the Philadelphia Board of Ethics initiates an administrative enforcement proceeding against you. The Executive Director is asking the Board to find that you have violated Philadelphia’s Campaign Finance Law and to impose a civil monetary penalty on you.

**If you wish to submit a written Response to this Notice, you must do so within 20 days of the date of service of the Notice. You have the right to request a hearing before the Board. If you wish to request a hearing, you must include the request in your written Response to the Notice. If you fail to request a hearing in a written Response to this Notice, you will waive your right to a hearing.**

Board Regulation No. 2 and the Board's Memorandum on Procedures for Administrative Enforcement Proceedings set forth the rules and procedures for administrative enforcement proceedings before the Board. A copy of each is enclosed.

As set forth in Regulation No. 2, administrative enforcement proceedings are confidential, unless you request a public hearing in your Response to this Notice. *See* Board Regulation 2, ¶2.15.

If you have any questions regarding the procedures for administrative enforcement proceedings before the Board, you should contact the Board's General Counsel, Maya Nayak, at 215-686-9450 or maya.nayak@phila.gov.

## I. RELEVANT LAW

Pursuant to Philadelphia's Campaign Finance Law (Philadelphia Code Chapter 20-1000), if a political committee makes expenditures to influence a City election, it is required to electronically file with the Board of Ethics a campaign finance report that discloses the committee's financial transactions during the relevant reporting period. *See* Philadelphia Code Section 20-1006 & Board of Ethics Regulation No. 1, Paragraph 1.20. Such reports are due on a schedule set by State law. *Id.*

The Pennsylvania Election Code divides the calendar year into seven filing cycles. A political committee that made expenditures to influence a City election during the time period of May 2, 2017 through June 5, 2017 was required to file a post-primary election (Cycle 3) campaign finance report with both the Board of Ethics and the City Commissioners or Department of State by June 15, 2017. *See* 25 P.S. § 3246; Exhibit A (Department of State schedule of reporting deadlines for 2017). A political committee that made expenditures to influence a City election during the time period of October 24,

2017 through November 27, 2017 was required to file a post-general election (Cycle 6) campaign finance report with both the Board of Ethics and the City Commissioners or Department of State by December 7, 2017. *Id.*

The failure to file a required campaign finance report with the Board violates Philadelphia Code Section 20-1006(4) and, pursuant to Code Section 20-1301(2), is subject to a civil monetary penalty of \$250 for each day the report is not filed with a maximum of \$2,000 for the first 30 days the report remains unfiled plus \$1,000 for each additional 30 day period, or part thereof, the report remains unfiled.

## **II. PARTIES**

1. J. Shane Creamer, Jr. is the Executive Director of the Board of Ethics.
2. Friends of the 57<sup>th</sup> Ward Democrats is a political committee based in Philadelphia and registered with the Department of State. *See* Exhibit B (Political Committee Registration Statement).
3. Ken Cunningham serves as the treasurer of Friends of the 57<sup>th</sup> Ward Democrats. *See* Exhibit B.

## **III. FACTUAL ALLEGATIONS**

- A. **Friends of the 57<sup>th</sup> Ward Democrats fails to file a required 2017 Cycle 3 campaign finance report with the Board of Ethics**
4. From May 2, 2017 through June 5, 2017, Friends of the 57<sup>th</sup> Ward Democrats spent approximately \$12,708. *See* Exhibit C (Friends of the 57<sup>th</sup> Ward Democrats bank statements).
5. At least \$5,600 of the money the committee spent from May 2, 2017 through June 5, 2017 was used to influence the Philadelphia Democratic Primary Election for City Controller, as described below, as well as elections for judicial office.

6. In the Spring of 2017, some weeks prior to the May 16, 2017 Primary Election, the Democratic Campaign Committee of Philadelphia endorsed Alan Butkovitz for City Controller. The Democratic Campaign Committee did not endorse a candidate for District Attorney, instead leaving it up to individual ward leaders to decide which District Attorney candidate to support.

7. Shortly after deciding to endorse Mr. Butkovitz, the Democratic Campaign Committee placed an order with Strassheim Graphic Design for sample ballots supporting Mr. Butkovitz and endorsed candidates for judicial office. *See* Exhibit D (Strassheim Graphic Design May 23, 2017 invoice and Democratic Campaign Committee June 1, 2017 payment check).

8. Strassheim Graphic Design created several different versions of the Democratic Campaign Committee sample ballot, depending on which District Attorney candidate a ward leader was supporting, and assigned an identification number to each ballot.

9. For the 57<sup>th</sup> Ward, Strassheim Graphic Design printed copies of ballot version 1, which listed Mr. Butkovitz as well as numerous judicial candidates. *See* Exhibit E (Sample ballot 1 and Strassheim Graphic Design order sheet).

10. On May 9, 2017, Strassheim Graphic Design delivered the ballots it had printed, including the ballots for the Friends of the 57<sup>th</sup> Ward Democrats, to the headquarters of the Democratic Campaign Committee so that ward leaders could pick up the ballots and use them for Election Day get-out-the-vote activities in their wards. *See* Exhibit F (Strassheim Graphic Design May 9, 2017 delivery sheet).

11. On May 12, 2017, the Friday before the May 2017 Primary Election, the Democratic ward leaders, or their representatives, met at the headquarters of the Democratic Campaign Committee to receive a check, the funds from which were to be used to pay ward committee people for Election Day get-out-the-vote activities, including distribution of the sample ballots printed by Strassheim Graphic Design.

12. On May 12, 2017, Pat Parkinson, the ward leader of the 57<sup>th</sup> Democratic ward, picked up a check for \$5,600 payable to the Friends of the 57<sup>th</sup> Ward Democrats. *See Exhibit G (May 12, 2017 Democratic Campaign Committee check and signed receipt).*

13. On May 13, 2017, Mr. Cunningham cashed the Democratic Campaign Committee check at the Townsend Road branch of the Philadelphia Federal Credit Union. *See Exhibit H (Endorsed May 12, 2017 check and transaction record).* The cash was used to pay 57<sup>th</sup> ward committee people for Election Day get-out-the-vote activities, including distribution of the sample ballots printed by Strassheim Graphic Design.

14. Because Friends of the 57<sup>th</sup> Ward Democrats made expenditures to influence both City and judicial elections during the time period of May 2, 2017 through June 5, 2017, the committee should have filed a Cycle 3 campaign finance report with both the Board and the Department of State by June 15, 2017.

15. However, Friends of the 57<sup>th</sup> Ward Democrats did not file a Cycle 3 report with the Board by June 15, 2017. *See Exhibit M (Affidavit of Peter Anderson).*

**B. Friends of the 57<sup>th</sup> Ward Democrats fails to file a required 2017 Cycle 6 campaign finance report with the Board of Ethics**

16. From October 24, 2017 through November 27, 2017, Friends of the 57<sup>th</sup> Ward Democrats spent approximately \$7,292.82. *See* Exhibit C.

17. At least \$4,200 of the money the committee spent from October 24, 2017 through November 27, 2017 was used to influence the elections for City Controller and District Attorney, as described below, as well as elections for judicial office.

18. Prior to the November 7, 2017 Primary Elections, the Democratic Campaign Committee placed an order with Strassheim Graphic Design for sample ballots supporting the Democratic candidates for City Controller, District Attorney, and judicial office. *See* Exhibit I (Strassheim Graphic Design November 27, 2017 invoice, Democratic Campaign Committee November 29, 2017 payment check, and sample ballot).

19. On October 30, 2017, Strassheim Graphic Design delivered the ballots it had printed, including ballots for the 57<sup>th</sup> Ward, to the headquarters of the Democratic Campaign Committee so that ward leaders could pick up the ballots and use them for Election Day get-out-the-vote activities in their wards. *See* Exhibit J (Strassheim Graphic Design October 30, 2017 delivery sheet).

20. On November 3, 2017, the Friday before the November 2017 General Election, the Democratic ward leaders, or their representatives, met at the headquarters of the Democratic Campaign Committee to receive a check, the funds from which were to be used to pay ward committee people for Election Day get-out-the-vote activities, including distribution of the sample ballots printed by Strassheim Graphic Design.

21. On November 3, 2017, Pat Parkinson, the ward leader of the 57<sup>th</sup> Democratic ward, picked up a check for \$4,200 payable to the Friends of the 57<sup>th</sup> Ward Democrats. *See* Exhibit K (November 3, 2017 Democratic Campaign Committee check and signed receipt).

22. On November 6, 2017, Mr. Parkinson cashed the Democratic Campaign Committee check. *See* Exhibit L (Endorsed November 6, 2017 check and transaction record). The cash was used to pay 57<sup>th</sup> ward committee people for Election Day get-out-the-vote activities, including distribution of the sample ballots printed by Strassheim Graphic Design.

23. Because Friends of the 57<sup>th</sup> Ward Democrats made expenditures to influence both City and judicial elections during the time period of October 24, 2017 through November 27, 2017, the committee should have filed a Cycle 6 campaign finance report with the Board and the Department of State by December 7, 2017.

24. However, Friends of the 57<sup>th</sup> Ward Democrats did not file a Cycle 6 report with the Board by December 7, 2017. *See* Exhibit M.

**C. Respondents fail to file required campaign finance reports despite contact from Board enforcement staff**

25. Beginning in June of 2017, Board Enforcement Staff sent numerous letters and emails to Mr. Cunningham and Mr. Parkinson informing them of their obligation to file campaign finance reports with the Board. Board Enforcement Staff also spoke directly with both Mr. Parkinson and Mr. Cunningham regarding their obligation to file campaign finance reports with the Board.

26. In September of 2017, Board Enforcement Staff assisted Mr. Cunningham in setting up a filing account so that he could file campaign finance reports with the Board for Friends of the 57<sup>th</sup> Ward Democrats.

27. Despite these communications and assistance, Respondents have failed to file their required campaign finance reports with the Board.

28. Since February of 2018, neither Mr. Cunningham nor Mr. Parkinson have responded to communications from Board Enforcement Staff.

**III. ALLEGED VIOLATION OF PHILADELPHIA'S  
CAMPAIGN FINANCE LAW**

**COUNT 1 –VIOLATION OF PHILADELPHIA CODE SECTION 20-1006(1)(a).(2)  
FAILURE TO FILE 2017 CYCLE 3 CAMPAIGN FINANCE REPORT**

29. As alleged in paragraphs 1 – 15, by failing to file a 2017 cycle 3 campaign finance report with the Board, Respondents violated Philadelphia Code §20-1006(1)(a).(2).

WHEREFORE, for this alleged violation of Code §20-1006(1)(a).(2), as provided at Code Section 20-1301(2), the Executive Director seeks a maximum civil penalty of \$250 for each day the report is not filed with maximum total penalties of \$2,000 for the first 30 days the report remains unfiled plus \$1,000 for each additional 30 day period, or part thereof, the report remains unfiled, which as of the date of this Notice is \$13,000.

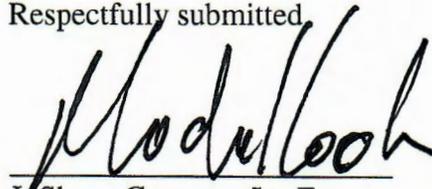
**COUNT 2 –VIOLATION OF PHILADELPHIA CODE SECTION 20-1006(1)(a)(.2)  
FAILURE TO FILE 2017 CYCLE 6 CAMPAIGN FINANCE REPORT**

30. As alleged in paragraphs 1 – 3 and 16-24, by failing to file a 2017 cycle 6 campaign finance report with the Board, Respondents violated Philadelphia Code §20-1006(1)(a)(.2).

WHEREFORE, for this alleged violation of Code §20-1006(1)(a)(.2), as provided at Code Section 20-1301(2), the Executive Director seeks a maximum civil penalty of \$250 for each day the report is not filed with maximum total penalties of \$2,000 for the first 30 days the report remains unfiled plus \$1,000 for each additional 30 day period, or part thereof, the report remains unfiled, which as of the date of this Notice is \$7,000.

Date: May 23, 2018

Respectfully submitted,



J. Shane Creamer, Jr., Esq.  
Executive Director

Michael J. Cooke, Esq.  
Director of Enforcement

Jordan E. Segall, Esq.  
Staff Attorney

City of Philadelphia Board of Ethics  
1515 Arch Street, 18<sup>th</sup> Floor  
Philadelphia, PA 19102  
Phone: (215) 686-9450  
Fax: (215) 686-9453

**CERTIFICATION OF SERVICE**

I, Michael Cooke, hereby certify that on this date I caused a true and correct copy of the foregoing Notice of Administrative Enforcement Proceeding and Exhibits in Support of Notice of Administrative Enforcement Proceeding to be served upon the following:

By hand delivery, certified mail, and email:

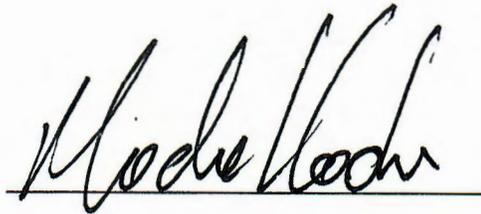
**Friends of the 57<sup>th</sup> Ward Democrats**  
8827 Brocklehurst Street  
Philadelphia, PA 19152

**Ken Cunningham**  
**Treasurer, Friends of the 57<sup>th</sup> Ward Democrats**  
8827 Brocklehurst Street  
Philadelphia, PA 19152  
kasey718@msn.com

By email and hand delivery:

Maya Nayak  
General Counsel  
Board of Ethics  
1515 Arch St., 18<sup>th</sup> Floor  
Philadelphia, PA 19102  
Maya.nayak@phila.gov

Date: May 23, 2018



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