

## **DISPOSITION AGREEMENT**

This Disposition Agreement ("Agreement") is entered into on December 13, 2017 by and between the Office of Campaign and Political Finance ("OCPF"), the Citizens for Paul Heroux ("the Committee") and Paul Heroux ("the Candidate" or "Heroux"), in which the parties mutually agree, for the purposes of this Agreement only, as follows:

### **I. INTRODUCTION**

1. The Committee, at all relevant times to this Agreement, was a duly organized political committee subject to the provisions of M.G.L. c. 55, the Massachusetts campaign finance law.
2. The Committee was organized to promote the nomination and election of the Candidate to public office.
3. OCPF has the authority to review and investigate the legality, validity, completeness, and accuracy of all reports required to be filed and all actions required to be taken by political committees, candidates, campaign treasurers, and any other person pursuant to M.G.L. c. 55 or any other laws of the Commonwealth relative to campaign contributions and expenditures.
4. The political contributions, expenditures, and other activities noted in this Agreement are subject to the provisions of M.G.L. c. 55 and the regulations issued by this office in accordance with M.G. L. c. 55.
5. The Candidate contacted OCPF to seek guidance after discovering a balance discrepancy between the Committee's 2016 Year End bank statement and the Committee's 2016 Year End campaign finance report.
6. Throughout the entirety of the review, the Candidate has cooperated fully with OCPF's review into the matters described herein.

### **II. FACTS**

1. On March 22, 2012, Heroux organized the Citizens for Paul Heroux Committee with OCPF. The Committee promoted Heroux's candidacy for State Representative in the Second Bristol District. The Candidate was on the ballot and elected to this office in 2012, 2014, and 2016.

2. On March 27, 2017 the Committee filed a Change of Purpose Form with OCPF to seek the office of Mayor, City of Attleboro. The Candidate was elected to this office in the November 7, 2017 election.

3. When Heroux contacted and informed OCPF's Audit Department of a balance discrepancy that existed between the Committee's bank balance and the reported balance on the campaign finance reports, he provided OCPF with the Committee's 2016 year end bank statements.

The Committee's ending balance, as disclosed on the 2016 Year End Report, did not accurately reflect the actual bank balance as of December 31, 2016. The bank balance, as of December 31, 2016, was \$13,780.18, while the Committee reported an ending balance of \$16,808.86 on its 2016 Year End Report. In an attempt to resolve this discrepancy, OCPF initiated a further review of the Committee's financial activity from January 1, 2015 through December 31, 2016.

4. OCPF's review included an analysis of the Committee's bank records, the Candidate's personal bank records, and a reconciliation of campaign finance reports to the Committee's bank statements. As a result of this review, OCPF identified the following issues:

5. Disclosure

a. Contributions and Expenditures not Disclosed

OCPF's review determined that the Committee did not accurately disclose receipts and expenditures for the referenced period. Specifically, the Committee did not disclose, on its campaign finance reports, a total of \$2,737 in contributions that were deposited into the campaign account.

Additionally, the Committee did not disclose a total of \$3,766 in expenditures that cleared the Committee's campaign account. Of these expenditures, \$1,725 were transfers made into Heroux's personal bank account.

b. Duplicate Entries

OCPF determined that the Committee erroneously posted duplicate entries for one contribution for \$500 and for three expenditures, totaling \$175.

c. Prohibited Contributions

OCPF determined that the Committee received and deposited three contributions from businesses and corporations, totaling \$235.

6. Transfers to Personal Account/Personal Use

OCPF's review of bank records found that on seventeen occasions funds were transferred from the Committee's bank account to the Candidate's personal bank account. A total of \$1,725 was transferred to Heroux's account during the referenced period. OCPF also noted that on multiple occasions, the transfer of funds occurred at a time when the Candidate's personal bank balance was minimal.

Additionally, the review of the bank statements and the campaign finance reports show that the Candidate has loaned the Committee a total of \$3,560 since the Committee's inception in 2012. However, the Committee repaid Heroux a total of \$4,625<sup>1</sup> between 2012 and 2016, resulting in \$1,065 in Committee funds that the Candidate received but was not entitled to.

OCPF has, therefore, determined that the Candidate used Committee funds for personal use in the amount of \$1,065.

7. Commingling Committee and Personal Funds

OCPF's analysis revealed that there were numerous transfers for odd dollar amounts into the Committee account from the Candidate's personal account. A further review showed that Heroux made personal expenditures from the Committee account. These expenditures were made with the Committee's debit card. Shortly thereafter, usually about one month later, Heroux transferred funds, for the same amount as the personal expenditures made, from the personal account to the Committee account to reimburse the campaign.

OCPF noted that there were at least twenty-eight instances, totaling approximately \$900 in which campaign funds were used for personal use expenditures, and subsequent transfers were made from the Candidate's personal account to the Committee's account. Additionally, OCPF found that some of the personal use expenditures occurred at a time when the Candidate's personal bank balance was minimal.

8. Recordkeeping

OCPF's review of the bank records and campaign finance reports illustrate that the Candidate did not keep adequate records. Heroux acknowledged that that Committee did not keep complete and accurate records of its financial activity during the period of time noted in this review.

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<sup>1</sup> This figure includes the \$1,725 in transfers to the personal account as well as checks made payable to the Candidate.

### III. OCPF CONCLUSIONS

1. EXPENDITURES MADE FOR PERSONAL USE – M.G.L. c. 55, §6

Section 6 of the campaign finance law prohibits the expenditure of campaign funds “for the candidate’s or any other person’s personal use.” OCPF regulations specify that expenditures that are not supported by bills, receipts, or other documentation are presumed to have been for the personal use of the candidate or another person. See 970 CMR 1.10(9).

OCPF has determined that the Candidate used campaign funds for personal use, as described in Section II, Paragraphs 6 and 7 of this Agreement.

2. COMMINGLING OF FUNDS – M.G.L. c. 55, §2

Section 2 of the campaign finance law requires that all campaign funds be kept “separate and distinct” from any other funds or accounts. OCPF has concluded that the Candidate violated this section, as described in Section II, Paragraph 7 of this Agreement.

3. FAILURE TO ACCURATELY DISCLOSE CAMPAIGN FINANCE ACTIVITY – M.G.L. c. 55, §18

Section 18 requires the Committee to file accurate campaign finance reports of contributions and expenditures with OCPF. The Committee’s campaign finance reports filed between January 1, 2015 and December 31, 2016 failed to accurately reflect contributions received and expenditures made as described above in this agreement.

4. BUSINESS AND CORPORATE CONTRIBUTIONS – M.G.L. c. 55, §8

Section 8 prohibits committees from receiving funds from professional corporations, partnerships, LLCs, or LLPs. OCPF has concluded that the Committee did not comply with this section when it accepted and deposited \$235 in such contributions, as described in Section II, Paragraph 5(c) of this Agreement.

5. FAILURE TO KEEP DETAILED RECORDS – M.G.L. c. 55, §§2 AND 5

Sections 2 and 5 of the campaign finance law state that candidates and treasurers of political committees must keep and preserve detailed accounts, vouchers, and receipts. Part of this requirement includes keeping bills, receipts, and other vendor information received in connection with any expenditure made or liability incurred. 970 CMR 1.10(2).

OCPF has concluded that M.G.L. c. 55, §§ 2 and 5 were violated by the Committee's failure to maintain the required records between January 1, 2015 and December 31, 2016.

#### **IV. THE COMMITTEE'S POSITION**

I'm very pleased to have worked with OCPF to resolve a discrepancy in my campaign account. When I noticed there was a difference between my bank account and my campaign account, I tried to reconcile the difference on my own. When it became clear to me that I could not find out what happened I requested an audit from OCPF, readily providing them with access to my campaign account and my personal checking account; I had nothing to hide.

It turns out that mistakes were made on my campaign account, which I am ultimately responsible for. The first mistake involves the manner in which I purchased work related items with my personal debit card and was intentionally reimbursing myself from my campaign account at a later date, which I did. However, I reimbursed myself using a wire transfer, but I later learned this is not permitted. It is technically a commingling of accounts.

Over the last 5 1/2 years I loaned my campaign account thousands of dollars. There were times when I would need to reimburse myself with the intention of redepositing money into my account in order to maintain a healthy balance. However, as it turns out, because of some inconsistent reporting between me and campaign volunteers, I thought I had a balance, or I should say campaign liabilities, that I was able to reimburse myself for. I withdrew funds and later redepositing them; put another way, my thinking was that I had still had a balance of loaned campaign funds, when in fact I did not. The consequence of this was that I was borrowing from my campaign account, which was unintentional, but not permitted nonetheless.

There was an easy way to avoid all these errors and that is if I was in the depository system that other elected officials are in.

I'm glad to have worked with OCPF. Mistakes were made with my campaign account, which I am responsible for. I don't expect to make these mistakes again in the future.

#### **V. RESOLUTION**

In order to resolve the matters now before OCPF the parties agree, pursuant to 970 CMR 3.07(1) and M.G.L. c. 55, § 3, for the purposes of this Agreement only, as follows:

1. To resolve this matter, the Candidate agrees to a civil disposition totaling \$2,500. The following payments shall be made:

- a. To account for the transfer of funds to the Candidate's personal account, Heroux, with personal funds, will repay the Committee \$1,065.

- b. The Candidate will make a payment, with personal funds, to the Commonwealth of Massachusetts for \$1,435.

2. To accurately reflect the Committee's activity during the period of this review, the Committee has filed amendments to the campaign finance reports filed between January 1, 2015 and December 31, 2016.

3. The Candidate and Committee agree to cease making transfers between the Committee's bank account(s) and any other bank account, including the Candidate's personal bank account.

4. The Candidate and Committee agree that no personal expenditures will be made from the Committee account.

5. The Candidate and the Committee treasurer will attend an OCPF educational seminar no later than 2/28/18.

6. The Candidate and Committee agree to provide records and meet with OCPF by 2/28/18 to review the campaign's 2017 campaign finance activity.

7. To ensure accurate and complete disclosure in the future, the Candidate and Committee agree to the following enhanced reporting schedule for the period beginning January 1, 2018 through December 31, 2019.

<u>Filing Period</u>	<u>Type of Report</u>	<u>Due Date</u>
1/1/18 – 4/30/18	Paper Report	5/20/18
5/1/18 – 8/31/18	Paper Report	9/20/18
1/1/18 – 12/31/18	Electronic Report (Year-End)	1/22/19
1/1/19 – 4/30/19	Paper Report	5/20/19
5/1/19 – 8/31/19	Paper Report	9/20/19
1/1/19 – To Be Determined	* Electronic Report (Pre-Preliminary)	To Be Determined

To Be Determined	* Electronic Report (Pre-Election)	To Be Determined
To Be Determined – 12/31/19	* Electronic Report (Year-End)	1/21/20

\*If the Candidate is on the ballot for Mayor in Attleboro in 2019.

In addition to the enhanced reporting above, the Candidate and the Committee will provide OCPF with copies of its bank statements, expenditure checks, deposit tickets and all contributor checks received and deposited with each report. Additionally, the Candidate and Committee will provide OCPF with documentation of credit card contributions received through their merchant provider. The Candidate and the Committee will also provide any further documents requested by OCPF within 10 business days of the request.

8. OCPF agrees that if the Candidate and the Committee comply with this Agreement, it will not refer the Candidate or the Committee to any other law enforcement agency, including, without limitation, the Office of the Attorney General, for the violations referenced in this Agreement.

9. OCPF may, at any time, review compliance with this Agreement. If it believes that the provisions of this Agreement has been violated, after notice to the Candidate and Committee, OCPF may, notwithstanding the provisions of the foregoing paragraph, proceed with any action consistent with M.G.L. c. 55 or otherwise authorized by law.

10. This Agreement shall be binding upon OCPF, the Candidate, and the Committee.

11. The parties have entered into this Agreement, knowingly and voluntarily, in an effort to resolve all matters set forth in the Agreement.

12. This Agreement is a public record under Section 7 of M.G.L. c. 4 and shall be subject to public inspection as required by Section 10 of M.G.L. c. 66.

CITIZENS FOR  
PAUL HEROUX COMMITTEE

By: Paul Heroux  
Paul Heroux  
Candidate

OFFICE OF CAMPAIGN AND  
POLITICAL FINANCE

By: Michael J. Sullivan  
Michael J. Sullivan  
Director 12/13/17

PAUL HEROUX

Paul Heroux  
Individually and as Candidate

CAMPAIGN & POLITICAL  
FINANCE  
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