



**BOARD OF ETHICS  
CITY OF CHICAGO**

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In the Matter of ) Case No. 17011.06.LOB  
 )  
Anthony Davis, Respondent )  
 )  
 )

**SETTLEMENT AGREEMENT**

This Settlement Agreement (“Agreement”) is made and entered into between the Chicago Board of Ethics (“Board”) and Anthony Davis (“Respondent”), pursuant to §§ 2-156-245 and -505 of the City of Chicago Governmental Ethics Ordinance (“Ordinance”).

**PROCEDURAL HISTORY**

1. This matter involves further action following the Board’s determination, on February 24, 2017, that there was probable cause to conclude that: (i) Respondent violated §2-156-245 of the Ordinance by engaging in lobbying (as defined in §2-156-010(p) of the Ordinance) on December 5, 2014, but (ii) failed to register as a lobbyist (“Notice”).
2. On March 13 and May 1, 2017, the Board received written responses from the Respondent. Those responses, among other things, denied that Respondent engaged in lobbying or had violated the Ordinance and contended that the Board’s interpretation of the Ordinance was incorrect and would violate Respondent’s constitutional rights under the First, Eighth and Fourteenth Amendments. The Board then afforded Respondent the opportunity to meet informally to present any supplemental information or arguments, and that meeting was held off the record on June 26, 2017.
3. At its meeting of July 19, 2017, the Board, having fully considered all the information and argumentation presented by Respondent, VOTED 6-0 (Nancy C. Andrade, absent) to determine that Respondent violated §2-156-245 of the Ordinance by failing to register as a lobbyist within five (5) days of engaging in lobbying activity (“July 19, 2017 Determination”), and assessed a fine of \$2,500.00 for such violation.

4. On August 5, 2017, Respondent submitted a written request for the Board to reconsider its July 19, 2017 Determination, with supporting materials. That reconsideration request, among other things, denied that Respondent engaged in lobbying or had violated the Ordinance, contended that the Board's interpretation of the Ordinance was incorrect, and stated that the Ordinance was unconstitutional facially and as applied to Respondent.

5. At its meeting of August 16, 2017, the Board considered this written request, but took it under advisement.

6. At its September 2017 meeting, the Board VOTED 4-0 to exercise its inherent equitable authority and enter into this Agreement, for the reasons and on the terms stated below.

### **RECITATION OF RELEVANT FACTS**

7. At all times relevant to this matter, Respondent had never been a registered lobbyist with the Board of Ethics, nor was he paid or compensated in any way, directly, or indirectly, to lobby or send emails to City officials or employees on behalf of any person other than himself.

8. On December 4, 2014, Robbie Ventura, a friend of Respondent and an owner of VisionQuest, a cycling studio, emailed Respondent to ask if Respondent could arrange a meeting with the studio's alderman "and discuss our situation." VisionQuest had been relocated due to an eminent domain taking of its former site. Respondent was a member and patron of VisionQuest. On December 5, 2014, Respondent forwarded Mr. Ventura's email to the Mayor and Deputy Mayor, and wrote:

Rahm and Steve, I have a request re VisionQuest, the cycling and triathlon training center getting moved by the city due to project at Fullerton and Damen. It needs a zoning change to move to a new location nearby. Rahm – this is the place at which Amy has trained. Timing is of the essence given their eminent domain eviction.

I have reached out to the Alderman's office. How can we get this moved along as quickly as possible? New address is 2525 N. Elston Ave. Alderman is Scott Waguespack.

9. Respondent had no further substantive contact with the Mayor or any other City official or employee regarding the substance of this single December 5, 2014 email, except for one informational conversation with a City official regarding the existing zoning on the relevant property.

10. In his submissions to the Board, Respondent contended that his single email was not "lobbying" under the Ordinance because (i) he was acting on behalf of himself in concert with the business at issue, of which he was a member and patron; and (ii) the email did not request any legislative or administrative action, and no such action was pursued after the email was sent.

11. Respondent has informed the Board that if his reconsideration request is denied, he intends to appeal the determination to a court of competent jurisdiction, and the relief he requests may include findings that the Ordinance is unconstitutional facially and as applied to him.

## STATEMENT OF RELEVANT LAW

12. Section 2-156-010(p) defines "Lobbyist" as:

"any person who, on behalf of any person other than himself, or as any part of his duties as an employee of another, undertakes to influence any legislative or administrative action, including but not limited to: (1) a bond inducement ordinance; (2) a zoning matter; (3) a concession agreement; (4) the creation of a tax increment financing district; (5) the establishment of a Class 6(b) Cook County property tax classification; (6) the introduction, passage or other action to be taken on an ordinance, resolution, motion, order, appointment or other matter before the City Council; (7) the preparation of contract specifications; (8) the solicitation, award or administration of a contract; (9) the award or administration of a grant, loan, or other agreement involving the disbursement of public monies; or (10) any other determination made by an elected or appointed City official or employee of the City with respect to the procurement of goods, services or construction; provided, however, that a person shall not be deemed to have undertaken to influence any legislative or administrative action solely by submitting an application for a City permit or license or by responding to a City request for proposals or qualifications.

The term "lobbyist" shall include, but is not limited to, any attorney, accountant, or consultant engaged in the above-described activities; provided, however, that an attorney shall not be considered a lobbyist while representing clients in a formal adversarial hearing. The term "lobbyist" shall not include any volunteer, employee, officer or director of a not-for-profit entity who seeks to influence legislative or administrative action solely on behalf of that entity. Provided further, that if (1) any person is paid or otherwise compensated to influence legislative or administrative action on behalf of a not-for-profit entity; and (2) such not-for-profit entity lobbies on behalf of for-profit entities or individuals engaged in a for-profit enterprise, such person shall be deemed to be a lobbyist within the meaning of this chapter."

13. Section 2-156-230 requires anyone meeting the definition of lobbyist and not subject to an exemption to register with the Board within five (5) business days of engaging in lobbying.

14. As drafted, the Ordinance does not require that a person must receive direct or indirect compensation for engaging in "lobbying" to be considered a "lobbyist," required to register.

## TERMS OF THE SETTLEMENT AGREEMENT

The above fact recitation and statement of law are incorporated into and made a part of this Agreement.

15. The parties agree to enter into this Agreement to resolve all factual and legal issues arising out of Respondent's December 4, 2014 email and to reach a final disposition without further proceedings.

16. Respondent was unaware of the Ordinance and did not understand or appreciate that the act of sending a single email to the Mayor on behalf of himself and another, that is, about a business of

which he was a patron and member, with a request of “[h]ow can we get this moved along as quickly as possible,” could have created an issue as to whether he was required to register as a lobbyist under the Ordinance.

17. Respondent acknowledges that the Ordinance as written does not limit “lobbyists” or “lobbying” to persons who are compensated to engage in such activity, either directly or indirectly.

18. In recognition of the foregoing, and in consideration of the Board’s agreement as described in this paragraph, Respondent shall: (i) for one year from the date this Agreement becomes effective (that is, until 10-25, 2018), avoid any activity that would constitute “lobbying” or acting as a “lobbyist” as defined in the Ordinance without registering as required in the Ordinance, and, in consideration therefor, the Board agrees to vacate its July 19, 2017 Determination that Respondent violated the Ordinance and the fine of \$2,500.00 assessed for that violation and to dismiss the Notice, effective upon the final execution of this Agreement by the parties; and (ii) within 30 days of the effective date hereof, provide proof of completion of an online lobbyist law interactive training program as designated by the Board of the same type and duration (typically less than an hour) as those taken annually by registered lobbyists. Respondent’s agreement to complete such a program does not constitute an admission that he engaged in lobbying or acted as a lobbyist by sending the December 5, 2014 email.

19. In recognition of the foregoing, the parties agree that, should the Board determine, following notice to Respondent and an opportunity to be heard pursuant to the Ordinance and due process of law, that Respondent engaged in lobbying or acted as a lobbyist (as those terms are defined in the Ordinance) during the one year period in paragraph 18, above, without having registered as a lobbyist as required by the Ordinance, the Board may elect to deem this Agreement null and void, at which point it may re-impose its July 19, 2017 Determination that Respondent violated the Ordinance and re-impose the fine of \$2,500.00 for that alleged violation, and the parties will be returned to the *status quo ante*, including Respondent’s rights to appeal the July 19, 2017 Determination and challenge the constitutionality of the Ordinance and its application to him, and the Board’s right to reinstate and make public its determination and re-imposition of the violation and the fine, which fine shall be payable to the Board within thirty (30) days of Respondent being notified of the re-imposition of the fine, subject to Respondent’s rights to appeal such reinstated finding and fine.

20. Respondent acknowledges that this Agreement is a public and final resolution of the Board’s determination in this matter, and the Board shall make it public pursuant to § 2-156-385(4), and, except as may be provided by applicable law, that all writings with respect to the Agreement or its negotiations in the Board’s possession will remain confidential.

21. Respondent confirms he has entered into this Agreement freely, knowingly, and intentionally, without coercion or duress, and after having had the opportunity to be represented by an attorney of his choice, accepting all the terms and conditions contained herein without reliance on any other promises or offers previously made or tendered by any past or present representative of the Board, and that he fully understands all the terms of this Agreement. The terms of this Agreement are contractual and not mere recitals. If any of the provisions of this Agreement shall be found invalid or

unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

22. Except as provided in paragraph 19 above, Respondent understands and voluntarily waives, on his and his successors' behalf, any and all rights to commence any judicial or administrative proceeding or appeal before any court of competent jurisdiction, administrative tribunal, political subdivision or office of the State of Illinois or the United States arising out of his not registering as a lobbyist with the Board based on his December 5, 2014 email to the Mayor.

23. Except as provided in paragraph 19 above or with regard to rights under this Agreement, Respondent releases and holds harmless the Board and its staff from any potential claims, liabilities, and causes of action arising from the Board's enforcement and settlement of the violation described in the Agreement to contest the lawfulness, authority, jurisdiction, or power of the Board in imposing the sanction which is embodied in this Agreement, and the right to make any legal or equitable claim or to initiate legal proceedings of any kind against the Board, or any members or employees thereof relating to or arising out of the December 5, 2014 email, the Notice or the Determination.

24. Except as provided in paragraph 19 above or with regard to rights under this Agreement, the Board releases and holds harmless Respondent from any potential claims, liabilities, and causes of action arising from the Respondent's December 5, 2014 email, the Notice or the Determination, and the right to make any legal or equitable claim or to initiate legal proceedings of any kind against the Respondent relating to or arising out of the December 5, 2014 email, the Notice or the Determination.

25. Once executed by Respondent, the Board staff shall submit this Agreement to the Board at its next regularly scheduled meeting. The Board must determine by a majority vote that it approves the Agreement and the Board Chair or Acting Chair must execute and date the Agreement before it becomes effective.

26. The parties agree that this Agreement shall become invalid in the event the Board refuses to approve it. Respondent acknowledges that if the Agreement is not approved or executed by the Board Chair, the Board may proceed with enforcement of its July 19, 2017 Determination against Respondent, and no member of the Board or its staff shall be disqualified from participating in such proceedings because of this Agreement or its negotiation. However, no statement or representation of any kind made in the course of negotiating this Agreement may be used by either party for the purpose of establishing liability at any future hearing or proceeding. Nothing in this Agreement or shall in any manner, for any purpose or under any circumstances be deemed to be, or be construed by any person as, an admission, acknowledgment or concession of any fault, liability or wrongdoing of any party. Each party expressly denies any such fault, liability or wrongdoing whatsoever.

27. In further consideration of Respondent's full compliance with all terms of this Agreement, the Board waives any future penalties or fines against Respondent for any further proceedings arising out of Respondent's lobbying arising from the December 5, 2014 email, up through and including the date of this Agreement.

28. The Agreement contains the entire agreement between the Board and the Respondent and may not be modified unless the modified Agreement is re-executed and re-dated by both parties. The Agreement is entered into in the State of Illinois and shall be construed and interpreted in accordance with its laws.

29. This Agreement shall not be effective until all parties have affixed their signature below.

Chicago Board of Ethics

Anthony Davis, Respondent

By: AP Lovell  
Chair

Anthony Davis

and: St. Pizzi  
Executive Director

Edward W. Felder  
Attorney for Respondent

10-25-17