

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release ("Agreement") is made and entered into by and between Dr. Steven Salaita ("Plaintiff") on the one hand, and the Board of Trustees (the "Board") of the University of Illinois (the "University"), current and former Trustees Christopher Kennedy, Ricardo Estrada, Patrick J. Fitzgerald, Karen Hasara, Patricia Brown Holmes, Timothy Koritz, Edward L. McMillan, and Pamela Strobel, and current and former Administrators Robert Easter, Christophe Pierre, and Phyllis Wise ("Defendants") on the other, hereinafter collectively referred to as the "Parties."

RECITALS

WHEREAS, during the summer of 2014, a dispute arose between Plaintiff and Defendants relating to a tenured faculty member position in the American Indian Studies Program at the University of Illinois Urbana-Champaign campus; and

WHEREAS, Plaintiff filed suit in the Circuit Court of Champaign, Illinois, Chancery Division, in a case styled *Steven Salaita, Center for Constitutional Rights v. The Board of Trustees of the University of Illinois*, No. 2014 MR 920 (as amended, the "FOIA Litigation") and in United States District Court for the Northern District of Illinois, in a case styled *Salaita v. Kennedy, et al.*, No. 15-cv-00924 (the "Federal Litigation"); and

WHEREAS, the Parties seek to avoid the time-consuming, costly, and burdensome nature of continued litigation and trial; and

WHEREAS, the Parties recognize that it would be mutually beneficial to move forward with no further disagreements or disputes; and

WHEREAS, the Parties desire to settle the dispute and all other currently existing claims and causes of action, including, but not limited to, the FOIA Litigation and the Federal Litigation, whether presently known or unknown, that Plaintiff might assert against Defendants;

NOW, THEREFORE, in consideration of the Recitals and the mutual promises, covenants, and agreements set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties covenant and agree as follows:

1. RELEASE OF CLAIMS

- (a) Plaintiff, individually and on behalf of Plaintiff's attorneys, heirs, assigns, successors, executors, and administrators, and Defendants and their parents, subsidiaries, affiliated, and related corporations, firms, associations, partnerships, and entities, their successors and assigns, and the current and former owners, shareholders, directors, officers, employees, agents, attorneys, representatives, and insurers of said corporations, firms, associations, partnerships, and entities, and their guardians,

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successors, assigns, heirs, executors, and administrators, hereby GENERALLY RELEASE, ACQUIT, AND DISCHARGE each other from and against any and all claims, complaints, grievances, liabilities, obligations, promises, agreements, damages, causes of action, rights, debts, demands, controversies, costs, losses, and expenses (including attorneys' fees and expenses) whatsoever, under any local, state, or federal law, whether common under common law or statutory law, including, but not limited to, the United States and Illinois Constitutions; 42 U.S.C. § 1983; 42 U.S.C. § 1985; and/or any other claims, including claims in equity or at law—for any actions or omissions whatsoever, whether known or unknown and whether connected with the prospective employment relationship between Plaintiff and Defendants and/or the non-hiring of Plaintiff by the Board that existed or may have existed prior to, or contemporaneously with, the date Plaintiff executes this Agreement (collectively, the “Released Claim(s)”). The Parties agree that this Agreement includes a release of any and all contractual claims (express and implied), promissory estoppel claims, constitutional claims, First Amendment retaliation claims, due process claims, conspiracy claims, spoliation of evidence claims, and/or claims of every possible kind.

- (b) This general release covers both claims that the Parties know about and those that the Parties may not know about, except that it does not waive any rights or claims that may arise after the Effective Date of this Agreement (as defined below).

2. The Parties acknowledge and agree that they will keep settlement discussions leading up to this Agreement confidential except as may be required by law or compulsory process.

3. The Parties, consisting of Plaintiff, each of the individuals named as Defendants, and the current University of Illinois' administration and Board of Trustees, expressly acknowledge, agree, and covenant that they will not make any gratuitous negative public statements, comments, or communication in any form, oral, written, or electronic, which would constitute libel, slander, defamation or unfounded disparagement of the other Party. In so doing, the Parties acknowledge and agree that scholars are entitled to freedom in research and publications and in the classroom, and that this provision does not, and is not intended to, abridge any Party's First Amendment right to speak or write about the political and social issues and dynamics connected to this case. The Parties agree that this provision is a material inducement to both Parties entering into this Agreement.

4. In exchange for Plaintiff executing this Agreement for the settlement, release, waiver and dismissal of the FOIA Litigation and Federal Litigation and the release and waiver of any and all claims existing as of the date of this Agreement, and other valuable consideration given and received by the Parties, the Parties agree as follows:

- (a) After Defendants' receipt of Plaintiff's executed Agreement, Defendants will pay Plaintiff the amount of Six Hundred Thousand Dollars and no/100 (\$600,000.00) and Plaintiff's attorneys fees and out-of-pocket costs in the amount of Two

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Hundred and Seventy Five Thousand Dollars a no/100 (\$275,000.00) (the “Payment” or “Payments”), by no later than thirty (30) business days after Effective Date of this Agreement.

- (b) Upon satisfaction of provision 4(a) above, the Parties will promptly file a Joint Stipulation of Dismissal With Prejudice with the Courts in the FOIA Litigation and Federal Litigation accompanied by an Agreed Order of Dismissal With Prejudice, providing for dismissal of all Plaintiff’s claims an causes of action and taxing all costs against the party that incurred them. Should any further action or court filings be required by the Courts in order to obtain dismissal of the action with prejudice, Plaintiff shall promptly cooperate with and not oppose such further action.
- (c) Plaintiff acknowledges and agrees that the Payment referenced in paragraph 4(a) constitutes new and adequate consideration to support the release set forth in paragraph 1 of this Agreement, is a payment to which Plaintiff was not previously entitled to receive, and fully compensates Plaintiff for the claims Plaintiff is releasing.
- (d) The Parties will report, as may be required by law for income tax purposes, their respective payment and receipt of the Payment. Each party shall bear their respective tax liabilities, if any, arising from this payment. Plaintiff acknowledges that the Releasees have made no representations to him regarding the tax consequences of any amount received by him pursuant to the terms of this Agreement. Plaintiff agrees to indemnify the Defendant for any tax liability resulting from this payment, including, without limitation, penalties, interest, attorney’s fees, and withholding.

5. By entering into this Agreement, Defendants do not admit, and specifically deny, any violation of any contract (express or implied), local, state, or federal law, common or statutory. Neither the execution of this Agreement nor compliance with its terms, nor the consideration provided for herein shall constitute or be construed as an admission by Defendants (or any of its agents, representatives, attorneys, or employees) of any fault, wrongdoing, or liability whatsoever, and Plaintiff acknowledges and understands that all such liability is expressly denied. This Agreement has been entered into in release and compromise of claims as stated herein and to avoid the expense and burden of further litigation and trial.

6. If any provision or term of this Agreement is held to be illegal, invalid, or unenforceable, such provision or term shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. Furthermore, in lieu of each such illegal, invalid, or unenforceable provision or term there shall be added automatically as a part of this Agreement

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another provision or term as similar to the illegal, invalid, or unenforceable provision as may be possible and that is legal, valid, and enforceable.

7. In consideration of the best interests of both Parties, Plaintiff hereby waives any rights to seek or hold future employment with the University of Illinois and agrees that he will not ever again apply for or accept employment with the University of Illinois or any of its operating divisions, subsidiaries and affiliates, predecessors, successors, or any other related entity or company. Plaintiff further stipulates that he will not in the future apply for or otherwise seek employment with the University of Illinois, nor accept same. The parties further agree that should Plaintiff apply for employment with the University of Illinois or any of its operating divisions, subsidiaries and affiliates, predecessors, successors, or any other related entity or company, Defendants shall have cause to deny his application for employment for a legitimate and lawful business reason and without recourse and shall have further cause to seek recovery of its costs from Plaintiff for any work undertaken in connection with such application for employment.

8. This Agreement constitutes the entire Agreement of the Parties regarding the subject matter hereof, and supersedes all prior and contemporaneous negotiations and agreements, oral or written, express or implied, regarding the subject hereof. All prior and contemporaneous negotiations and agreements regarding the subject hereof are deemed incorporated and merged into this Agreement and are deemed to have been abandoned if not so incorporated. No representations, oral or written, are being relied upon by any party in executing this Agreement other than the express representations of this Agreement. This Agreement cannot be changed or terminated without the express written consent of the Parties. The rights under this Agreement may not be assigned by Plaintiff, unless Defendants consent in writing to said assignment. Plaintiff represents that Plaintiff has not assigned any of the claims related to the matters set forth herein. Any attempted assignment in contravention of this section shall be deemed null and void.

9. This Agreement shall be exclusively governed by and construed in accordance with the laws of the State of Illinois without regard to the conflicts of laws provisions, except where preempted by federal law. The Parties further agree that the exclusive venue for all actions related to this Agreement shall be in the state or federal courts of Cook County, Illinois. Each party agrees that the Courts of the State of Illinois shall have jurisdiction for purposes of enforcing all of the terms and provisions of this Agreement including, but not limited to, any relief sought for a breach of or default under this Agreement.

10. One or more waivers of a breach of any covenant, term, or provision of this Agreement by any party shall not be construed as a waiver of a subsequent breach of the same covenant, term, or provision, nor shall it be considered a waiver of any other then existing or subsequent breach of a different covenant, term, or provision.

11. The Parties represent that they have the sole and exclusive right and full capacity to execute this Agreement. When executed by all the parties, this Settlement Agreement and

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General Release will constitute a binding agreement, subject only to its subsequent approval by the Board of Trustees at its meeting on November 12, 2015.

12. The "Effective Date" of this Agreement is the date on which all Parties have signed this Agreement.

13. By executing this Agreement, the Parties also acknowledge that they: (a) are not relying upon any statements, understandings, representations, expectations, or agreements other than those expressly set forth in this Agreement; (b) have made their own investigation of the facts and are relying solely upon their own knowledge and the advice of their own legal counsel; and (c) knowingly waive any claim that this Agreement was induced by any misrepresentation or nondisclosure and any right to rescind or avoid this Agreement based upon presently existing facts, known or unknown. The Parties stipulate that each Party is relying upon these representations and warranties in entering into this Agreement. These representations and warranties shall survive the execution of this Agreement.

14. All terms and provisions of this Agreement, and the drafting of this Agreement, have been negotiated by the Parties at arm's length and to mutual agreement, with consideration by and participation of each, and no party shall be deemed the scrivener of this Agreement.

15. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original. All counterparts will constitute but one and the same instrument and will be evidenced by any one counterpart. A facsimile, photocopy, or scanned image of a party's original signature shall be as effective as the original.

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AGREED AND EXECUTED:

BY PLAINTIFF:

Dr. Steven Salaita

Date

BY DEFENDANTS:

For The Board of Trustees
of the University of Illinois

Walter K. Knorr, Comptroller

Date

Attest:

Susan M. Kies
Secretary to the Board of Trustees

Christopher Kennedy

Date

Ricardo Estrada

Date

Patrick J. Fitzgerald

Date

Karen Hasara

Date

Patricia Brown Holmes

Date

Timothy Koritz

Date

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Edward L. McMillan

Date

Pamela Strobel

Date

Robert Easter

Date

Christophe Pierre

Date

Phyllis Wise

Date

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