

**STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW**

Thomas Koller, II,

Appellant,

v.

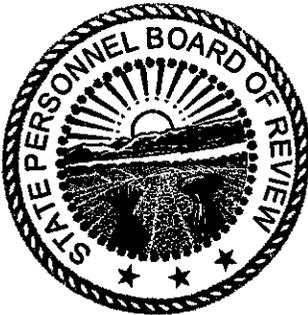
Case No. 2016-REC-04-0064

Department of Taxation,
and
Department of Administrative Services,

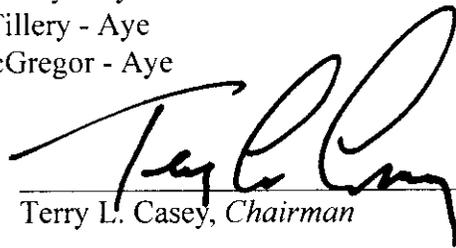
Appellees,

ORDER

This matter came on for consideration on the execution and filing of a Settlement Agreement by the parties. Being fully advised in the premises, the Board hereby orders that the attached settlement agreement is **ADOPTED** and the appeal is **DISMISSED**.



Casey - Aye
Tillery - Aye
McGregor - Aye

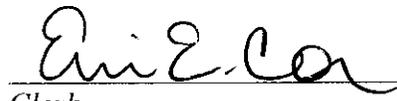


Terry L. Casey, *Chairman*

CERTIFICATION

The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that the foregoing is (the original/a true copy of the original) order or resolution of the State Personnel Board of Review as entered upon the Board's Journal, a copy of which has been forwarded to the parties this date, September 13, 2016.



Clerk

10-1

SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

This Settlement Agreement and Release of All Claims (“Agreement”) is made and entered into by and between Appellant Thomas Koller, and Appellee the Ohio Department of Taxation.

WHEREAS, Thomas Koller filed with the State Personnel Board of Review (“SPBR”) Case No. 2016-REC-04-0064 now pending and

WHEREAS, Thomas Koller and the Ohio Department of Taxation desire to resolve any and all of their disputes, including, but not limited to, all claims asserted in the litigation between the parties which is identified as Case Number(s) 2016-REC-04-0064.

NOW, THEREFORE, in consideration of the mutual agreements set forth herein, the parties agree as follows:

1. **Parties.** This Agreement is entered into on behalf of, and shall extend to, Thomas Koller, his immediate family, heirs, assigns, personal representatives, executors, agents and administrators (hereinafter collectively referred to as “Koller”); and to the Ohio Department of Taxation, its successors, assigns, officers, directors, employees and agents, both past and present (hereinafter collectively referred to as “TAX”).
2. **Intent.** Except as specifically set forth in this settlement agreement, the parties wish to bring a complete, final and irreversible end to any and all claims and/or disputes which arose or which could arise from the above-listed Case Number(s), and to reach a full and final settlement of all matters and claims, of any nature, as of the date this Agreement is executed.
3. **Consideration.** In consideration of the mutual promises and agreements set forth herein, the Parties agree as follows:

(a) Koller agrees that he will remain in his current capacity as related to the performance of duties in the STARS project.

(b) Koller will be moved permanently into the Information Services Division of the Department of Taxation effective the pay period beginning September 4, 2016.

(c) TAX agrees to reclassify Koller from the position of Tax Examiner Manager (pay range 13, Step X at \$43.74 per hour) to the position of Information Technology Project Manager 1 (pay range 15, Step 8 at \$49.28 per hour) effective the pay period beginning September 4, 2016.

4. **Release of All Claims and Dismissal of All Charges and Legal Actions.** Koller does hereby fully, finally and forever release and waive any and all claims and rights which he may have against TAX, its officers, directors, employees, and representatives, both in their individual and official capacities, and does hereby specifically quitclaim, release and forever hold harmless from and against any and all claims, liability, causes of action, compensation, benefits, damages, attorney fees, costs or expenses, of whatever nature or kind which have arisen or which could have arisen from Koller's employment with TAX or his claims in the above-listed Case Number(s) at any time up to and including the date of execution of this Agreement.

Such rights, claims, causes of action or liability shall include, but not be limited to, those arising or which might arise out of intentional infliction of emotional distress, harm or illness, intentional injury or intentional tort, or any other facts; the Fair Labor Standards and Equal Pay Acts; Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1964 as amended, the Civil Rights Act of 1991 as amended; the United States Constitution; the Civil Rights Acts of 1866 or 1871 (42 U.S.C. Sections 1981, 1983, 1985, *et seq.*); the Americans with Disabilities Act, the Age Discrimination in Employment Act; Chapter 4112 of the Ohio Revised Code and

Settlement Agreement and Release of all Claims

any other provision of the Ohio Revised Code, not filed and existing as of the date of this Agreement; and any other Federal, State, City, County or other local law or ordinance concerning employment, or in any other manner regulating or otherwise concerning wages, hours or any other terms or conditions of employment, which, (a) have been filed, (b) are now pending, or, (c) could have been filed, relating to any acts which have transpired at any time up to and including the date of execution of this Agreement.

Koller represents and warrants that he has not assigned or otherwise transferred any right to any other person to assert any claims of any kind or character against TAX, and agrees to indemnify and hold TAX harmless from and against any such claims to be asserted by any other party.

5. **Non-Admission.** The terms set out in the Agreement are a compromise settlement of disputed claims, the validity, existence or occurrence of which is expressly denied by TAX. Neither the terms nor the Agreement shall be deemed or construed as an admission by TAX of any wrongful acts whatsoever by or against Koller or any other person, nor does any arrangement(s) made with Koller constitute an acknowledgment of the validity of any claim, charge, liability or cause of action asserted, it being expressly understood that all such claims are in all respects denied by TAX. Likewise, Koller makes no admission concerning the merits of his appeal by accepting the terms of this Agreement.

6. **General Terms.** The Parties to this Agreement represent and affirm that the only consideration for their agreement and execution are the terms stated above; that no other promise or agreement of any kind has been made to or with any of them by any persons or entity to cause any to execute this Agreement, and that no other compensation, benefits, or prerequisites other than those specified in the foregoing Agreement shall be involved or claimed; that this Agreement shall not be interpreted to render Koller a prevailing party for any purpose, including

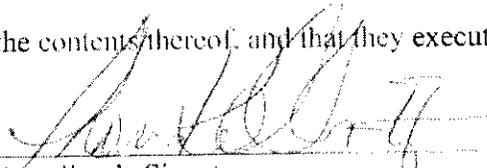
Settlement Agreement and Release of all Claims

but not limited to an award of attorney fees under any applicable statute or otherwise; and that each fully understands the meaning and intent of this Agreement, including but not limited to their final and binding effect. Koller further acknowledges that the execution of the Agreement is by knowing and voluntary act.

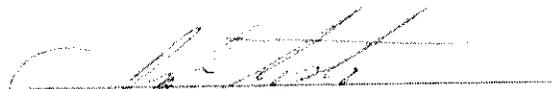
7. **Construction and Severability.** This Agreement shall be construed according to its fair meaning and not strictly for or against any of the Parties. Should any provision of the Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms, or provisions shall not be affected thereby and the illegal or invalid part, term, or provision shall be deemed not part of the Agreement.

This Agreement sets forth the entire agreement between the Parties hereto, and fully supersedes any and all prior discussions, agreements, transmissions or understandings between the Parties or their representatives.

The undersigned Parties state that they have carefully read the foregoing and understand the contents thereof, and that they execute the same as their own free and voluntary act.


Appellant's Signature

8/19/16
Date


Appellee's Authorized Representative

Title: Tax Commissioner

8/24/16
Date


DAS Authorized Representative

Title: _____

Date