

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into between the Board of Ethics of the City of Philadelphia, Beth Grossman, Friends of Beth Grossman, Michael Kershaw, the Treasurer of Friends of Beth Grossman, 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 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, which is found at Chapter 20-1000 of the Philadelphia Code and Board Regulation No. 1 (Campaign Finance).
- B. Beth Grossman was a candidate for District Attorney in the 2017 General Election. Ms. Grossman declared her candidacy in late 2016 and authorized the candidate campaign committee Friends of Beth Grossman.
- C. Michael Kershaw is the Treasurer for Friends of Beth Grossman.
- D. Pursuant to Philadelphia Code § 20-1002(12) and Regulation No. 1, Paragraphs 1.2 and 1.7, a candidate for City elective office cannot accept contributions of more than \$3,000 per calendar year from an individual, including contributions made through one or more political committees.
- E. Beginning December 30, 2016, the limits for contributions from an individual to a 2017 candidate for District Attorney were doubled to \$6,000 per calendar year, pursuant to Philadelphia Code § 20-1002(9) and Regulation No. 1, Paragraph 1.6(a). This figure is double the usual contribution limit because one of the candidates for District Attorney in 2017 contributed more than \$250,000 of his own money to his campaign.
- F. Pursuant to Philadelphia Code § 20-1301(1) and Regulation No. 1, Paragraph 1.51, the acceptance of an excess contribution by 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.
- G. In November 2017, Board Enforcement Staff received information indicating that Friends of Beth Grossman had potentially accepted excess contributions from State Senator Scott Wagner. As a result, Board Enforcement Staff opened an investigation in the course of which they interviewed witnesses and obtained documents. At all times, Ms. Grossman, Friends of Beth Grossman, and Mr. Kershaw fully cooperated with the investigation.

- H. On April 18, 2018, the Board approved a settlement agreement with Senator Wagner. In the agreement, Senator Wagner admitted the following:
1. On September 18, 2017, Senator Wagner wrote and signed a check from his personal bank account in the amount of \$20,000 and deposited it into the bank account for the Scott Wagner Family Limited Partnership. At the time of deposit, these monies constituted 95% of the total funds available to the Partnership. That same day, Senator Wagner wrote and signed a Partnership check payable to Friends of Beth Grossman in the amount of \$20,000. At the time of this contribution, Senator Wagner believed that the contribution was attributable solely to the Scott Wagner Family Limited Partnership and therefore within the limits set by Philadelphia's Campaign Finance Law.
 2. The \$20,000 check from the Scott Wagner Family Limited Partnership to Friends of Beth Grossman counted towards Senator Wagner's individual contribution limits and exceeded the limits set by Philadelphia's Campaign Finance Law by \$14,000.
 3. On September 25, 2017 the Philadelphia Black Republican Council, a political committee registered with the Pennsylvania Department of State, held a fundraiser for Ms. Grossman's candidacy. The Council solicited contributions from Senator Wagner for this fundraiser and informed him that the principal beneficiary of a contribution would be Ms. Grossman.
 4. In response to these solicitations, on September 20, 2017, Senator Wagner wrote a personal check for \$5,000 to the Philadelphia Black Republican Council for the fundraiser for Ms. Grossman. He attended the fundraiser on September 25th and spoke in support of Ms. Grossman's candidacy. At the time of this contribution, Senator Wagner believed that the contribution was to the Philadelphia Black Republican Council, not to Friends of Beth Grossman.
 5. The Philadelphia Black Republican Council raised a total of \$9,940 through the fundraiser and on September 29, 2017, the Council wrote a check to Friends of Beth Grossman for \$9,000. At the time of the contribution to Friends of Beth Grossman, the Council had a total of \$9,306.97 on hand.
 6. Senator Wagner made a contribution of \$5,000 to Friends of Beth Grossman through the Philadelphia Black Republican Council and that contribution counted towards his individual contribution limits. Because Senator Wagner had already made a contribution of \$20,000 to Friends of Beth Grossman, the contribution of \$5,000 exceeded the limits.
- I. In addition, in October of 2017, at Ms. Grossman's request, Senator Wagner purchased \$2,476 worth of t-shirts and gave them to the Grossman campaign to use at a campaign rally. The purchase of these t-shirts was an in-kind contribution from Senator Wagner to the Grossman campaign. Because of Mr. Wagner's prior contributions, this in-kind contribution was in excess of the City's contribution limits.

- J. Pursuant to the City's Campaign Finance Law, from October 24, 2017 through November 7, 2017, within 24 hours of accepting a contribution of \$500 or more, Friends of Beth Grossman was required to electronically file a campaign finance report with the Board disclosing that contribution. During this time period, Friends of Beth Grossman filed several 24 hour reports with the Board. On December 7, 2017, Friends of Beth Grossman filed a 30 day post-Election report (Cycle 6) with the Board.
- K. Pursuant to Philadelphia Code § 20-1006(4) and Regulation No. 1, Paragraph 1.24, the failure to electronically file a campaign finance report with the Board or 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.
- L. During the time period of October 24, 2017 through November 7, 2017, an agent of the Grossman campaign received numerous contribution checks, but did not deposit them or turn them over to Mr. Kershaw, the Treasurer. Ms. Grossman obtained the checks shortly after Election Day and deposited them. Friends of Beth Grossman disclosed the checks in the Cycle 6 report it filed on December 7, 2017, but did not disclose them during the 24 hour reporting period of October 24, 2017 through November 7, 2017. In addition, on October 26, 2017 and again on October 27, 2017, the Fraternal Order of Police Lodge 5 PAC Fund made an in-kind contribution to the Grossman campaign of \$576 worth of t-shirts. Friends of Beth Grossman did not disclose these in-kind contributions in any of the 24 hour reports it filed. Friends of Beth Grossman did disclose these in-kind contributions in the 2017 Cycle 6 report it filed with the Board.
- M. The Parties desire to enter into this Agreement in order to resolve the issues described herein.

AGREEMENT

The Parties agree that:

1. The September 18, 2017 contribution of \$20,000 from Senator Scott Wagner to the Grossman campaign exceeded the City's contribution limits by \$14,000, in violation of Philadelphia Code § 20-1002(12). Ms. Grossman shall pay a civil monetary penalty of \$2,000 for this violation.
2. The September 29, 2017 contribution of \$5,000 from Senator Scott Wagner to the Grossman campaign exceeded the City's contribution limits by \$5,000, in violation of Philadelphia Code § 20-1002(12). Ms. Grossman shall pay a civil monetary penalty of \$2,000 for this violation.
3. The October 2017 in-kind contribution of t-shirts from Senator Scott Wagner to the Grossman campaign exceeded the City's contribution limits by \$2,476, in violation of Philadelphia Code § 20-1002(12). Ms. Grossman shall pay a civil monetary penalty of \$2,000 for this violation.

4. The reporting failures described in Paragraph L violated § 20-1006(4) of the Philadelphia Code, for which Ms. Grossman shall pay a \$1,500 civil monetary penalty on behalf of Friends of Beth Grossman and Mr. Kershaw.
5. Ms. Grossman shall pay the aggregate civil monetary penalty of \$7,500 described in Paragraphs 1-4 on the following schedule:
 - 5.1. \$3,000 within 14 days of the effective date of the Agreement;
 - 5.2. \$3,000 within 60 days of the effective date of the Agreement; and
 - 5.3. \$1,500 within 120 days of the effective date of the Agreement.


Payment shall be made by check or money order made payable to the City of Philadelphia and delivered to the offices of the Board.

6. Friends of Beth Grossman shall disgorge \$21,476, the amount of the three excess contributions, by December 31, 2018. Payment shall be made by check or money order made payable to the City of Philadelphia and delivered to the offices of the Board.
7. Within 30 days of the effective date of the Agreement, Friends of Beth Grossman will amend its campaign finance reports to correct its reporting failures described in this Agreement.
8. Ms. Grossman, Friends of Beth Grossman, and Mr. Kershaw 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 Ms. Grossman, Friends of Beth Grossman, and Mr. Kershaw with all of the terms of the Agreement, the Board waives any further penalties or fines against them for the violations 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 this Agreement, and prevails, Ms. Grossman, Friends of Beth Grossman, and Mr. Kershaw 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.
12. The Agreement contains the entire agreement between the Parties.
13. The Executive Director will submit a signed copy of the Agreement to the Board for approval. The effective date of the Agreement shall be the date the Board approves the Agreement.
14. 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.

By the Executive Director of the Board of Ethics:

Dated:

9/5/18



J. Shane Creamer, Jr.

By Beth Grossman:

Dated:

8/30/18



By Friends of Beth Grossman:

Dated:

8/30/18



James Williams, Chair

By Michael Kershaw:


Dated:

August 30, 2018



Approved by the Board of Ethics on

9/12/2018



Michael H. Reed
Chair