

## **SETTLEMENT AGREEMENT**

This Settlement Agreement (“Agreement”) is made and entered into between the Board of Ethics of the City of Philadelphia, the Hon. Scott Wagner, 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. The Ethics Board has provided a detailed interpretation of the campaign finance law in its Regulation No. 1 (Campaign Finance).
- B. The Hon. Scott Wagner is a State Senator representing Pennsylvania’s 28<sup>th</sup> District.
- C. The Scott Wagner Family Limited Partnership is a Limited Liability Partnership registered with the Pennsylvania Department of State and is majority controlled by Senator Wagner.
- D. Pursuant to Philadelphia Code § 20-1002(1) and Regulation No. 1, Paragraph 1.2(a), an individual cannot contribute more than \$3,000 per calendar year to a candidate for City elective office, 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 was because on December 30, 2016, a candidate for District Attorney invested over \$250,000 of his own monies into his campaign.
- F. Pursuant to Philadelphia Code § 20-1301(1) and Regulation No. 1, Paragraph 1.51, making an excess contribution to a City candidate 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 the Hon. Scott Wagner had potentially made excess contributions to a 2017 District Attorney candidate. As a result, Board Enforcement Staff opened an investigation in the course of which they interviewed witnesses and obtained documents. At all times, Senator Wagner fully cooperated with the investigation.

- H. 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.
- I. Friends of Beth Grossman was the authorized candidate committee for 2017 District Attorney candidate Beth Grossman.
- J. Pursuant to Regulation No. 1, Paragraph 1.18, a contribution from a check drawn on a partnership is from the partnership unless other facts demonstrate that the contribution is from the signer of the check.
- K. Based on the facts set forth in Paragraph H, 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.
- L. 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.
- M. 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 25<sup>th</sup> 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.
- N. 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.
- O. Pursuant to Regulation No. 1, Paragraph 1.4, a contribution is made through a political committee if a person makes a contribution to a political committee and directs, suggests, or requests, whether in a direct, indirect, express, or implied manner, that the recipient political committee use all or part of the contributed money to make an expenditure to a specific candidate. For the purposes of the City's contribution limits, a contribution made through a political committee is from both the original contribution person and the political committee through which it is made and counts towards the contribution limits for both.

- P. Based on the facts described in Paragraphs L through N, 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.
- Q. The Parties desire to enter into this Agreement in order to resolve the issues described herein.

## **AGREEMENT**

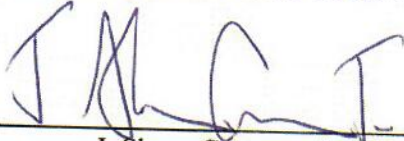
The Parties agree that:

1. Because Senator Wagner's September 18, 2017 contribution of \$20,000 to Friends of Beth Grossman exceeded the limits set by Philadelphia's Campaign Finance Law, he violated § 20-1002(1) of the Philadelphia Code and is subject to a civil monetary penalty of \$2,000.
2. Because Senator Wagner's September 20, 2017 contribution of \$5,000 to Friends of Beth Grossman exceeded the limits set by Philadelphia's Campaign Finance Law, he violated § 20-1002(1) of the Philadelphia Code and is subject to a civil monetary penalty of \$2,000. However, in light of the Hon. Scott Wagner's cooperation, the penalty is reduced to \$1,500.
3. Senator Wagner shall pay the aggregate civil monetary penalty of \$3,500 within 14 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.
4. Senator Wagner releases and holds 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 violation described in the Agreement.
5. In consideration of the above and in exchange for Senator Wagner's compliance with all of the terms of the Agreement, the Board waives any further penalties or fines against him for the violation described in this Agreement.
6. The Parties will not make any public statements that are inconsistent with the terms of the Agreement.
7. If the Board or the City is forced to seek judicial enforcement of Paragraph 3 of this Agreement, and prevails, Senator Wagner 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. The effective date of the Agreement shall be the date the Board approves the Agreement.

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 either party and, except this paragraph, nothing in the Agreement shall be effective.

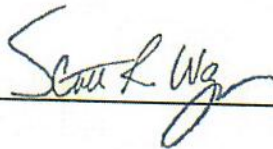
By the Executive Director of the Board of Ethics:

Dated: 4/16/18

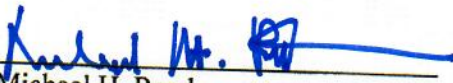
  
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J. Shane Creamer, Jr.

By the Hon. Scott Wagner:

Dated: 4/16/18

  
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Approved by the Board of Ethics on 4/18/18

  
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Michael H. Reed  
Chair