

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into among the Board of Ethics of the City of Philadelphia, John Lee, 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. John Lee is the Owner of Jako Enterprises, Ltd. located in Philadelphia, PA.
- C. 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.
- D. 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.
- E. 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.
- F. Pursuant to Philadelphia Code § 20-1002(1) and Regulation No. 1, Paragraph 1.2(a), an individual cannot make contributions of more than \$2,900 per calendar year to a candidate for City elective office, including contributions made through one or more political committees. Before an individual becomes a candidate, the contribution limits do not apply.
- 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, making an excess contribution to a candidate for City elective office is subject to a civil monetary penalty of three times the excess portion or \$2,000, whichever is less.

- J. 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 an affidavit from John Lee.
- K. 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. Councilman Oh said that the best way to support his campaign would be through monetary contributions. He told Mr. Lee that he would follow up with specifics.
- L. 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
- M. Based on Councilman Oh's text message, Mr. Lee believed that the Committee to Elect David Henderson was a part of the Oh campaign and that donating to the Committee to Elect David Henderson was a way to give money to Councilman Oh's City Council campaign.
- 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. For the purposes of the City's Campaign Finance Law, as interpreted by the Board in Regulation No. 1, 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, 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 made a contribution of \$2,500 to Citizens for David Oh in December of 2014, Mr. Lee's 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, Mr. Lee did not violate the City's Campaign Finance Law when he made 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. The total amount Mr. Lee has contributed to Citizens for David Oh in 2015, while Councilman Oh was a candidate for City elective office, is \$7,500.
- 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. At all times during the Board's investigation, Mr. Lee fully cooperated with the investigation and provided critical information to Board enforcement staff in pursuing their investigation. Mr. Lee was responsive and candid with Board enforcement staff about how he relied on Councilman Oh's advice on how to provide him with \$20,000 in contributions. Mr. Lee provided an affidavit describing in detail his interactions with Councilman Oh, Citizens for

David Oh, and the Committee to Elect David Henderson and how the Committee to Elect David Henderson served as a mechanism to provide contributions to the Citizens for David Oh. Mr. Lee's affidavit is attached to this agreement as Exhibit A.

AA. The Parties desire to enter into this Agreement in order to resolve the issues described herein.

AGREEMENT

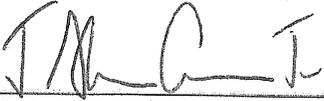
The Parties agree that:

1. In 2015, John Lee made an excess contribution of \$4,600 to Citizens for David Oh through the Committee to Elect David Henderson. By making this excess contribution, Mr. Lee violated Philadelphia Code § 20-1002(1) and is subject to a civil monetary penalty of \$2,000. However, in light of Mr. Lee's exemplary cooperation, which included providing essential evidence, the penalty is reduced to \$750. The civil monetary penalty of \$750 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.
2. John Lee releases and holds 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.
3. In consideration of the above and in exchange for the compliance of John Lee with all of the terms of the Agreement, the Board waives any further penalties or fines against him for the violation described in this Agreement.
4. The Parties will not make any public statements that are inconsistent with the terms of the Agreement.
5. If the Board or the City is forced to seek judicial enforcement of the payment of the civil monetary penalty required by this Agreement, and prevails, John Lee 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.
6. This Agreement contains the entire agreement between the Parties.
7. The Executive Director will submit a signed copy of the Agreement to the Board for approval.
8. 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.
9. 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.

10. If the Board rejects the proposed Agreement, nothing in the proposed Agreement shall be considered an admission by either party and, except for paragraphs 9 and 10, nothing in the Agreement shall be effective.

By the Executive Director of the Board of Ethics:

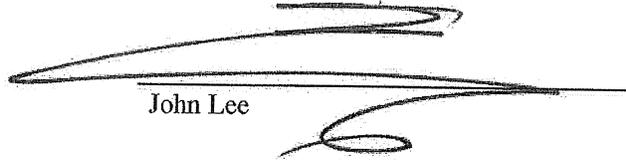
Dated: 7/31/13



J. Shane Creamer, Jr.

By John Lee:

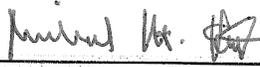
Dated: 7/21/2015



John Lee

Approved by the Board of Ethics:

Effective Date: 8/20/2015



Michael H. Reed, Chair

EXHIBIT A

AFFIDAVIT OF JOHN Y. LEE

I, John Y. Lee, hereby swear and affirm that the following statement is true and correct.

1. I am the owner of Jako Enterprises, Ltd., located in Philadelphia, PA.
2. I am not an attorney.
3. I have minimal experience in making political contributions.
4. I have known City Councilman David Oh for approximately eight years.
5. In the Fall of 2014, I was contacted by Councilman Oh's office to set up a meeting respecting his upcoming re-election campaign.
6. In late November 2014, I met with Councilman Oh in-person at the offices of my company. I told him that I was willing to commit \$20,000 to support him and asked how I could best do that. After considering my suggestion, he told me that the best thing would be to make contributions. He said that he would get back to me with specifics.
7. On November 26, 2014, Councilman Oh sent me 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

8. Based on Councilman Oh's text message, I believed that the Committee to Elect Dave Henderson was a part of the Oh campaign and that donating to the Committee to Elect Dave Henderson was a way to give money to Councilman Oh's City Council campaign.
9. Since I knew that Councilman Oh is an experienced Philadelphia politician, and given my limited understanding respecting political contributions, I relied on Councilman Oh's instructions and did not think there was anything improper or untoward about them.
10. Since Councilman Oh gave me the option to provide money to his campaign through the Committee to Elect Dave Henderson, I did not to ask my parents-in-law to make a contribution to Councilman Oh.
11. I have never met or spoken to David Henderson.
12. I believed and desired that the money I provided to the Committee to Elect Dave Henderson would be given to Councilman Oh's City Council campaign.
13. Based on Mr. Oh's instructions, on December 5, 2014, I signed a check prepared by my staff for \$5,000 for Citizens for David Oh and a check prepared by my staff for \$5,000 to the Committee to Elect Dave Henderson. My staff sent both checks to Councilman Oh's office.
14. Shortly thereafter, on December 23, 2015, Councilman Oh's campaign returned the \$5,000 check that I had provided to Citizens for David Oh. The campaign explained to me that my wife and I would need to each write a separate check for \$2,500.
15. On December 23, 2014 my wife and I each signed a check prepared by my staff for \$2,500 to Citizens for David Oh from our joint account.
16. On January 15, 2015, continuing to follow Councilman Oh's instructions, and wanting to provide him with the balance of the \$20,000 I told him I would give him, I signed a check prepared by my staff for \$5,000 to the Committee to Elect Dave Henderson. My staff sent the check to Councilman Oh's office.
17. Approximately two weeks later, on January 28, 2015, my wife and I again each signed a check for \$2,500 to the Citizens for David Oh from our joint account. This last transaction satisfied my promise to provide Councilman Oh's campaign with \$20,000.

I make this statement subject to the penalties set forth in 18 Pa.C.S. 4903 relating to false swearing.

Date:

Signed and Sworn to Before Me:


 Notary Public

On 6/20/15, 2015


 John Y. Lee

