

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into between the Board of Ethics of the City of Philadelphia, the 7th Ward/Friends of Angel Cruz PAC, the Hon. Angel Cruz, Joseph Evangelista, the Treasurer of the 7th Ward/Friends of Angel Cruz PAC and the former Treasurer of LUPE PAC, Jose Giral, 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 City’s Campaign Finance Law in its Regulation No. 1 (Campaign Finance).
- B. The 7th Ward/Friends of Angel Cruz PAC is a political committee based in Philadelphia and registered with the Commonwealth Department of State. Joseph Evangelista is the Treasurer of the 7th Ward/Friends of Angel Cruz PAC.
- C. The Latinos United for Political Empowerment (“LUPE”) PAC was a political committee based in Philadelphia and registered with the Commonwealth Department of State. Joseph Evangelista was the Treasurer of LUPE PAC. LUPE PAC was established in March of 2015 and terminated in June of 2015.
- D. The Hon. Angel Cruz (“Rep. Cruz”) is a State Representative for the Commonwealth of Pennsylvania representing the 180th District in Philadelphia, PA. He is also the Democratic ward leader for the 7th Ward, which is located in the 7th Councilmanic District in Philadelphia. Rep. Cruz has authorized the 7th Ward/Friends of Angel Cruz PAC to accept contributions on his behalf.
- E. Manny Morales was a candidate for the 7th Councilmanic District seat in the 2015 Philadelphia Primary Election. While he was a candidate for City office, Mr. Morales used the political committee Manny Morales for City Council as his authorized candidate political committee.
- F. Jose Giral was Mr. Morales’ campaign manager and an agent of his campaign for the 7th Councilmanic District seat. Mr. Giral ran the Morales campaign and organized and paid vendors and consultants, including television advertisers, radio advertisers, printing companies, t-shirt companies, and web consultants.
- G. Pursuant to Board Regulation No. 1, Paragraph 1.38, if a political committee coordinates its expenditures with a candidate’s campaign, such expenditures are in-kind contributions to the candidate and are subject to the contributions limits of the City’s Campaign Finance Law.

- H. Pursuant to Philadelphia Code § 20-1002(2), during the 2015 Philadelphia Primary Election, a political committee could not make contributions of more than \$11,500 per calendar year to a candidate for City elective office.
- I. Pursuant to Philadelphia Code § 20-1301(1), 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. Board Regulation No. 1, at Subpart H, sets forth detailed guidance on what constitutes a coordinated expenditure. For example, an expenditure is coordinated if a political committee makes the expenditure in cooperation, consultation or concert with the candidate's campaign or if the person making the expenditure communicates with the candidate's campaign about the expenditure before making it. An expenditure is also coordinated if the candidate's campaign has solicited funds for or directed funds to the person making the expenditure, within the 12 months before the election that the expenditure seeks to influence. In addition, a political committee's expenditures to republish campaign-produced communications or materials are in-kind contributions by the political committee to the candidate.
- K. Pursuant to Board Regulation No. 1, Paragraph 1.1(e), the candidate's campaign includes the candidate, the candidate's candidate political committee, or an agent of either of the foregoing.
- L. Pursuant to Philadelphia Code §§ 20-1006(4) and 20-1302, the making of a material misstatement or omission in a 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 may be increased or decreased depending on the presence of mitigating or aggravating factors.
- M. In early November of 2015, Board enforcement staff received a complaint alleging that LUPE PAC and the 7th Ward/Friends of Angel Cruz PAC had made excess in-kind contributions to Mr. Morales and had made material misstatements and omissions in campaign finance reports the committees had filed with the Board. 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, took sworn statements and affidavits, and obtained documents, including bank records.
- N. In early 2015, Mr. Giral, Rep. Cruz, Carlos Matos and others met on multiple occasions to plan a get-out-the-vote ("GOTV") strategy in the 7th Councilmanic District for the 2015 Philadelphia Primary Election. The group created a budget for GOTV operations for the 7th, 18th, 19th, 23rd, 33rd, 42nd, and 43rd wards. All of these wards have divisions in the 7th Councilmanic district. Mr. Morales attended at least one of these GOTV strategy meetings and at least one of the meetings was held at Mr. Morales' campaign headquarters. The group approached Mayoral candidate Nelson Diaz for funding but the Diaz campaign declined the request. The group eventually sought and received funding from other sources.
- O. In mid-March of 2015, Mr. Evangelista filed paperwork to create LUPE PAC. LUPE PAC uses the same name as a larger group created by community leaders in the 7th Councilmanic District. However, Rep. Cruz and Mr. Giral directed LUPE PAC's activities and expenditures.

- P. LUPE PAC made expenditures of \$22,000 to influence the 2015 7th Councilmanic District Primary Election. All of those expenditures were coordinated with Manny Morales' City Council campaign because LUPE PAC communicated with the Morales campaign about the expenditures and because the expenditures were made in cooperation, consultation, and concert with an agent of the campaign, Mr. Giral. Moreover, the expenditures LUPE PAC made were part of the overall GOTV strategy Mr. Giral, Rep. Cruz, and others developed in early 2015. LUPE PAC's expenditures were also coordinated with the Manny Morales campaign because, in May of 2015, an agent of the campaign, Mr. Giral, solicited contributions for LUPE PAC.
- Q. The expenditures LUPE PAC coordinated with the Morales campaign were for GOTV operations, events, t-shirts, and campaign communications and materials. Specifically, Mr. Giral placed orders for LUPE PAC with printers and t-shirt vendors for materials that promoted Mr. Morales' candidacy. Mr. Giral also helped organize and pay Election Day workers paid by LUPE PAC. These workers were active in the 7th, 18th, 23rd, 33rd, and 43rd wards. Many of them wore t-shirts purchased by the Manny Morales for City Council committee and distributed campaign literature that Mr. Giral had ordered from printers. All of the workers promoted a slate of candidates that prominently featured Mr. Morales.
- R. As such, in 2015, LUPE PAC made excess in-kind contributions of \$10,500 to the Manny Morales for City Council committee. LUPE PAC did not disclose in the campaign finance reports that it filed with the Board that its expenditures were in-kind contributions to the Manny Morales for City Council committee.
- S. The 7th Ward/Friends of Angel Cruz PAC made expenditures of \$48,325 in coordination with the Morales campaign to influence the 2015 7th Councilmanic District Primary Election. These expenditures were coordinated with Morales' campaign because the 7th Ward/Friends of Angel Cruz PAC communicated with the Morales campaign about the expenditures and because the expenditures were made in cooperation, consultation, and concert with an agent of the campaign, Mr. Giral. In addition, the 7th Ward/Friends of Angel Cruz PAC made expenditures to republish Morales campaign material. Moreover, the expenditures the 7th Ward/Friends of Angel Cruz PAC made were part of the overall GOTV strategy Mr. Giral, Rep. Cruz, and others developed in early 2015.
- T. The expenditures the 7th Ward/Friends of Angel Cruz PAC coordinated with the Morales campaign were for GOTV operations, radio and print ads, events, t-shirts, and campaign materials. Specifically, Mr. Giral placed orders with printers and t-shirt vendors for the 7th Ward/Friends of Angel Cruz PAC for materials that promoted Mr. Morales' candidacy. A newspaper advertisement the 7th Ward/Friends of Angel Cruz PAC paid for republished Morales campaign material. In addition, Mr. Giral helped organize and pay Election Day workers paid by the 7th Ward/Friends of Angel Cruz PAC. These workers were active in the 7th, 18th, 23rd, 33rd, and 43rd wards. Many of them wore t-shirts purchased by the Manny Morales for City Council committee and distributed campaign literature that Mr. Giral had ordered from printers. All of the workers promoted a slate of candidates that prominently featured Mr. Morales.

- U. As such, in 2015, the 7th Ward/Friends of Angel Cruz PAC made excess in-kind contributions of \$36,825 to the Manny Morales for City Council committee. In campaign finance reports it filed with the Board, the 7th Ward/Friends of Angel Cruz PAC disclosed that some, but not most, of its expenditures were in-kind contributions to the Manny Morales for City Council committee.
- V. Rep. Cruz, Mr. Evangelista, and Mr. Giral cooperated with the Board's investigation of the matters described in this Agreement.
- W. The Parties desire to enter into this Agreement in order to resolve the matters described herein.

AGREEMENT

The Parties agree that:

1. Because LUPE PAC's expenditures were coordinated with the Morales campaign, they were in-kind contributions that exceeded the City's contribution limits by \$10,500 in violation of Philadelphia Code § 20-1002(2). The civil monetary penalty for this violation is \$2,000.
2. By failing to disclose in-kind contributions to the Manny Morales for City Council committee in the 2015 Cycle 3 campaign finance report it filed with the Board, LUPE PAC and Mr. Evangelista violated Philadelphia Code § 20-1006(4). The civil monetary penalty for this violation is \$2,000.
3. Because the 7th Ward/Friends of Angel Cruz PAC expenditures were coordinated with the Morales campaign, they were in-kind contributions that exceeded the City's contribution limits by \$36,825 in violation of Philadelphia Code § 20-1002(2). The civil monetary penalty for this violation is \$2,000.
4. By failing to disclose in-kind contributions to the Manny Morales for City Council committee in the 2015 Cycle 3 campaign finance report it filed with the Board, the 7th Ward/Friends of Angel Cruz PAC and Mr. Evangelista violated Philadelphia Code § 20-1006(4). The civil monetary penalty for this violation is \$2,000.
5. The 7th Ward/Friends of Angel Cruz PAC and Mr. Evangelista are jointly and severally liable¹ for the civil monetary penalties described above and shall make payment on the following schedule:
 - 5.1: \$2,000 within 30 days of the effective date of the Agreement;
 - 5.2: \$2,000 within 90 days of the effective date of the Agreement;
 - 5.3 \$2,000 within 120 days of the effective date of the Agreement; and
 - 5.4 \$2,000 within 180 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.

¹ LUPE PAC is not a party to this Agreement because it was terminated in June 2015.

6. Within thirty days of the effective date of the Agreement, Mr. Evangelista will file amended campaign finance reports with the Board for the 7th Ward/Friends of Angel Cruz PAC and LUPE PAC to correct the reporting failures described in this Agreement.
7. Rep. Cruz, Mr. Evangelista, and Mr. Giral will cooperate, if necessary, with further Board investigation and/or enforcement related to the conduct described in this Agreement.
8. The 7th Ward/Friends of Angel Cruz PAC, Rep. Cruz, and Mr. Giral, and Mr. Evangelista 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 the 7th Ward/Friends of Angel Cruz PAC, Rep. Cruz, Mr. Giral, and Mr. Evangelista with all of the terms of the Agreement, the Board waives any further penalties or fines against them for the violation 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 Agreement, and prevails, the 7th Ward/Friends of Angel Cruz PAC, Rep. Cruz, Mr. Giral, and Mr. Evangelista 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:

4/11/2016



Michael J. Cooke, Director of Enforcement:
Executive Director's Designee

Dated: 4/8/16

By the Hon. Angel Cruz:

Angel Cruz
Angel Cruz

Dated: 4-8-16

By the 7th Ward/Friends of Angel Cruz PAC:

Joseph Evangelista
Joseph Evangelista, Treasurer ✓

Dated: 4-8-16

By Joseph Evangelista:

Joseph Evangelista

Dated: 4/8/16

By Jose Giral:

José Giral

Approved by the Board of Ethics:

Effective Date: 5/2/2016

Michael H. Reed
Michael H. Reed, Chair