

## Thomas Klemm

---

**From:** Maya Nayak  
**Sent:** Wednesday, December 02, 2015 12:26 PM  
**To:** Leron Ben  
**Cc:** Shane Creamer; Michael Cooke; Jordan Segall  
**Subject:** Re: and FW: case(matter) no. 1510ET17, response letter  
**Attachments:** board of ethics.pdf; M.Nayak Letter to Respondent re Response and Hearing 12 02 2015.pdf; Intro Ltr to Respondent 11.19.15.pdf

Dear Mr. Shoshan,

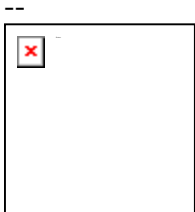
Please find attached my letter response that is also being sent to you today via certified mail. As the letter explains, you must let me know by email or letter that I receive no later than December 7, 2015 whether you are requesting a hearing in this matter.

Maya Nayak  
General Counsel  
City of Philadelphia Board of Ethics  
[maya.nayak@phila.gov](mailto:maya.nayak@phila.gov)  
(215) 686-9450

---

**From:** Leron Ben [<mailto:rent2158332547@gmail.com>]  
**Sent:** Tuesday, December 01, 2015 10:31 AM  
**To:** Maya Nayak; Hortencia Vasquez  
**Subject:** case(matter) no. 1510ET17, response letter

dear Ms. Maya Nayak  
please find attached my response to the accusation made by the Board Of Ethics  
thank you  
Liran Benshoshan



**Leron Ben**

215-833-2547



## CITY OF PHILADELPHIA

BOARD OF ETHICS  
ONE PARKWAY BUILDING  
1515 Arch Street  
18<sup>TH</sup> Floor  
Philadelphia, PA 19102-1504  
(215) 686 – 9450  
FAX 686 – 9453

*Confidential*

December 2, 2015

*Via certified mail and email*

Leron Ben Shoshan  
22 Evergreen Way  
Philadelphia, PA 19115  
rent2158332547@gmail.com

**Re: Administrative Adjudication Matter #1510ET17**

Dear Mr. Shoshan:

We received your Response to the Executive Director's Notice of Administrative Enforcement Proceeding yesterday. Thank you for providing your current contact information and an email address.

As an initial matter, the Board of Ethics has not yet made a final determination as to whether a violation of law has occurred. Contrary to the statement in Paragraph 2 of your Response, you have **not** had a hearing in this matter before the Board of Ethics. You may, however, request a hearing before the Board of Ethics if you would like one. Please let me know by email or letter that I receive no later than **December 7, 2015** whether you are requesting a hearing in this matter.

If you request a hearing in this matter, I will contact the parties regarding applicable pre-hearing procedures, relevant deadlines, and the date of the hearing. The Board will then deliberate on the evidence presented at the hearing and determine, by a preponderance of the evidence, whether a violation of applicable law has occurred and what penalty to impose for any violation.

If you do not request a hearing by December 7, 2015, you will have waived your right to a hearing in this matter. This means that you will not have an opportunity to question witnesses or to contest the allegations in person before the Board's Hearing Officer. If you do not request a hearing, the Executive Director may – but is not required to – submit to the Board a brief in support of the Notice of Administrative Enforcement Proceeding, and any such brief would need to be filed on or before December 21, 2015. You would then have 14 days after service of the Executive Director's brief to file your own brief in response. The Board will

**Re: Administrative Adjudication Matter #1510ET17**

December 2, 2015

Page 2 of 2

make its final determination of whether a violation has occurred based on the parties' filings, including the Notice of Administrative Enforcement Proceeding, your Response to the Notice of Administrative Enforcement Proceeding, and any briefs and exhibits filed by the parties, including but not limited to deposition transcripts, documents, and affidavits or declarations.

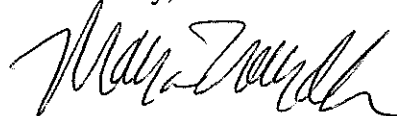
Please note that you must copy the Executive Director on all substantive correspondence you have with General Counsel staff. Similarly, the Executive Director must copy you on all substantive correspondence with General Counsel staff regarding this matter. This is because neither party may engage in substantive *ex parte* communications with any member of the Board, General Counsel staff, or the Hearing Officer concerning this administrative enforcement proceeding. For this reason, I am forwarding the Executive Director the cover email and attached Response that you sent yesterday.

Again, if you engage an attorney to represent you in this enforcement matter, you are required to provide me with counsel's name, address, e-mail address, telephone number, and attorney number. I would then communicate with your counsel about this matter going forward.

As a final note, on November 19, 2015, I sent a letter to you at 7838 Montgomery Avenue in Elkins Park. Because you have indicated that is not your address, I enclose my November 19 letter and attachments with this correspondence.

Please contact me if you have any questions about applicable procedures.

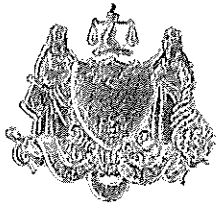
Sincerely,

A handwritten signature in black ink, appearing to read 'Maya Nayak', written in a cursive style.

Maya Nayak  
General Counsel

cc (via email): J. Shane Creamer, Jr.

Enclosures: November 19, 2015 Letter with Board Regulation 2 and Supplemental Procedures  
Memorandum



# CITY OF PHILADELPHIA

BOARD OF ETHICS  
ONE PARKWAY BUILDING  
1515 Arch Street  
18<sup>TH</sup> Floor  
Philadelphia, PA 19102-1504  
(215) 686 – 9450  
FAX 686 – 9453

*Confidential*

November 19, 2015

***VIA CERTIFIED MAIL***

Leron Ben  
7838 Montgomery Avenue  
Elkins Park, PA 19027

**Re: Administrative Adjudication Matter #1510ET17**

Dear Mr. Ben:

I write regarding the administrative enforcement proceeding that the Board's Executive Director Shane Creamer initiated against you on November 12, 2015. You may file a written Response to the allegations of violations in the Notice of Administrative Enforcement Proceeding (the "Notice") and may request a hearing to contest the allegations. You were served with the Notice on November 16, 2015, and thus, the Board must receive your Response by December 7, 2015.

If more time is required to respond to the Notice, you must submit a written request for and be granted an extension. You will waive your right to a hearing if you do not file a Response to the Notice or if you do not request a hearing in your timely Response. Please note that unless you consent in writing to a public proceeding, this pending administrative enforcement proceeding, including filings and any hearing, is confidential.

If you do not file a written response to the Notice, the Executive Director may – but is not required to – submit to the Board a brief in support of the Notice. If the Executive Director chooses to submit a brief in support of the Notice, you would then have the opportunity to respond to the brief. If the Executive Director does not file a supporting brief, the Board may make its final determination based on the undisputed allegations in the Notice and on evidence submitted by the Executive Director in support of the Notice, including but not limited to deposition transcripts, documents, and affidavits or declarations. The Board will serve you with notice of its final determination.

**Re: Administrative Adjudication Matter #1510ET17**

November 19, 2015

Page 2 of 2

In administrative enforcement proceedings, Board members act as the adjudicator with the assistance of General Counsel staff and a Hearing Officer. Neither party may engage in a substantive *ex parte* communication with any member of the Board, General Counsel staff, or the Hearing Officer concerning the administrative enforcement proceeding. The Board, General Counsel staff, and Hearing Officer are not informed of communications or possible settlement discussions you may have with enforcement staff. Such discussions with enforcement staff would not relieve the obligation to follow filing deadlines and other procedural requirements set by the Board in this administrative enforcement proceeding.

The procedures that govern the Board's administrative adjudication proceedings are set forth in Board of Ethics Regulation No. 2 and a Board memorandum containing supplemental procedures for administrative enforcement. You should have received copies of both documents with the Notice, and I am also attaching a copy here. The Board memorandum on procedures contains important information about the procedures for all phases of administrative enforcement proceedings, including the required format for a Response, how to request an extension, and how to submit filings.

For your convenience, please provide an email address at which we may send you documents or otherwise communicate with you. If you engage an attorney to represent you in this enforcement matter, you are required to provide me with counsel's name, address, e-mail address, telephone number, and attorney number. I would then communicate with your counsel about this matter going forward. Also, please include the number that has been assigned to this administrative enforcement matter, #1510ET17, on all filings and communications related to this matter.

If you have questions about the applicable procedures, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Maya Nayak', with a stylized flourish at the end.

Maya Nayak  
General Counsel

cc (via email): Shane Creamer, Executive Director

Enclosures (Regulation 2 and Supplemental Procedures Memo)

**PHILADELPHIA BOARD OF ETHICS**  
**REGULATION NO. 2**  
**INVESTIGATIONS AND ENFORCEMENT PROCEEDINGS.**

**Table of Contents**

Subpart A. Scope; Definitions.....	pg. 2
Subpart B. Separation of Functions .....	pg. 3
Subpart C. Investigations .....	pg. 3
Subpart D. Confidentiality of Complaints and Investigations .....	pg. 6
Subpart E. Administrative Enforcement.....	pg. 8
Subpart F. Judicial Enforcement .....	pg. 13
Subpart G. Settlement and Conciliation.....	pg. 14
Subpart G. Penalties .....	pg. 14

## **SUBPART B. SEPARATION OF FUNCTIONS.**

**2.2** As required by law, in the context of administrative enforcement proceedings and related investigations the Board shall maintain a separation between the adjudicative functions and the investigatory or prosecutorial functions. In this regard, the individual members of the Board, any Hearing Officer in a particular case, and the General Counsel shall be considered to be part of the “adjudicative function,” and the Executive Director and professional staff or consultants directed by the Executive Director shall be considered to be part of the “investigatory” or “prosecutorial” function.

## **SUBPART C. INVESTIGATIONS.**

**2.3 Preliminary Inquiry.** The Executive Director may, at his or her discretion, conduct a preliminary inquiry to determine if there is reason to believe a violation of the Public Integrity Laws has occurred. Board and Board staff shall keep preliminary inquiries confidential as required by this Regulation. A preliminary inquiry is not an investigation and is not subject to the disclosure limitations of Paragraph 2.11(a) or the notice provisions of Paragraph 2.6(e).

**2.4 Initiation of Investigations.** The Executive Director shall have the authority to initiate an investigation upon:

- a. Receipt of a complaint that meets the requirements of Paragraph 2.5;
- b. Receipt of a referral from another government and/or law enforcement agency, if the referral describes a potential violation of the Public Integrity Laws; or
- c. Determining, through a preliminary inquiry, that there is reason to believe a violation of the Public Integrity Laws may have occurred.

An investigation that is not initiated in response to a complaint shall not be subject to the requirements of Paragraph 2.5.

## **2.5 Complaints.**

- a. Any person who believes a violation of the Public Integrity Laws has occurred may submit a written complaint to the Executive Director. A complaint shall:
  - i. Provide the full name and address of the complainant, and identify as the subject of the complaint the person or persons who is alleged to have committed violations of the Public Integrity Laws, including their names and addresses if known; and
  - ii. Contain facts that describe a violation of the Public Integrity Laws and shall include relevant times, places, and names of witnesses, if known.

- e. **Termination.** The Executive Director shall have discretion to terminate an investigation upon reasonable notice to the Board. If the investigation is based on a complaint meeting the requirements of Paragraph 2.5(a), the Executive Director shall notify the complainant of the termination and the reasons therefore.

If the Executive Director knows that the subject of an investigation was aware of the investigation, he or she shall notify the subject of the termination and the reasons therefore. When notifying a complainant or subject of an investigation of the termination of an investigation, the Executive Director shall inform them that they are no longer bound by the disclosure prohibition of Paragraph 2.11(a).

The Executive Director may notify persons who have provided testimony or other information to the Board during the course of an investigation that the investigation has been terminated and that they are no longer bound by such disclosure prohibitions.

- f. **Referring matters to other government agencies.** The Board or Executive Director may refer any matter related to, or discovered in, an investigation to any other governmental or law enforcement agency as the Board or Executive Director deems appropriate. If the Board deems a potential violation by an officer or employee to be too minor to warrant enforcement by the Board, it may refer the matter to the head of the officer's or employee's agency to take appropriate disciplinary action.

**2.7 Retaliation Prohibited.** No officer or employee shall discharge, change the official rank, grade or compensation, or deny a promotion of an officer or employee, or threaten to do so, for filing a complaint with or providing information to the Board or Board staff, or for testifying in any Board proceeding.

**2.8 Mandatory Cooperation with the Board.** All City officers and employees shall cooperate fully with any request of the Board or Board staff made pursuant to the execution of the Board's powers and duties. Failure to cooperate with the Board or Board staff includes:

- a. Refusal to meet with Board staff to provide information related to an investigation or preliminary inquiry;
- b. Responding untruthfully to questions Board staff ask regarding an investigation or preliminary inquiry;
- c. Telling another person not to meet with Board staff or answer questions relating to an investigation or preliminary inquiry;
- d. Directing or suggesting that another person provide false information to the Board or Board staff; or
- e. Destroying evidence related to an investigation or preliminary inquiry.



- b. **Disclosures by the Board or Board staff.** The Board and Board Staff shall not disclose or acknowledge at any time any information or documents related to a preliminary inquiry or investigation except as necessary to fulfill their duties or if otherwise required by law. The following are examples of permissible disclosures:
- i. A disclosure made for the purpose of seeking the advice of legal counsel;
  - ii. A disclosure made to a law enforcement official or agency for the purpose of initiating, participating in or responding to an investigation or prosecution by the law enforcement official or agency;
  - iii. A disclosure made in a referral by the Board to a government agency, as provided in Paragraph 2.6(f);
  - iv. A disclosure made in testimony under oath before a governmental body or court;
  - v. A disclosure made to a complainant, source of a referral, or subject of a complaint, investigation, or preliminary inquiry or his or her legal counsel or agent;
  - vi. A disclosure made to a witness in a preliminary inquiry or investigation or his or her legal counsel or agent;
  - vii. A disclosure made in order to initiate or pursue a judicial enforcement proceeding or in a public announcement concerning a judicial enforcement proceeding; and
  - viii. A disclosure made in an approved settlement agreement or in a public announcement concerning such settlement agreement.

- c. **Waiver.** A respondent's failure to request a hearing in his or her written response to the Notice is a waiver of the right to a hearing. A respondent's failure to respond in writing to the Notice by the deadline set forth in this Paragraph is a waiver of the right to a hearing. The Board may grant an untimely request for a hearing if such request is made before the Board votes to approve its final determination in the matter as provided in Paragraph 2.20.

## **2.15 Confidentiality of Administrative Enforcement Proceedings.**

- a. The Board's administrative enforcement proceedings shall be confidential with closed hearings, unless the respondent has provided written consent to a public proceeding.
- b. Unless a respondent requests a public proceeding:
  - i. The Board and Board staff shall not make the proceeding public or disclose any information about it except as necessary to carry out their duties. Only persons who are necessary for the proceeding may be present during a hearing.
  - ii. Respondent and respondent's counsel may make such disclosures as are necessary to participate in the proceeding and to seek or provide legal advice or representation. In addition, respondent and counsel may disclose information related to a proceeding that they have obtained from a source other than the Board, Board staff, or the proceeding.
  - iii. A witness may make such disclosures as are necessary to participate in the proceeding or seek legal advice. In addition, a witness may disclose information related to a proceeding that he or she has obtained from a source other than the Board, Board staff, or the proceeding.
- c. If a respondent provides written consent to a public proceeding, it may not be withdrawn. If a respondent consents to a public proceeding, the Board will make all filings in the proceeding public while it is pending and will hold a public hearing.
- d. Once the Board has served notice of its final determination on the respondent, the adjudication is no longer pending and the Board and Board staff, respondents, respondents' counsel, and witnesses may disclose any information about the proceeding. However, the Board and Board staff shall not disclose the identity of a complainant or the complaint itself unless compelled to do so by court order.

## **2.17 Discovery.**

### **a. Pre-hearing exchange and submission of information.**

- i. At least 21 days prior to the hearing, the Executive Director and the respondent shall exchange the names and addresses of witnesses they plan to call to testify and copies of any documents they intend to offer as evidence.
- ii. At least 14 days prior to the hearing, the Executive Director and respondent shall submit to the Board the names of any witnesses they plan to call to testify and copies of any documents they intend to offer as evidence.
- iii. The Board may approve additional requirements for the pre-hearing submission of information to the Board. Any additional requirements approved by the Board will be provided to the parties in advance of a hearing.
- iv. The Board or its Hearing Officer may, for exigent circumstances, fix a shorter time for the exchange and submission of information described in this Paragraph.
- v. The Executive Director and the respondent shall not offer any contested evidence at the hearing other than from witnesses and documents identified as required by this Paragraph, provided that the Board or its Hearing Officer may grant exceptions for good cause shown.

### **b. No other discovery.** Except for the exchanges of information described in this Paragraph, there shall be no other discovery, unless voluntarily agreed to by the Executive Director and the respondent.

**2.18 Examination and Cross-Examination.** Witnesses shall testify under oath or affirmation, and shall be subject to reasonable examination and cross-examination. Witnesses shall appear on behalf of or at the invitation or subpoena of the Board or on behalf of the parties to the proceeding.

- a. **Written Testimony.** The Board, or its Hearing Officer, may allow any party or witness to offer testimony in written form. Such written testimony shall be received in evidence with the same force and effect as though it were stated orally at the hearing by the party or witness who has given the evidence, provided that such testimony is sworn under penalty of perjury, and the party or witness is available to appear at the hearing for cross examination as requested by any party to the proceeding.
- b. **Examination of Witnesses by the Board.** Board members, or the Board's Hearing Officer, may ask questions of witnesses at any time.
- c. **Limitation of Witnesses and Examination.** The Board, or its Hearing Officer, may limit the testimony of witnesses whose testimony is cumulative or similar. The Board, or its Hearing Officer, may limit the time to be spent on the direct or cross-examination of a witness or of a party's overall examination and cross examination of witnesses.

## **SUBPART F. JUDICIAL ENFORCEMENT**

**2.22 Scope.** This Subpart shall apply to enforcement actions initiated by the Board in the Court of Common Pleas.

**2.23 Request for Authorization of Judicial Enforcement.** If the Executive Director finds there is probable cause to believe that a violation of the Public Integrity Laws has occurred, and that the matter is appropriate for judicial enforcement, then the Executive Director shall present the Board with the allegations and an explanation of his or her finding of probable cause and request authorization from the Board to initiate judicial enforcement.

**2.24 Opportunity to Address the Board.** The Executive Director shall notify the subject of the finding of probable cause by the Executive Director and shall provide him or her with the allegations submitted to the Board pursuant to Paragraph 2.23. The Executive Director shall inform the subject that he or she may appear at the next public meeting of the Board to address the Board and respond to the allegations.

The provisions of Paragraph 2.24 shall not apply to actions to enforce a subpoena issued by the Board or to actions seeking emergency relief.

**2.25 Board Action on Request for Authorization of Judicial Enforcement.** After reviewing the allegations submitted by the Executive Director and considering the information, if any, provided by the subject, the Board shall:

- a. Reject the Executive Director's finding of probable cause and direct that the matter be dismissed;
- b. Direct the Executive Director to initiate judicial enforcement; or
- c. Determine that the matter is appropriate for administrative enforcement and direct the Executive Director to proceed under Subpart E of this Regulation, but only if the subject consents, in writing, to the matter being so resolved and agrees to waive any due process challenge based on the commingling of adjudicatory and prosecutorial functions arising from prior consideration of or exposure by any member of the Board or its staff to the relevant facts, allegations, or legal theories.

The Board shall notify the subject of its decision regarding the Executive Director's request for authorization of judicial enforcement.



**CITY OF PHILADELPHIA  
BOARD OF ETHICS**

One Parkway Building, 18th Floor  
1515 Arch Street  
Philadelphia, PA 19102  
(215) 686-9450

**Procedures for Administrative Enforcement Proceedings that Supplement Board Regulation No.2**

---

The following procedures for Board of Ethics administrative enforcement proceedings supplement the requirements and procedures described in Board Regulation No. 2 ("Investigations and Enforcement Proceedings") at Subpart E. These additional procedures have been approved by the Board pursuant to Regulation No. 2 Paragraphs 2.16(g) and 2.17(a)(iii). The terms used here have the same meaning as in Regulation No. 2, and the Executive Director and respondent are referred to as the parties. To understand the procedures required for Board of Ethics administrative enforcement proceedings, it is important to read Regulation No. 2 Subpart E as well as this memo. Please contact the Board's General Counsel with questions regarding these procedures.

**1. Submission of Filings to the Board.** Filings shall be submitted to the Board as follows:

- i. By email as a PDF less than five megabytes in size to the Board's General Counsel, Maya Nayak ([maya.nayak@phila.gov](mailto:maya.nayak@phila.gov)), with a copy to the Board's Clerical Assistant, Hortencia Vasquez ([hortencia.vasquez@phila.gov](mailto:hortencia.vasquez@phila.gov)); or
- ii. By mail to General Counsel Maya Nayak, City of Philadelphia Board of Ethics, 1515 Arch Street, 18<sup>th</sup> floor, Philadelphia, 19102.

Filings shall be received by the Board (not merely be postmarked) by the date due. All filings submitted to the Board must simultaneously be served on the opposing party. Filings shall include a signed certificate of service that indicates the date and method of service on the opposing party. Service may be made upon opposing counsel by email. The parties shall not send filings directly to individual Board members.

**2. Requests for Extension of Time.** A party may be granted an initial extension for the submission of a filing upon written request that alleges good cause for an extension and that is filed at least four days prior to a deadline. A Hearing Officer or the General Counsel (if a Hearing Officer has not been appointed) may grant an initial extension of up to 30 days to a party for good cause shown. The Board Chair may grant further extension if extraordinary circumstances are demonstrated by a party in a written request that is filed at least four days prior to the extended deadline. Extensions granted will correspondingly advance other administrative enforcement proceeding deadlines.

denied by the respondent in writing no later than seven days after service of the Executive Director's Unilateral Pre-Hearing Memorandum.

**D. Failure to object leads to admissibility of witness or exhibit.** Any witness or exhibit offered by a party shall be admissible at the hearing, unless a party objects as required by Subparagraphs 6.B.(iii) & (v) in a Joint or Unilateral Pre-Hearing Memorandum.

**E. Issuance and Service of Subpoenas.** The Board, Board Chair, or a Hearing Officer may issue subpoenas. The subpoenas that are issued will be provided to the requesting party who shall be responsible for service of the subpoenas.

**7. Order of Presentation.** The order of presentation at the hearing shall be as follows:

- a. Opening statements
  - i. Executive Director
  - ii. Respondent
- b. Presentation of facts: witnesses & exhibits
  - i. Executive Director
  - ii. Respondent
- c. Summation
  - i. Executive Director
  - ii. Respondent

**8. Opening Statements and Summation.** Opening statements shall be limited to 10 minutes per party. Summation shall be limited to 20 minutes per party. The Board or its Hearing Officer may increase the amount of time available for opening statements or summation at the request of a party.

**9. Transcripts.** The General Counsel will provide a copy of the hearing transcript to the parties.

**10. Proposed Findings of Fact and Conclusions of Law.** Each party may file proposed findings of fact and conclusions of law after the hearing has concluded. Proposed findings of fact and conclusion of law shall be set forth in numbered paragraphs and shall be filed within seven days of the General Counsel transmitting the hearing transcript to the parties. A party shall support each proposed finding of fact by citing to a specific part of the record of the administrative enforcement proceeding, which includes filings, the hearing transcript, and hearing exhibits, unless the fact is undisputed.

**The Board's Administrative Enforcement Proceedings Are Confidential.** The City Code requires that the Board's administrative enforcement proceedings, including filings and testimony, are confidential while pending unless the respondent provides written consent to a public proceeding. Paragraph 2.15 of Regulation 2 describes the confidentiality requirements with which the Board, the parties, and all witnesses must comply.

Approved by the Board on: November 19, 2014