

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into between the Board of Ethics of the City of Philadelphia, Humberto Perez, Joyce Martinez, Francisco Lozada, and the Friends of Perez, 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. Humberto Perez was a candidate for Philadelphia City Council in the 2011 primary election. Friends of Perez is Perez’ authorized candidate political committee.
- C. Joyce Martinez was the treasurer of Friends of Perez prior to May 2, 2011. Francisco Lozada is the current treasurer of Friends of Perez and was the treasurer of the committee on May 6, 2011.
- D. As a declared candidate for City elective office during the 2011 primary election, Perez was subject to the City’s campaign finance law.
- E. 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.

- F. 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.

- G. Under the Pennsylvania Election Code, May 6, 2011 was the deadline for municipal candidates and political committees to file 2011 pre-primary (cycle 2) campaign finance reports with the City Commissioners.
- H. Because Perez was a candidate for City elective office, his candidate political committee, Friends of Perez, should have electronically filed a cycle 2 campaign finance report with the Ethics Board by May 6, 2011.
- I. On April 28, 2011, as a courtesy, Ethics Board staff sent Perez and Martinez an email reminding them of their obligation to electronically file a cycle 2 campaign finance report with the Ethics Board.
- J. However, the Friends of Perez did not electronically file a 2011 cycle 2 campaign finance report with the Ethics Board by May 6th.
- K. On May 11, 2011, as a courtesy, Ethics Board staff sent Perez and Martinez a letter, by hand delivery and email, informing them of the committee's failure to electronically file a cycle 2 campaign finance report with the Ethics Board.
- L. The letter informed Perez and Martinez of the penalties for failure to file a required report with the Ethics Board, but told them that if the committee filed the report by May 13th, Ethics Board staff would not pursue enforcement of the failure to file. However, the Friends of Perez did not file a 2011 cycle 2 report with the Ethics Board by May 13th.
- M. On May 17th, the Ethics Board's Executive Director served a Notice of Administrative Enforcement Proceeding on Perez, Martinez, and the Friends of Perez alleging a violation of Code § 20-1006 for the failure to electronically file a 2011 cycle 2 campaign finance report with the Ethics Board.
- N. Friends of Perez did not electronically file its 2011 cycle 2 campaign finance report with the Ethics Board until July 19, 2011.
- O. 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.
- P. The Parties desire to enter into this Agreement in order to resolve the issues described herein.

AGREEMENT


The Parties agree that:

1. Humberto Perez's, Francisco Lozada's, and the Friends of Perez's failure to electronically file a 2011 cycle 2 campaign finance report with the Ethics Board by May 6th violated § 20-1006 of the Philadelphia Code.
2. Perez, Lozada, and the Friends of Perez will pay a civil penalty of \$500 for the failure to electronically file a 2011 cycle 2 with the Ethics Board by May 6, 2011.
3. The civil penalty shall be paid in the following increments:
 - 3.1. \$250 by July 30, 2011.
 - 3.2. \$250 by December 31, 2011.

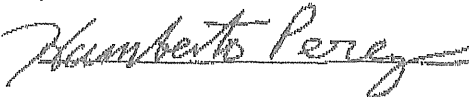
Payment shall be made by check made out to the City of Philadelphia and delivered to the offices of the Board at 1441 Sansom Street.
4. Perez, Martinez, Lozada, and the Friends of Perez release and hold harmless the Board and its staff from any potential claims, liabilities, and causes of action arising from the Board's investigation, enforcement, and settlement of the violations described in the Agreement.
5. In consideration of the above and in exchange for Perez's, Martinez's, Lozada's, and the Friends of Perez'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.
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, Perez, Lozada, and the Friends of Perez shall be jointly and severally liable for attorneys' fees and costs reasonably expended in enforcing compliance with this Agreement. Fees for time spent by Ethics Board staff 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 Parties will submit a signed copy of the Agreement to the Board for approval.
10. The Agreement shall become effective upon approval by the Board.

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

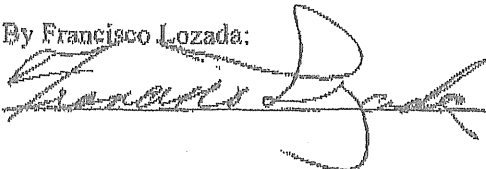
Dated: 7/19/11

By the Executive Director of the Board of Ethics:

J. Shane Creamer, Jr., Esquire


Dated: 7/19/11

By Humberto Perez:



Dated: 7/19/11

By Francisco Lozada:


Dated: 7-19-11


By Joyce Martinez:


Dated: 7/19/11

By Friends of Perez:

Francisco Lozada, Treasurer

Approved by the Board of Ethics:

Dated: 7/20/2011


Richard Glazer, Esquire
Chair