

**CITY OF CHICAGO
BOARD OF ETHICS**

In the Matter of:)
) Case No. 22036.L
Carmen Rossi)
Respondent)
)

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made and entered into between the Chicago Board of Ethics ("Board") and Carmen Rossi ("Respondent"), pursuant to §§ 2-156-240, -245, -465, and -505 of the City of Chicago Governmental Ethics Ordinance ("Ordinance"). On January 23, 2023, the Board determined that there was probable cause to conclude that the Respondent had violated the Ordinance based on a review of publicly released emails, and after considering Respondent's response to the Board's 10-day Notice of Intent to Find Probable Cause that was issued on December 13, 2022. The parties agree to the following terms to resolve this matter.

RECITATION OF RELEVANT FACTS

1. At all relevant times, Respondent was a registered lobbyist. He was also a member in Chicago Parking Solutions, LLC ("Chicago Parking"). He was not registered to lobby for Chicago Parking at any time.
2. On February 7, 2022, Chicago Parking was awarded a contract from Chicago Public Schools ("CPS") to lease CPS parking lots near Wrigley Field, the United Center, and Guaranteed Rate Field for parking during games and events. The contract provides that Chicago Parking is to pay monthly rents to CPS.
3. After the contract was entered into, Chicago Parking's applications for the necessary business licenses were denied. Without the licenses, Chicago Parking could not operate its business despite having the contract with CPS.
4. On February 16, 2022, Ann Yi at CPS emailed Aaron Gold at Chicago Parking about the issue with the licenses. She said, "I have no idea on how city permits are handled - do you know the reason for the denials? And have some been approved?" Mr. Gold responded, "All are still in zoning review (for more than 60 days) [sic] New Field was the lot that was denied." Ms. Yi asked for the application numbers and said "Thanks, let me ask a few people."

5. On March 7, 2022, Respondent sent Commissioner Meyer at the Department of Business Affairs and Consumer Protection (“BACP”). The email stated in full as follows:

Hi Ken -

I have a small snag in the line of a company we have and am struggling to get the licenses through BACP. We are being told at Room 800 by Erica M and David Chan that we cant [sic] get business licenses, and we dont [sic] have application numbers. This is for Garage Licenses and Parking Lot Licenses. The name of our company is Chicago Parking Solutions, LLC (CPS) and we are contracted through the Chicago Public Schools to lease their parking lots for (rent). Our Leases have commenced, but we aren't able to start because we are without the licenses. In addition to getting the license applications, my hope is to be able to expedite the issuance of the licenses themselves since there are so many locations ready to operate.

Thank you thank you. I am available by phone at any time to discuss further or answer any questions.

6. Commissioner Meyer responded by email and copied Michael Tibbs, Assistant Commissioner at BACP. Commissioner Meyer’s email stated “Mike Tibbs, can you take a look at this and work with a [business consultant].” He then provided Respondent and Assistant Commissioner Tibbs’s phone numbers.
7. The issue turned out to be that the BACP lacked authority under the City of Chicago Municipal Code to issue the business licenses Chicago Parking needed. On March 29, 2022, Assistant Commissioner Tibbs emailed Respondent, stating, “[t]he Law Department is currently in the process of amending the municipal code which would grant BACP the authority to issue commercial garage licenses on CPS property. Our hope is that they complete this prior to the next City Council meeting.”
8. The Municipal Code was amended and the BACP was given authority to issue the licenses necessary for Chicago Parking to operate. Those licenses were printed on June 9, 2022, and Chicago Parking began operating on June 15, 2022.
9. Respondent had no further communications on the topic with Commissioner Meyer following his March 7, 2022 email.
10. The Board proceeded with an enforcement matter through its authority under Section 2-156-390. Respondent then submitted a written response to that Notice.
11. On January 24, 2023, the Board, having considered Respondent’s written response, issued notice of probable cause to Respondent.

STATEMENT OF RELEVANT LAW

12. Section 2-156-210(p) defines "Lobbyist" as:

"Lobbyist" means any person who, on behalf of any person other than himself, or as any part of their 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. It shall not constitute lobbying as defined here for an individual who is paid on a contingent or commission basis for the good faith sale of goods or services to contact a City official or employee regarding the purchase by the City of such goods or services, provided that such individual is contacting only those City official or employees who have responsibility for making purchasing decisions regarding such goods or services in the normal course of business.

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. A person who seeks to influence legislative or administrative action on behalf of a not-for-profit entity shall be deemed a lobbyist only if such person: (i) is paid or otherwise compensated for those efforts; or (ii) undertakes those efforts as a matter of professional engagement, regardless of pay or other compensation. The term "lobbyist" shall not include: (i) any employee or official of another government unit who engages in the above-described activities on behalf of that government unit; or (ii) a person who: (a) attends a meeting with an employee or official simply to provide technical information or address technical questions; (b) attends a meeting to provide clerical or administrative assistance (including audio-visual, translation or interpretation and sign language); (c) attends a meeting to observe for educational purposes; or (d) plays no role in the strategy, planning, messaging, or other substantive aspect of the overall lobbying effort.

13. Section 2-156-210 governs who must register as a lobbyist. It states:

Each lobbyist shall register and file reports with the board of ethics as provided in this Article. This section shall extend to any person who undertakes to influence any legislative

or administrative action as any part of his duties as an employee of another, regardless of whether such person is formally designated as a lobbyist by his employer.

14. Section 2-156-010(a) defines Administrative action as “any decision on, or any proposal, consideration, enactment or making of any rule, regulation, or any other official nonministerial action or non-action by any executive department, or by any official or employee of an executive department, or any matter which is within the official jurisdiction of the executive branch.”
15. 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. Section 2-156-240 requires any registered lobbyists to amend their registration statements filed with the Board within 14 days of a substantial change; adding a lobbying client constitutes a substantial change, requiring such an amendment. A timely, proper amendment adding a new lobbying client thus satisfies the requirement in Section 2-156-245, which provides that the Board may impose penalties on persons who have failed to register as required by the Ordinance. Although Respondent was a registered lobbyist on March 7, 2022, his registration statement was not amended to add Chicago Parking as a lobbying client. Hence Respondent was not registered to lobby on behalf of Chicago Parking on March 7, 2022, or at any time after that.
16. Section 2-156-465 provides for sanctions and fines the Board may issue. Subsection - 465(b)(3) provides that persons who violate Section 2-156-245 shall be fined \$1,000 per day that such violation continues.

BOARD CONCLUSIONS AND DETERMINATIONS

17. As noted in Paragraph 11 above, the Board determined there is probable cause to conclude that Respondent violated 2-156-245 of the Ordinance by not registering as a lobbyist with the Board as required on behalf of Chicago Parking within fourteen (14) business days of sending an email to Kenneth Meyer, Commissioner of the City's BACP, which was dated March 7, 2022. The Board's position is that because Mr. Rossi was, at the time, registered as a lobbyist with the Board, his email would have required him to amend his registration to add Chicago Parking as a client within 14 business days of sending this email.
 - a. The Board disagrees with Respondent's arguments as set forth in Paragraph 18. With regard to the argument set forth in Paragraph 18.b., the Board specifically disagrees, and maintains its position that Respondent, a member of Chicago Parking, is a separate and distinct person from Chicago Parking.

RESPONDENT'S RESPONSE TO BOARD'S DETERMINATION OF PROBABLE CAUSE

18. Respondent's position is that he did not violate the Ordinance. Specifically, Respondent maintains that he did not engage in “lobbying” by emailing Commissioner Meyer for a number of reasons. These include:

- a. The email to Commissioner Meyer made no request for administrative action. Further, the BACP did not have authority to issue licenses when Respondent sent his March 7, 2023 email. Thus, there was no administrative action the BACP could have taken on Chicago Parking's licenses.
- b. Respondent believes that Chicago Parking has a First Amendment right to communicate with City officials, through its members, on its own behalf. Respondent concedes that it would be "lobbying" if Chicago Parking had retained a third party to attempt to influence legislative or administrative action on Chicago Parking's behalf. But Respondent is not a "third party" in relation to Chicago Parking.
- c. Finally, Respondent believes that the foregoing paragraph is especially true in light of the fact that BACP, including its Commissioners, have told the general public that if business owners have questions or concerns, they should communicate those questions or concerns directly to BACP. Implicit in that direction is that business owners need not register as a lobbyist before so doing.

TERMS OF THE SETTLEMENT AGREEMENT

19. The above fact recitation, statement of law, Board conclusions and determinations and Respondent's responses are incorporated into and made a part of this Agreement.
20. The parties agree to enter into this Agreement to resolve all factual and legal issues arising out of the Respondent's March 7, 2022 email to Commissioner Meyer and to reach a final disposition without further evidentiary proceedings.
21. Respondent acknowledges that, from the record before it, the Board has determined that there is probable cause to conclude that he failed to register on behalf of Chicago Parking as required by §§2-156-230, -240, and -245.
22. Respondent maintains that his email did not constitute lobbying. Despite this, Respondent has agreed to enter into this settlement to avoid the cost of further litigation.
23. Pursuant to 2-156-245 and -505, the Board may seek to settle the matter by fine.
24. Pursuant to 2-156-465(b)(3), the Board may fine a lobbyist \$1,000 for each day a violation continues.
25. In recognition of the foregoing, Respondent agrees to pay a fine of FIVE THOUSAND AND 00/100 DOLLARS (\$5,000) to the Board within thirty (30) days of this Disposition, which shall be the date of final execution of this Settlement Agreement, by money order, cashier's, or certified check, made payable to the "City of Chicago Board of Ethics," and that, if the Board has not received such amount by that date, Respondent shall pay interest of nine percent (9%) per annum on the unpaid balance until paid-in-full; provided,

however, that no interest shall be due and owing that is greater than provided for in 815 ILCS 205/4.

26. Respondent acknowledges that this Agreement is a public and final resolution of the potential violations and recommendations identified by the Board in relation to this matter, and the Board shall make it public pursuant to 2-156-465(6)(3), and, except as may be provided by applicable law, all writings with respect to the Agreement or its negotiations in the Board's possession will remain confidential.

27. 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.

28. Respondent understands and voluntarily waives and assigns, on his and his successors' behalf: any and all: (i) procedural rights under the City's Municipal Code, including a merits hearing pursuant to 2-156-390 of the Ordinance, or to subpoena witnesses to testify, confront and cross-examine all witnesses; and (ii) 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 on behalf of Chicago Parking.

29. Respondent releases and holds harmless the Board and its staff for 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 this Agreement or the matters recited herein.

30. 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 must execute and date the Agreement before it becomes effective.

31. 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, the Board may proceed with a hearing on the merits or other enforcement 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.

32. Respondent agrees that failure to comply with the terms of this Agreement constitutes a breach of the Agreement and that following such failure the Board can proceed to a hearing on the merits or take any other action as permitted by law.

33. In 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 his purported lobbying for Chicago Parking, up through and including the date of this Agreement.

34. The Agreement contains the entire agreement between the Board and the Respondent and it 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.

35. This Agreement shall not be effective until all parties have affixed and dated their signatures below.

Chicago Board of Ethics

By:

A. J. Goulet 7/24/23

Its:

Chien

Carmen Rossi

Carmen Rossi

Adam R. Vaught, As Attorney
for Respondent

Adam R. Vaught