

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into between the Board of Ethics of the City of Philadelphia, LEAD PAC, Avilda Ortiz, Treasurer of LEAD PAC, Friends of Maria, Peter Winebrake, Treasurer of Friends of Maria, Councilwoman Maria Quiñones Sánchez, 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. Board Regulation No. 1 (Campaign Finance) provides a detailed interpretation of the City’s Campaign Finance Law.
- B. Councilwoman Maria Quiñones Sánchez was a candidate for Philadelphia’s 7th City Council District seat in 2015. Councilwoman Quiñones Sánchez designated the political committee Friends of Maria as the one committee which would accept contributions and make expenditures for her 2015 campaign for City Council. Peter Winebrake is the treasurer of Friends of Maria.
- C. LEAD PAC is a political committee based in Philadelphia and established in 2009 by several residents of the 7th City Council district, including Councilwoman Quiñones Sánchez. The PAC regularly endorses a slate of candidates for City and state elections. At times, including in connection with 2015 municipal elections, Councilwoman Quiñones Sánchez participated in the process through which LEAD PAC’s members decided what candidates to support and how to promote those candidates. However, she does not exercise general control over the PAC. Avilda Ortiz is the Treasurer of LEAD PAC.
- D. The City’s Campaign Finance Law requires a candidate for City office to have no more than one political committee for the City office he or she is seeking and to make all expenditures for that office out of that committee. As such, as explained at Regulation No. 1, Paragraph 1.30, it is a violation of the City’s Campaign Finance Law for a candidate or a candidate’s agent to exercise control over the expenditures of another political committee.
- E. Under the City’s Campaign Finance Law, in 2015, a political committee could not make contributions of more than \$11,500 per calendar year to a candidate for City elective office, nor could a candidate for City elective office accept such contributions. An excess contribution violates the City’s Campaign Finance Law and is subject to a civil monetary penalty of three times the amount by which the contribution exceeded the limit, or \$2,000, whichever is less.

- F. As provided by Philadelphia Code Section 20-1002(13) and Regulation No. 1, Paragraph 1.11, a political committee's costs to print and distribute sample ballots do not count towards the contribution limits if a candidate has paid the committee the usual and normal charge to be on the ballot.
- G. As explained in Board Regulation No. 1, Subpart H, if a political committee coordinates an expenditure with a candidate's campaign and the expenditure is made to advocate or influence the election of the candidate, the expenditure is an in-kind contribution to the candidate and is subject to the contributions limits of the City's Campaign Finance Law.
- H. Board Regulation No. 1, Paragraph 1.39 specifies what conduct gives rise to coordination between a political committee and a candidate's campaign, including expenditures made in cooperation, consultation, or concert with the candidate's campaign or with the knowledge and assent of the candidate's campaign. A political committee's expenditures are also coordinated with a candidate's campaign if the candidate solicits funds for or directs funds to the political committee within the 12 months before the election that the expenditures seeks to influence.
- I. LEAD PAC supported and promoted a slate of 22 judicial and City candidates in the May 2015 primary election, including Councilwoman Quiñones Sánchez. All of the candidates on LEAD PAC's slate, including Councilwoman Quiñones Sánchez, made contributions to LEAD PAC in order to be on LEAD PAC's ballot.
- J. Prior to the primary election, Councilwoman Quiñones Sánchez solicited contributions for LEAD PAC.
- K. For the 2015 Primary Election, LEAD PAC spent \$19,973 for advertisements, t-shirts, and various get-out-the-vote activities that advocated for or influenced the election of Councilwoman Quiñones Sánchez and other candidates. LEAD PAC made these expenditures in cooperation, consultation, and concert with Councilwoman Quiñones Sánchez's campaign. Councilwoman Quiñones Sánchez's campaign was aware of and assented to the expenditures.
- L. In addition, individuals who worked for, were paid by, and, in at least one case, was an agent of both Friends of Maria and LEAD PAC, placed orders with vendors for both Friends of Maria and LEAD PAC, sometimes simultaneously. In some cases, Friends of Maria and LEAD PAC split the cost of work performed by vendors. An individual who was an agent of Councilwoman Quiñones Sánchez signed all of LEAD PAC's checks. None of these individuals were personal agents of the treasurer of Friends of Maria, solely of the campaign.
- M. As such, pursuant to Board Regulation No. 1, Subpart H, LEAD PAC made the expenditures described in paragraph K in coordination with Councilwoman Quiñones Sánchez's campaign. Accordingly, LEAD PAC made in-kind contributions of \$19,973 to Friends of Maria, which exceeded the City's contribution limits by \$8,473. LEAD PAC did not appropriately and contemporaneously track the expenditures that gave rise to in-kind contributions to Friends of Maria and therefore did not identify that it had exceeded the City's contribution limits.

- N. In addition to the expenditures described in paragraph K, LEAD PAC purchased and distributed sample ballots promoting its slate of candidates for the Primary Election, which included Councilwoman Quiñones Sánchez. Because Friends of Maria paid to be on LEAD PAC's sample ballot, pursuant to Code Section 20-2002(13), these coordinated sample ballot expenditures did not count towards the City's contribution limits.
- O. LEAD PAC filed a 2015 thirty day post primary election (cycle 3) campaign finance report with the Board disclosing the expenditures described above. However, LEAD PAC did not disclose that the expenditures were in-kind contributions to Councilwoman Quiñones Sánchez's campaign. In addition, LEAD PAC failed to disclose the actual recipients of its GOTV expenditures, instead listing the recipient of those expenditures as "TD BankNorth."
- P. Friends of Maria filed a 2015 thirty day post primary election (cycle 3) campaign finance report with the Board disclosing the expenditures described above. However, Friends of Maria did not disclose receipt of any in-kind contributions from LEAD PAC. In addition, Friends of Maria failed to disclose the actual recipients of its election-day expenditures, instead listing the recipient of those expenditures as "TD BankNorth."
- Q. Pursuant to Philadelphia Code §§ 20-1006(4) and 20-1302, the making of a material misstatement or omission in a campaign finance report filed with the Board is a violation of the City's Campaign Finance Law and is subject to a civil monetary penalty of \$1,000, which can be increased to \$2,000 if aggravating factors are present and decreased to \$250 if mitigating factors are present.
- R. LEAD PAC, Ms. Ortiz, Friends of Maria, Mr. Winebrake, and Councilwoman Quiñones Sánchez have at all times fully cooperated with the Board's investigation of the matters described in this Agreement.
- S. The Parties desire to enter into this Agreement in order to resolve the matters described herein.

AGREEMENT

The Parties agree that:

LEAD PAC

1. By making expenditures that were coordinated with Councilwoman Quiñones Sánchez's campaign that exceeded the City's contribution limits by \$8,473, LEAD PAC violated Philadelphia Code § 20-1002(2), for which it is liable for a civil monetary penalty of \$2,000, which shall be paid on the following schedule:
 - 1.1 \$1,000 within 30 days of the effective date of the Agreement; and
 - 1.2 \$1,000 within 90 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 of Ethics.

2. Because the 2015 Cycle 3 campaign finance report they filed with the Board contained material misstatements, LEAD PAC and Ms. Ortiz violated Philadelphia Code § 20-1006(4), for which they are jointly and severally liable for a civil monetary penalty of \$2,000, which shall be paid on the following schedule:

- 2.1 \$1,000 within 120 days of the effective date of the Agreement; and

- 2.2 \$1,000 within 150 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 of Ethics.

3. Within thirty days of the effective date of the Agreement, LEAD PAC will file an amended Cycle 3 campaign finance report with the Board to correct the reporting failures described in this Agreement.

Friends of Maria

4. By accepting excess in-kind contributions of \$8,473 from LEAD PAC, Friends of Maria and Councilwoman Quiñones Sánchez violated Philadelphia Code § 20-1002(12) for which they are jointly and severally liable for a civil monetary penalty of \$2,000, which shall be paid on the following schedule:

- 4.1 \$1,000 within 30 days of the effective date of the Agreement;

- 4.2 \$500 within 90 days of the effective date of the Agreement; and

- 4.3 \$500 within 120 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 of Ethics.

5. Because the 2015 Cycle 3 Friends of Maria campaign finance report filed with the Board contained material misstatements and omissions, Friends of Maria violated Philadelphia Code § 20-1006(4), which is subject to a civil monetary penalty of \$1,000, which shall be paid within 150 days of the effective date of the Agreement. As the Treasurer who signed the report, Mr. Winebrake is jointly and severally liable for this violation pursuant to the City's Campaign Finance Law. Payment shall be by check or money order made payable to the City of Philadelphia and delivered to the offices of the Board of Ethics.
6. Within forty five days of the effective date of the Agreement, Friends of Maria will file an amended Cycle 3 campaign finance report with the Board to correct the reporting failures described in this Agreement.

Councilwoman Quiñones Sánchez

7. Because agents of Friends of Maria directed expenditures made by LEAD PAC, Councilwoman Quiñones Sánchez violated Philadelphia Code Section 20-1003, for which she is liable for a civil monetary penalty of \$1,500, which she shall pay on the following schedule:
 - 7.1 \$500 within 30 days of the effective date of the Agreement;
 - 7.2 \$500 within 60 days of the effective date of the Agreement; and
 - 7.3 \$500 within 120 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 of Ethics.

Provisions Applicable to All Parties

8. LEAD PAC, Ms. Ortiz, Friends of Maria, Mr. Winebrake, and Councilwoman Quiñones Sánchez 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.
9. In consideration of the above and in exchange for the compliance of LEAD PAC, Ms. Ortiz, Friends of Maria, Mr. Winebrake, and Councilwoman Quiñones Sánchez with all of the terms of the Agreement, the Board waives any further penalties or fines against them for the conduct described in this Agreement.
10. The Parties will not make any public statements that are inconsistent with the terms of the Agreement.
11. If the Board or the City is forced to seek judicial enforcement of the payment of civil monetary penalties or the filing of amended report as required by the Agreement, and prevails, the party responsible under the terms of the Agreement for the payment or filing shall be liable for attorneys' fees and costs reasonably expended in enforcing compliance with the Agreement. Fees for time spent by City attorneys shall be calculated based upon standard and customary billing rates in Philadelphia for attorneys with similar experience.
12. This Agreement contains the entire agreement between the Parties.
13. The Executive Director, or his designee, will submit a signed copy of the Agreement to the Board for approval.
14. 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.
15. 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 either party and, except this paragraph, nothing in the Agreement shall be effective.

By the Executive Director of the Board of Ethics:

Dated: 9.16.16

Michael Cooke, ED designee
J. Shane Creamer, Jr.
Executive Director

By LEAD PAC:

Dated: 9.16.16

A. Ortiz
Avilda Ortiz, Treasurer

By Avilda Ortiz:

Dated: 9.16.16

A. Ortiz

By Friends of Maria:

Dated: 9/16/16



Peter Winebrake, Treasurer

By Peter Winebrake:

Dated: 9/16/16



By Councilwoman Maria Quiñones Sánchez:

Dated: _____

Approved by the Board of Ethics:

Effective Date: _____

Michael H. Reed, Chair

By Friends of Maria:

Dated: _____

Peter Winebrake, Treasurer

By Peter Winebrake:

Dated: _____

By Councilwoman Maria Quiñones Sánchez:

Dated: 9-16-16

Maria D. Quiñones Sánchez

Approved by the Board of Ethics:

Effective Date: 10/17/16

Michael H. Reed
Michael H. Reed, Chair