

SETTLEMENT AGREEMENT

This Settlement Agreement is made and entered into between the Board of Ethics of the City of Philadelphia ("the Board") and the Committee On Public Education of Local 98 of the International Brotherhood of Electrical Workers ("COPE"). The Board of Ethics and COPE are referred to jointly as "the Parties."

RECITALS

- A. The Philadelphia Board of Ethics is an independent board that was established by ordinance, approved by voters, and installed on November 27, 2006. It is charged with providing ethics training for all city employees and enforcing city campaign finance, financial disclosure and conflict of interest laws. The Board has the authority to render advice, investigate complaints and issue fines.
- B. COPE is a political action committee registered with the Pennsylvania Department of State and is required to file periodic reports of receipts and expenditures ("campaign finance reports") pursuant to §3246 of the Pennsylvania Election Code.
- C. Because COPE's 2007 campaign finance reports for cycles 1 through and including 7 disclosed contributions to candidates for city offices, it was required to and did electronically file its campaign finance reports with the Board, via the Records Department for the City of Philadelphia for the above-referenced cycles in 2007, pursuant to §20-1006 of the city's campaign finance law.
- D. The making of a material misstatement on any campaign finance report that is filed with the Board pursuant to §20-1006 of the city's campaign finance law constitutes a violation of Chapter 20-600 (Standards of Conduct and Ethics). Such violations are subject to enforcement and the imposition of penalties by the Board.
- E. In calendar year 2007, contributions to candidates for city elective office from political committees were limited to \$10,000, pursuant to §20-1001(2) of the city's campaign finance law. Contributions to candidates for city elective office from political committees in excess of that amount in 2007 violate §20-1001(2) and are punishable by a civil penalty in the amount set forth in §20-612.
- F. Contributions include "[m]oney, gifts, forgiveness of debts, loans, or things having a monetary value incurred or received by a candidate or his/her agent for use in advocating or influencing the election of the candidate," pursuant to §20-1001(6) of the city's campaign finance law.

- G. Pursuant to its mandate, in May 2007, the Board commenced an investigation into the funding of two anonymous political flyers that were distributed on or about Primary Election Day in May 2007. One flier was labeled "Stop and Frisk," while the other was labeled "Happy Mothers' Day".
- H. The purpose of the Board's investigation was to determine whether a political or candidate committee funded the two anonymous flyers, and if so, whether that funding was accurately disclosed in campaign finance reports filed electronically with the Board.
- I. Through its investigation, the Board discovered that Tommie St. Hill created and arranged the production and distribution of the "Stop and Frisk" flyer. The Board took Mr. St. Hill's statement under oath pursuant to an Administrative Subpoena on August 9, 2007.
- J. In the course of his testimony, Mr. St. Hill claimed he had received money only from judicial candidate political committees and professed not to recall if he had received any money from any independent political action committees ("PAC") or had any PAC clients.
- K. The Board later learned from campaign finance reports filed by COPE that Mr. St. Hill and his company RCS Diversified Consultants received \$16,500 from COPE in May 2007 and \$6,000 in July 2007.
- L. The Board also discovered that Ed Kirlin created and arranged the production and distribution of the "Happy Mother's Day" flyer. The Board took Mr. Kirlin's statement under oath on July 18, 2007, pursuant to an Administrative Subpoena. For his part, Mr. Kirlin admitted that COPE was the only PAC that paid Mr. Kirlin's firm for work related to the 2007 primary election. Mr. Kirlin's firm, EK Strategies, was paid \$15,500 on April 25, 2007 and \$11,000 by IBEW COPE on August 30, 2007.
- M. Because St. Hill and Kirlin were paid by COPE in 2007, the Board's investigation was expanded to include a review of COPE's 2007 expenditures. Accordingly, in December 2007, the Board requested expenditure vouchers from COPE pursuant to §3246(c) of the Pennsylvania Election Code. The expenditure vouchers include invoices, bills and/or statements from Mr. St. Hill, Mr. Kirlin and their firms, among others.
- N. In response to the expenditure voucher request, COPE filed a lawsuit against the Board and other government officials on February 8, 2008, in the Eastern District of Pennsylvania. In its Amended Complaint, COPE argued that §3246(c) of the Pennsylvania Election Code violated its First Amendment Rights.

- O. While COPE's Federal lawsuit was pending, the Board served Mr. St. Hill with an Administrative Subpoena on April 14, 2008 directing him to immediately produce computer hard drives and other digital media storage devices that contained information relevant to the "Stop and Frisk" flyer. The Board also filed an Emergency Petition for a Special Injunction and Preliminary Injunction seeking a court order directing Mr. St. Hill to preserve evidence. The purpose of the Administrative Subpoena and Emergency Petition was to discover more information about the creation and funding of the "Stop and Frisk" flyer.
- P. On April 15, 2008, the Honorable Jane Cutler Greenspan of the Philadelphia Court of Common Pleas issued an Order directing Mr. St. Hill to immediately produce all responsive computer hard drives and other digital media storage devices in compliance with the Subpoena and "not to engage in any deletions of any information whatsoever that existed on any computer in his possession."
- Q. Mr. St. Hill refused to comply with the Court's Order. Accordingly, on April 21, 2008, the Board filed an emergency petition for contempt in the Philadelphia Court of Common Pleas. The Court again ordered Mr. St. Hill to produce any digital equipment that contained any reference to the production of the Flyer. The Court also allowed the Board, as part of the emergency relief, to depose Respondent "about the laptop and any other digital equipment."
- R. Mr. St. Hill also refused to appear for a deposition, despite the Court's Order and despite subsequent Administrative Subpoenas served on him by the Board.
- S. On July 29, 2008 the Board filed a third Petition against Mr. St. Hill seeking Court enforcement of an Administrative Subpoena served on him by the Board on July 11, 2008. The Petition is currently pending in the Court of Common Pleas.
- T. Separately, on July 9, 2008, Judge Harvey Bartle dismissed COPE's Amended Complaint. On August 8, 2008, COPE filed an appeal of the decision to the Court of Appeals for the Third Circuit.
- U. Also on July 9, 2008, in the course of its investigation into the funding of the flyers, the Board served an Administrative Subpoena on Local 98 of the International Brotherhood of Electrical Workers ("Local 98").
- V. In response to the Board's Administrative Subpoena, Local 98's counsel informed the Board that Local 98 would not comply with the Administrative Subpoena. Accordingly, the Board filed a Petition to Compel compliance with the Administrative Subpoena in the Philadelphia Court of Common Pleas.
- W. On September 17, 2008, COPE produced the outstanding expenditure vouchers to the Board after first making them available to Board staff for inspection.

- X. Beginning in mid-September 2008, representatives from the Board and COPE met on several occasions to discuss compliance with outstanding document requests and COPE's potential violations of Philadelphia campaign finance laws.
- Y. As a result of these meetings, in which COPE's representatives provided their full cooperation with the Board's inquiry, the Parties agreed that COPE's 2007 campaign finance reports contained material misstatements relating to the two flyers and three other expenditures that should have been described as in-kind contributions to candidates for city elective office. In addition, the Parties agreed that COPE made two excess contributions to candidates for city elective office in 2007. The material misstatements and excess contributions constitute violations of the city's campaign finance law.
- Z. The Parties desire to enter into this Settlement Agreement in order to resolve the violations described in the Settlement Agreement.

AGREEMENT

The Parties agree as follows:

- 1. COPE admits that it funded the two anonymous flyers through three expenditures to two outside consulting firms known as RCS Diversified Consultants (for the "Stop and Frisk" flier) and EK Strategies (for the "Happy Mother's Day" flier). COPE further agrees that the following three expenditure descriptions in its 2007 cycle 4 campaign finance report contains material misstatements because they do not reflect that the expenditures funded the two flyers:

Date	Recipient	Description	Amount
July 3, 2007	RCS Diversified Consultants	"non-fed GOTV consulting services"	\$5,000
July 3, 2007	RCS Diversified Consultants	"non-fed GOTV consulting services"	\$1,000
August 30, 2007	EK Strategies	"non-fed GOTV consulting services"	\$11,000

- 2. COPE agrees to pay the Board the maximum allowable statutory penalty of \$1,500 for each of the three expenditure descriptions that contains material misstatements, in violation of §20-1006 of the city's campaign finance law.
- 3. COPE agrees that a May 30, 2007 expenditure in the amount of \$4,500 disclosed in its 2007 cycle 3 report and described as "food -T. Knox fundraiser" contains a material misstatement because it should have been disclosed and described as an in-kind contribution to 2007 Mayoral candidate Tom Knox.

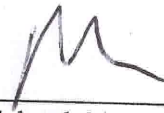
4. COPE agrees to pay the Board a \$1,000 penalty for the material misstatement relating to the May 30, 2007 in-kind contribution to candidate Knox.
5. COPE agrees that a July 11, 2007 expenditure in the amount of \$6,207.20 disclosed in its 2007 cycle 4-report and described as "Reimb-6/07 non-fed GOTV BGreen f/r" (where "f/r" refers to a fundraising event) contains a material misstatement because it should have been disclosed and described as an in-kind contribution to 2007 City Council candidate Bill Green.
6. COPE agrees to pay the Board a \$1,000 penalty for the material misstatement relating to the May 30, 2007 in-kind contribution to candidate Green.
7. COPE agrees that a May 31, 2007 expenditure in the amount of \$2,200 and described as "Shirts supporting C. Jones" in its 2007 cycle 3 report should have been disclosed and described as an in-kind contribution to City Council candidate Curtis Jones Jr., because the invoice for the 700 T-shirts reveal that the shirts were actually ordered by candidate Jones' campaign manager, but paid for by COPE.
8. COPE agrees to pay the Board the maximum allowable statutory penalty of \$1,500 for the material misstatement relating to the May 31, 2007 in-kind contribution to candidate Jones.
9. COPE admits that it made two contributions to 2007 City Council candidate Juan Ramos that total \$12,500. These contributions exceed the contribution limit by \$2,500.¹
10. COPE agrees to pay the Board a \$1,000 penalty for the excess contribution to candidate Ramos.
11. COPE admits that the \$6,207.20 in-kind contribution to candidate Green, described in paragraph 5 above, constitutes an excess contribution, because COPE previously made a maximum \$10,000 contribution to candidate Green on March 26, 2007.
12. COPE agrees to pay the Board a \$1,000 penalty for the excess contribution to candidate Green.
13. COPE agrees to pay, within 14 days of the execution of the Settlement Agreement, the civil penalties described in paragraphs 2, 4, 6, 8, 10, and 12.
14. COPE, within 14 days of the execution of the Settlement Agreement, will withdraw its appeal from Judge Bartle's ruling in *Local 98 IBEW Committee On Public Education*, Civil Action No. 08-630, Eastern District of Pennsylvania.

¹ The \$2,500 excess contribution was returned to COPE by candidate Ramos pursuant to a February 2008 Settlement Agreement between candidate Ramos and the Board of Ethics. Candidate Ramos also paid a \$500 fine to the Board of Ethics for accepting this excess contribution.

15. The Board, within 14 days of the execution of the Settlement Agreement, will discontinue *Board of Ethics v. Local 98*, August 2008 Term, No. 003899, Philadelphia Court of Common Pleas.
16. The Board, within 14 days of the execution of the Settlement Agreement, will discontinue *Board of Ethics v. St. Hill*, July 2008 Term, No. 004223, Philadelphia Court of Common Pleas.
17. In consideration of the above, the Board agrees to waive any further penalties or fines against COPE for the violations described in this Settlement Agreement.
18. The Parties will not to make any public statements that are inconsistent with the terms of the Settlement Agreement.
19. The Settlement Agreement contains the entire agreement between the Parties.
20. The Settlement Agreement shall become effective on execution by the Parties.

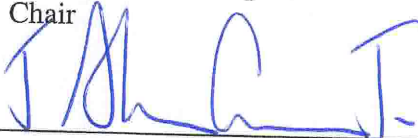
By the Board of Ethics of the City of Philadelphia:

Dated: 10/15/08



Richard Glazer, Esquire
Chair

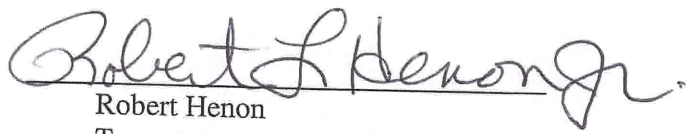
Dated: 10/15/08



J. Shane Creamer, Jr., Esquire
Executive Director

By the Committee On Public Education of Local 98 of the International Brotherhood of Electrical Workers:

Dated: 10/15/08



Robert Henon
Treasurer