

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 57th 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:

Maeché/G.H., G.D. Desjane
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