

## SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

This Settlement Agreement and Release of Claims ("Agreement") is made by and between City of Richmond ("City") and the Dwight Adams ("Adams"). City and Adams are collectively referred to as the "Parties" in this Agreement.

### Recitals

1. Adams, was, at all times relevant to this matter, the treasurer of Defendant Committee Richmond One Committee Opposing Tom Butt for City Council ("Committee"), a primarily formed committee as defined in Government Code sections 82013 and 82047.5, and incorporated into the Richmond Municipal Code (RMC) pursuant to RMC section 2.42.040.

2. On or about October 30, 2012, Defendant Committee caused to be mailed to approximately 21,000 Richmond voters a four-page campaign mailer with the headline "Do Not Vote for Tom Butt" ("Butt Mailer"). Tom Butt is a member of the Richmond City Council, and was a candidate for reelection at the November 6, 2012 election. The total cost of that mass mailing exceeded \$5,000. Defendant Committee did not include on the Butt Mailer the campaign finance disclaimer information specified in RMC Section 2.42.075.

3. On or about October 26, 2012, Adams signed Defendant Committee's "Statement of Organization" (Fair Political Practices Commission (FPPC) Form 410). In signing the Statement of Organization, Adams identified himself as the treasurer of Defendant Committee, and stated, under penalty of perjury, that he had "used all reasonable diligence in preparing this statement and to the best of my knowledge the information contained herein is true and complete." On October 26, 2012, Defendant Committee filed its Statement Organization with the California Secretary of State. Defendant Committee was assigned Committee Identification Number 1353159. Defendant Committee did not file its Statement of Organization with the Richmond City Clerk, as required by State law.

4. At approximately 4:30 p.m. on November 6, 2012, Defendant Committee filed a Supplemental Campaign Statement with the Richmond City Clerk, disclosing its contributions, expenditures, and other campaign finance information for the period beginning October 26, 2012, and ending November 1, 2012. RMC Section 2.38.030(a) required that Defendant Committee file its Supplemental Statement no later than December 2, 2012.

5. On November 4, 2012, Adams signed Defendant Committee's Supplemental Statement on behalf of Defendant Committee. In Defendant Committee's Supplemental Statement, Adams identified himself as the treasurer of Defendant Committee, and stated, under penalty of perjury, that he had "used all reasonable diligence in preparing this statement and to the best of my knowledge the information contained herein is true and complete."

6. The Summary Page of Defendant Committee's Supplemental Statement stated that Defendant Committee's total expenditures for the period October 26, 2012 through November 1, 2012 was \$4,736, when in fact the information Defendant Committee disclosed on that Summary Page reveals that the total expenditures made by Defendant Committee for this period was \$5,486. Defendant Committee's Supplemental Statement also contained a number of other errors.

7. On January 16, 2013, Defendant Committee filed an amendment to its Supplemental Statement ("Amended Statement"). The stated purpose of the amendment was a "Correction of In-Kind Contribution." As with the Defendant's Supplemental Statement, the Amended Statement covered the period beginning on October 26, 2012 and ending on November 1, 2012.

8. The Summary Page of Defendant Committee's Amended Statement stated that Defendant Committee's total expenditures for the period October 26, 2012 through November 1, 2012 was \$750, when in fact the information Defendant Committee discloses on that Summary Page reveals that the total expenditures made by Defendant Committee for this period was \$6,236. The Amended Statement contains additional errors.

9. On January 15, 2013, Adams signed Defendant Committee's Amended Statement on behalf of Defendant Committee. In Defendant Committee's Amended Statement, Adams identified himself as the treasurer of Defendant Committee, and stated, under penalty of perjury, that he had "used all reasonable diligence in preparing this statement and to the best of my knowledge the information contained herein is true and complete."

10. On January 16, 2013, Defendant Committee filed with the Richmond City Clerk a campaign statement covering the period November 2, 2012 through December 31, 2012. On January 15, 2013, Adams signed this campaign statement on behalf of Defendant Committee, identifying himself as the treasurer of Defendant Committee, and stating, under penalty of perjury, that he had "used all reasonable diligence in preparing this statement and to the best of my knowledge the information contained herein is true and complete." This campaign statement contained errors.

11. The Committee also failed to file late contribution and expenditure campaign reports required by State law.

12. On April 29, 2012, the City filed Civil Action No. C-13-00870 in Contra Costa Superior Court to enforce and seek compliance with Richmond campaign finance laws.

13. For the past several weeks, City and Adams have been negotiating in good faith to resolve this matter as to Adams.

14. As a result of these negotiations, and as part of a good faith effort to resolve this matter, on June 5, 2013, Adams filed amended campaign statements containing corrected information for the periods October 26, 2012 through November 1, 2012, and November 2, 2012 through December 2012. True and correct copies of these amended campaign statements are attached hereto as Exhibits A and B respectively. Adams acknowledges and agrees that these amended statements were necessary to correct errors made by him in complying with his legal duties as treasurer of the Committee. City acknowledges and agrees that Adams had not previously served as a treasurer for any campaign committee.

15. This Agreement is the result of compromise to resolve the factual and legal issues regarding this action. In the negotiation and drafting of this Agreement, City has been represented by Randy Riddle of Renne Sloan Holtzman Sakai LLP. Adams has chosen to proceed without representation by counsel.

16. Adams acknowledges and represents that he is fully competent to enter into this Agreement, that he has had a reasonable amount of time in which to consider this Agreement before executing it, and that she has had an opportunity to seek legal advice about its terms and effect, and that he enters into this Agreement knowingly and voluntarily.

NOW, THEREFORE, in consideration of the mutual promises, agreements, and understandings contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

### **Terms**

1. **Dismissal of Action.** Within ten business days after complete execution of this Agreement, City will cause to be delivered to Adams a file-endorsed Request for Dismissal of Adams as to City's Action, provided however that City may refile this action in the event it discovers that the amended campaign finance statements filed by Committee with the Richmond City Clerk on June 5, 2013 contains any material misstatements. Adams understands that this agreement is not binding on the Fair Political Practices Commission or any other law enforcement agency other the City of Richmond.

2. **Payment by Adams.** Within 21 days after receipt of a file-endorsed Request for Dismissal set forth above, Adams will cause to be delivered to counsel for City a check made payable to "City of Richmond Treasury" in the amount of \$750. Upon the recommendation of Randy Riddle, based on the cooperation of Adams with respect to resolution of this matter, the City Attorney may waive some or all of this amount.

3. **Training.** Adams agrees to not serve as a treasurer for any other campaign committee for or against any City of Richmond candidate or ballot measure unless and until he completes training provided by the Fair Political Practices Commission for local campaign treasurers.

4. **Attorneys' Fees and Costs.** Adams and City agree that each side shall bear their own attorneys' fees and costs incurred in connection with the Action.

5. **Release of Claims.**

Adams, on behalf of himself and his respective heirs, successors, agents, and all other related persons or entities who could assert a claim based on the subject matter addressed in this agreement, waives and releases and promises never to assert any and all claims that exist or might exist against City, any current or former City officers, directors, managers, agents, employees, counsel, representatives and attorneys. These claims do not, however, include any unrelated claim arising after the Parties execute this Agreement; any claims arising under this Agreement; or any claim that may not be waived by private agreement without governmental or judicial supervision.

b. Adams also waives and releases and promises never to assert any of the claims described in paragraph 5(a) above, even if she is unaware of such claims at the time the Parties execute this Agreement. Adams therefore waives his rights under California Civil Code section 1542, which states:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN TO HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Adams intends, by his release of claims set forth in paragraph 5(a) above, to release all such claims, whether known or unknown by him.

6. **Severability.** If any of the provisions of this Agreement are determined to be invalid by a court, arbitrator or government agency of competent jurisdiction, it is agreed that such determination shall not affect the enforceability of the other provisions of the Agreement.

7. **No Assignment.** City warrants that she has not assigned, transferred, nor purported to transfer, any claims she may have against Adams or any employees, officers or agents of Adams, and she will not assign or transfer, nor purport to transfer, any such claims.

8. **Entire Agreement.** It is understood and agreed that no promises, representations, understandings or warranties have been made by any part other than those which are expressly contained herein. It is further understood that this Agreement sets forth the entire agreement between the Parties and fully supersedes any and all prior agreements between the Parties, written or oral, pertaining to the same subject matter of this Agreement.

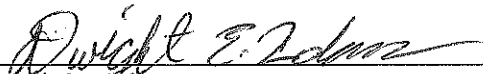
9. **Governing Law.** This Agreement is made, and will be construed, under California law.

10. **Counterparts.** This Agreement may be executed in counterpart originals with each counterpart to be treated the same as a single original.

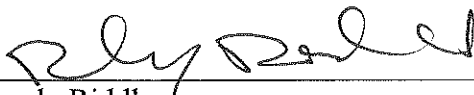
IN WITNESS WHEREOF, the Parties have approved and executed this Agreement by their duly authorized representatives.

**Execution by the Parties.**

Dated: June 25, 2013

  
Dwight Adams

Dated: June 27, 2013

  
Randy Riddle

Renne Sloan Holtzman Sakai  
Counsel for City of Richmond