

**Administrative Adjudication
Matter # 1108CF10**

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into between the Board of Ethics of the City of Philadelphia, Al Taubenberger, William St. Clair, and Taubenberger for Philadelphia, 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.
- B. Taubenberger for Philadelphia is the authorized candidate political committee of Al Taubenberger, a candidate for Philadelphia City Council in 2011.
- C. William St. Clair is the treasurer of Taubenberger for Philadelphia.
- D. On March 8, 2011, Al Taubenberger filed a nomination petition to be placed on the ballot as a candidate for a Republican nomination for a Philadelphia City Council at-large seat.
- E. Because Taubenberger is a candidate for City of Philadelphia elective office, both he and his authorized candidate committee are subject to Philadelphia’s campaign finance law.
- F. Pursuant to Philadelphia Code § 20-1006(1)(a) and Regulation No. 1 Paragraph 1.42:

Whenever a candidate for City elective office (or such a candidate’s treasurer or agent) files a campaign finance report with the City Commissioners or the Secretary of State pursuant to the Pennsylvania Election Code, he or she shall file electronically a copy of that report with the Board, through the Department of Records.

G. Pursuant to Philadelphia Code § 20-1006(1)(a) and Regulation No. 1 Paragraph 1.43:

Whenever a political committee (or a political committee's treasurer or agent), files a campaign finance report with the City Commissioners or the Secretary of State, the political committee shall file electronically a copy of that report with the Board, through the Department of Records, if the report filed with the City Commissioners or Secretary of State discloses, or should disclose, any contributions or expenditures made to influence the outcome of a covered election, including contributions from or expenditures to a candidate for City elective office.

H. Pursuant to Philadelphia Code § 20-1006(4):

The failure to file information as required by this Section, or the making of material misstatements or omissions in any filing required by this Section, shall be deemed to be a violation of Chapter 20-1300 (Penalties for Campaign Finance-Related and Ethics-Related Violations) and subject to enforcement and the imposition of penalties under that Chapter.

- I. Pursuant to Code § 20-1301(2), the penalty for failure to file a campaign finance report in electronic format as required is civil penalty of \$250. Each day the report remains unfiled is a separate offense for which an additional civil penalty of \$250 may be imposed, provided that the penalty that may be imposed for failure to file a particular report shall not exceed \$2,000 for the first thirty days the report remains unfiled, plus \$1,000 for each additional thirty day period (or part thereof) the report remains unfiled.
- J. Pursuant to the Pennsylvania Election Code (25 P.S. 3248), in 2011, all candidates for Philadelphia municipal office, and their authorized candidate committees, were required to file pre-primary campaign finance reports (cycle 2) with the City Commissioners by May 6, 2011. Pursuant to the City's campaign finance law, authorized candidate committees were also required to electronically file those reports with the Ethics Board. In such a pre-primary report, a candidate committee should have disclosed all of its receipts and expenditures for the time period January 1 – May 2, 2011, including all contributions received by the committee.
- K. In order to ensure that the public has access to information about large contributions received by candidates before the primary, but after the close of the pre-primary reporting period, the Pennsylvania Election Code further requires that candidates' committees disclose any contributions of \$500 received in that time period within 24 hours of receipt.

- L. Therefore, in 2011, if a City candidate's authorized committee received a contribution of \$500 or more from May 3rd through May 17th, the committee should have filed a campaign finance report with the City Commissioners disclosing that contribution within 24 hours of receipt. Pursuant to the City's campaign finance law, the committee should also have electronically filed such a report with the Ethics Board.
- M. In addition, any contribution that should have been disclosed in a 24 hour report, should also have been disclosed in the post-primary report. In 2011, post-primary reports disclosed financial activity for the time period May 3rd – June 6th, 2011.
- N. On May 4th, as a courtesy, Ethics Board enforcement staff sent an email to the campaigns and treasurers of candidates for City office reminding them of the requirement to electronically file 24 hour reports with the Ethics Board disclosing all contributions of \$500 or more received from May 3rd through May 17th.
- O. According to the post-primary report Respondents filed with the Ethics Board on June 17, 2011, Taubenberger for Philadelphia received the following 22 contributions totaling \$23,050 during the 2011 pre-primary 24 hour reporting period:
1. May 3, \$1,500 from Greater Philadelphia Chamber of Commerce PAC;
 2. May 3, \$1,000 from Crown PAC;
 3. May 3, \$500 from Greenlee Partners State PAC;
 4. May 4, \$500 from AFSCME D.C. 47 PAC
 5. May 5, \$500 from Bruce Foulke;
 6. May 5, \$500 from Lawrence Gallagher;
 7. May 6, \$500 from Sandra Muller;
 8. May 6, \$500 from David Singer;
 9. May 8, \$500 from David Benedict;
 10. May 9, \$550 from Margaret Houck;
 11. May 9, \$500 from Joel Shafer;
 12. May 10, \$500 from Friends of Jack Kelly;
 13. May 10, \$500 from William Heeney.
 14. May 11, \$5,000 from I.U.P.A.T District Council 21 PAC;
 15. May 11, \$2,500 from Local Union #98 I.B.E.W.;
 16. May 11, \$1,000 from Jerry Aspote, Sr.
 17. May 11, \$1,000 from Wawa, Inc PAC;
 18. May 11, \$500 from Michael Meehan;
 19. May 11, \$500 from Robert Wetzal;
 20. May 12, \$500 from Stradley Ronon Stevens & Young, LLP;
 21. May 13, \$2,500 from Thomas Bock; and
 22. May 13, \$1,500 from Philadelphia Coca-Cola Employee Good Government PAC.

- P. Pursuant to the City's campaign finance law, Taubenberger for Philadelphia should have filed at least 10 campaign finance reports with the Ethics Board disclosing contributions received during the 2011 pre-primary 24 hour reporting period. The reports should have been filed on the following dates: May 4th, May 5th, May 6th, May 7th, May 9th, May 10th, May 11th, May 12th, May 13th, and May 14th.
- Q. However, Taubenberger for Philadelphia did not file reports with the Ethics Board on the dates identified in Paragraph P.
- R. On June 30th, having noted that many candidate committees had not filed required 24 hour reports with the Ethics Board, as a courtesy, Ethics Board enforcement staff sent an email to the campaigns and treasurers of candidates for City reminding them of the requirement to electronically file pre-primary 24 hour reports with the Ethics Board. The email stated, in part:
- If you or your candidate committee received any contributions of \$500 or more between May 3 and May 17, then your committee should have filed 24 hour reports disclosing those contributions. If you or your committee received a contribution of \$500 or more from May 3 to May 17 and you did not file 24 hour report with the Ethics Board disclosing that contribution, you are still required to file that report, even though it is late. If you (or your committee) file all required 24 hour reports electronically with the Ethics Board by **July 8**, we will not pursue enforcement of the failure to file.
- S. However, notwithstanding this notice and additional time to file reports without penalty, Respondents did not file their outstanding 24 hour reports with the Ethics Board until July 25th.
- T. On August 2nd, the Board's Executive Director served a Notice of Administrative Enforcement Proceeding alleging a violation of Code § 20-1006(1)(a) for the failure of Taubenberger for Philadelphia to electronically file required campaign finance reports with the Board on May 4th, May 5th, May 6th, May 7th, May 9th, May 10th, May 11th, May 12th, May 13th, and May 14th.
- U. The Parties desire to enter into this Agreement in order to resolve the issues described herein.

AGREEMENT

The Parties agree that:

1. Taubenberger for Philadelphia's failure to electronically file campaign finance reports with the Board on May 4th, May 5th, May 6th, May 7th, May 9th, May 10th, May 11th, May 12th, May 13th, and May 14th violated §20-1006(1)(a) of the Philadelphia Code.
2. The failure to electronically file campaign finance reports on May 4th, May 5th, May 6th, May 7th, May 9th, May 10th, May 11th, May 12th, May 13th, and May 14th, shall be subject to a civil penalty of \$3,000.
3. Al Taubenberger shall pay the civil penalty on the following schedule:
 - 3.1. \$500 by September 30, 2011;
 - 3.2. \$500 by January 31, 2012;
 - 3.3. \$500 by May 31, 2012;
 - 3.4. \$500 by September 30, 2012;
 - 3.5. \$500 by January 31, 2013; and
 - 3.6. \$500 by May 31, 2013.
4. Payment shall be made by check made out to the City of Philadelphia and delivered to the offices of the Board.
5. Taubenberger for Philadelphia, Taubenberger, and St. Clair 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.
6. In consideration of the above and in exchange for Taubenberger for Philadelphia's, Taubenberger's, and St. Clair's compliance 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.
7. The Parties will not make any public statements that are inconsistent with the terms of the Agreement.
8. If the Ethics Board is forced to seek judicial enforcement of the Agreement, Taubenberger for Philadelphia, Taubenberger, and St. Clair shall be jointly and severally liable for attorneys' fees and costs reasonably expended in enforcing compliance with this Agreement. Fees for time spent by Board staff attorneys shall be calculated based upon standard and customary billing rates in Philadelphia for attorneys with similar experience.
9. The Agreement contains the entire agreement between the Parties.

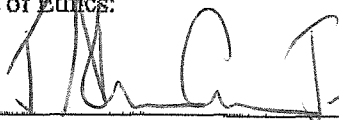
10. The Parties will submit a signed copy of the Agreement to the Board for approval.

11. The Agreement shall become effective upon approval by the Board.

12. If the Board rejects the proposed Agreement, presentation to and consideration of the Agreement by the Board, it shall not preclude the Board or its staff from further participation, consideration, or resolution of the pending Administrative adjudication of these matter described in the Agreement.

By the Executive Director of the Board of Ethics:

Dated: 9/16/11



J. Shane Creamer, Jr., Esquire

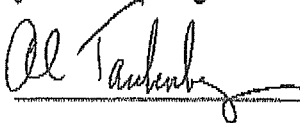
By William St. Clair:

Dated: _____




By Al Taubenberger:

Dated: 9/15/11



By Taubenberger for Philadelphia:

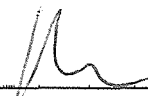
Dated: _____



William St. Clair, Treasurer

Approved by the Board of Ethics:

Dated: 9/21/2011



Richard Glazer, Esquire
Chair