

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

This Settlement Agreement and Release of Claims (“Agreement”) is entered into by and between Edward Si and Students for a National Health Program at Eastern Virginia Medical School (SNaHP), on the one hand, Eastern Virginia Medical School (“EVMS”), several of its employees including, Alfred Abuhamad, President, Stacy R. Purcell, Vice President and General Counsel, Shannon Morris, Assistant Professor, and Allison Knight, Assistant Vice Dean for Student Affairs, its Board of Visitors and the individual members of the Board of Visitors including, Sarah M. Bishop, Robert J. Bianchi, Betty B. Bibbins, Chester M. Hart, Jr., W. Ashton Lewis, Sr., T. Richard Litton, Jr., Lisa S. Chandler, Guy R. Fridell, III, Bruce Waldholtz, Phillip H. Hucles, Naved A. Jafri, Blythe A. Scott, Paul D. Fraim, Sharon Goodwyn, Marcus L. Martin, and Fred Lindsay (collectively “Defendants”) on the other hand. As used in this Agreement, “Medical School Parties” includes Defendants any and all of EVMS’s past, present, and future board members, trustees, administrators, employees, agents, insurers, reinsurers, claims adjusters, and attorneys. “Si and SNaHP,” as used in this Agreement, includes Edward Si, himself, heirs, assigns, executors, administrators, agents, attorneys, representatives, and all other persons or entities claiming through Edward Si; and SNaHP, administrators, agents, attorneys, representatives, and all other persons or entities claiming through SNaHP.

WHEREAS, Si and SNaHP filed a lawsuit styled *Edward Si and Students for a National Health Program at Eastern Virginia Medical School v. Alfred Abuhamad, et al.*, Case No. 2:21-cv-00467-RCY-RJKVAED, in the United States District Court for the Eastern District of Virginia (the “Lawsuit”);

WHEREAS, The Medical School Parties dispute Si and SNaHP’s claims and allegations in the Lawsuit;

WHEREAS, Si and SNaHP and the Medical School Parties wish to resolve all matters in dispute between them in a mutually satisfactory manner and to terminate all past and present controversies between them in order to avoid the costs associated with protracted litigation;

WHEREAS, the parties have agreed to settle all claims asserted by Si and SNaHP, including, but not limited to, any and all claims that were or could have been asserted in the Lawsuit, without admission or concession by either party of the merits of the claims, demands, charges, and/or contentions of the other party;

WHEREAS, the parties have agreed that for purposes of this Settlement Agreement, that the EVMS employee Defendants, the Board of Visitors and the individual members of the Board of Visitors will be third party-beneficiaries of this Agreement in all aspects and with all rights to enforce the provisions of this Agreement and that this Agreement will only be signed by EVMS; and

WHEREAS, Si and SNaHP covenant and warrant that they have not assigned, transferred, or subrogated any portion of any claim which they have asserted or could have asserted in the Lawsuit;

WHEREAS, for and in consideration of the promises set forth herein, the adequacy and sufficiency of which are hereby acknowledged, Si and SNaHP and the Medical School Parties now compromise and settle all claims of Si and SNaHP as provided in this Agreement. The foregoing recitals are a substantive part of this Agreement.

I. THE MEDICAL SCHOOL PARTIES' CONSIDERATION TO SI AND SNaHP

(A) In exchange for Si and SNaHP's promises and obligations under this Agreement, EVMS agrees to pay Si and SNaHP the gross sum of \$38,000.00 (Thirty-Eight Thousand Dollars and No Cents) (the "Payment") on behalf of the Medical School Parties. Si and SNaHP acknowledge and agree that the Medical School Parties have no obligation to provide the Payment set forth in this paragraph except pursuant to this Agreement. Si and SNaHP direct the Payment to be paid by check payable to the Foundation for Individual Rights in Education ("FIRE"), a nonprofit corporation with which Plaintiff's counsel of record are affiliated. Upon execution of this Agreement, FIRE will promptly provide EVMS an IRS Form W-9 or other suitable written communication providing the tax identification number for FIRE. The Payment shall be paid in accordance with Section VII of this Agreement.

(B) EVMS has amended the Student Government Association (SGA) Constitution, and the Criteria for Approval of a New Student Organization, as set out in the policy revisions attached as **Exhibit "A"** to this Agreement.

(C) EVMS will replace the prior versions of the SGA Constitution and the Criteria for Approval of a New Student Organization with versions containing the agreed-upon policies anywhere EVMS makes them available to students, and provide a copy of the new SGA Constitution and Criteria for Approval of a New Student Organization to all students by posting the documents on the SGA website. Nothing in this Agreement shall prohibit EVMS from maintaining or preserving copies of its prior policies or procedures for historical, archival, or other lawful purposes or from complying with state records retention laws or open meetings laws.

(D) In the event Si or SNaHP believe that EVMS has breached any part of Section I of this Agreement, they shall provide written notice identifying the alleged deficiency to the General Counsel of EVMS at purcelsr@evms.edu and allow EVMS 30 business days after receipt of same in which to cure the alleged deficiency before seeking enforcement.

II. SI AND SNaHP'S CONSIDERATION TO THE MEDICAL SCHOOL PARTIES

For and in consideration of the Medical School Parties' promises in this Agreement, Si and SNaHP hereby release and forever discharge any and all claims and causes of action against the Medical School Parties, both past and present, known and unknown, foreseen and unforeseen, arising out of or relating to the Lawsuit and/or occurring on or before the Effective Date of this Agreement. Si and SNaHP's compromise, waiver, and release includes, but is not limited to, the following:

(A) All claims accruing prior to the Effective Date (a) arising under any state, federal, or local Constitution, statute, ordinance, regulation, or rule, including, but not limited to, the United States Constitution, 42 U.S.C. § 1983, and the Virginia Constitution; (b) arising from or relating to any administrative proceeding, charge, complaint, or petition before any other governmental agency; (c) for discrimination, retaliation, or harassment; (d) for equitable, declaratory, or injunctive relief; (e) arising or flowing from Si and SNaHP's participation in the Lawsuit; and (f) for any common law cause of action, whether sounding in tort or contract, including, without limitation, defamation and intentional infliction of emotional distress.

(B) This release includes all claims for past or future damages for physical or mental injury, pain and suffering, damage to reputation, liquidated damages, punitive damages, compensatory damages, out-of-pocket expenses, attorney's fees or costs, interest, and any other injury, loss, damage or expense or any other legal or equitable remedy of any kind whatsoever.

Dismissal of Lawsuit With Prejudice: Si and SNaHP acknowledge that the Payment in Section I of this Agreement is being provided by EVMS in exchange for Si and SNaHP's acceptance and signing of this Agreement and for Si and SNaHP's agreement to never refile the Lawsuit, previously dismissed for failure to effect service of process on the EVMS Defendants in accordance with Section VII of this Agreement. Si and SNaHP agree that this Agreement shall serve as a dismissal of all claims asserted in the Lawsuit or that could have been asserted in the Lawsuit.

III. NO PENDING LITIGATION

Si and SNaHP promise not to sue or file any claim in any state or federal forum that relates to the claims released in Section II of this Agreement. Si and SNaHP further agree that, in any action prosecuted by any other person or entity that arises out of the released claims, they cannot recover and will not accept compensation or damages.

Si and SNaHP further represent and confirm that, as of the date of their execution of this Agreement, other than the Lawsuit, they have not filed or otherwise initiated any lawsuit, complaint, charge, appeal, or other proceeding against any of the Medical School Parties in any local, state, or federal court or with any other governmental agency based upon events occurring prior to the date of this Agreement. To the extent permitted by law, Si and SNaHP expressly waive any right to damages awarded by any governmental agency or court relating to any claims that are released by this Agreement.

IV. NO ADMISSION OF LIABILITY

Si and SNaHP and the Medical School Parties agree and acknowledge that nothing contained in this Agreement constitutes an admission of wrongdoing by any party. Si and SNaHP understand and acknowledge that the Medical School Parties expressly deny wrongdoing or liability. Any press releases by Si, SNaHP and/or FIRE shall not be made on or before March 21, 2022. The press release FIRE will issue after that date, which is agreeable to the Medical School Parties, is attached as **Exhibit "B"**.

V. INDEMNIFICATION AND TREATMENT FOR PURPOSES OF TAXATION

Si and SNaHP agree to DEFEND, INDEMNIFY, and HOLD HARMLESS the Medical School Parties against any and all losses, costs, damages, liabilities, and expenses, including the costs of investigation and defense of legal actions and attorneys' fees, arising out of, resulting from, or in any way related to any future assertions by Si and SNaHP, or any person or entity claiming by or through Si and SNaHP, of any claim encompassed within the release provision of Section II of this Agreement, upon a judicial determination that the claim was in fact encompassed within the Section II.

Si and SNaHP agree and understand that the Medical School Parties have made no representations or guarantees regarding the proper tax treatment of the Payment set forth in Section I. Si and SNaHP assume full and sole responsibility to any federal, state, or local taxing authority for any tax consequences, including interest, penalties, damages, or expenses, regarding income or other taxes arising out of the Payment and will INDEMNIFY and HOLD HARMLESS the Medical School Parties immediately upon such a claim being made. Si and SNaHP agree and understand that the treatment of payments under this Agreement by governmental taxing authorities has no bearing on the validity of this Agreement.

VI. COOPERATION OF THE PARTIES

Si and SNaHP and EVMS agree to cooperate fully, to execute any documents necessary to effectuate this Agreement, and to take all additional actions that reasonably may be necessary or appropriate to give force and effect to the terms and intent of this Agreement and which are not inconsistent with its terms. Each party shall bear his, her, or its own attorneys' fees, costs, and expenses arising from the negotiation, preparation, and implementation of this Settlement Agreement, other than any fees or costs necessary to enforce the terms of the Agreement.

VII. EFFECTIVE DATE OF AGREEMENT AND TIME FOR PAYMENT

This Agreement shall be effective after it is signed by all parties ("Effective Date"). EVMS on behalf of the Medical School Parties shall mail the Payment described in Section I within twenty business days after Si and SNaHP's counsel submits to counsel for the Medical School Parties an executed copy of this Agreement. EVMS has adopted the updated SGA Constitution and Criteria for Approval of a New Student Organization, as outlined in Section I(B) and will replace them, as outlined in Section I(C), within five business days of receipt of Si and SNaHP's executed Settlement Agreement. Si and SNaHP have permitted the Lawsuit to be dismissed and will not refile the same.

VIII. MISCELLANEOUS

(A) Any dispute related to the meaning or enforcement of this Agreement shall be brought in the U.S. District Court for the Eastern District of Virginia. Virginia law shall govern the validity and interpretation of this Agreement insofar as federal law does not control. If the

U.S. District Court for the Eastern District of Virginia declines to exercise jurisdiction of any such dispute, the parties agree that the dispute will be brought in a court of competent jurisdiction in Norfolk, Virginia. If any action at law or in equity is necessary to enforce the terms of this Agreement, the prevailing party in the litigation shall be entitled to reasonable attorney's fees, costs and necessary disbursements in addition to any other relief to which they may be entitled under this Agreement.

(B) The parties agree that this Agreement is intended to settle and release any and all of Si and SNaHP's claims for attorneys' fees and/or costs and, in fact, settles and releases all such claims in the Lawsuit, other than any fees or costs necessary to enforce the terms of the Agreement.

(C) This Agreement contains the entire understanding between Si and SNaHP and the Medical School Parties. This Agreement supersedes any prior written or oral agreements. This Agreement shall not be modified, amended, or terminated unless such modification, amendment, or termination is executed in writing by Si and SNaHP and EVMS after receiving all necessary approvals for such amendment. No representations, warranties, recitals, covenants, or statements of intention have been made by, or on behalf of, any party hereto which is not embodied in this Settlement Agreement, and no party hereto shall be bound by, or liable for, any alleged representation, warranty, recital, covenant, or statement of intention not so set forth.

(D) All the terms, provisions, conditions, covenants, warranties, recitals, and statements of intention in this Settlement Agreement shall be binding upon, inure to the benefit of, and be enforceable by Si and SNaHP and the Medical School Parties.

(E) If any single paragraph or clause of this Agreement should be found unenforceable, invalid, or illegal, it shall be severed and the remaining paragraphs and clauses shall be enforced in accordance with the intent of this Agreement.

(F) Nothing in this Agreement prohibits either party from complying with any state or federal law.

(G) A copy of this Agreement and Release may be executed in duplicate originals. Any required signatures or acknowledgements communicated by facsimile transmission or PDF (portable document format) are as effective as the originals thereof.

(H) Si and SNaHP hereby represent and certify that they have entered into this Agreement knowingly and voluntarily. Si and SNaHP certify that they (i) have carefully read all of this Agreement and understand its provisions; (ii) have been advised to consult with an attorney of their choice before signing this Agreement and in fact have had an opportunity to consult with legal counsel; (iii) have not been influenced to sign this Agreement by any statement or representation by any member of the Medical School Parties or their attorneys that is not contained in this written Agreement; and (iv) have been given a reasonable amount of time to review this Agreement and to decide whether to sign it.

ACCEPTED and AGREED TO on the date stated below:

EDWARD SI

Edward Si

Date: March 22, 2022

**STUDENTS FOR A NATIONAL
HEALTH PROGRAM AT EVMS**

Edward Si
By

President
Its:

March 22, 2022
Date:

EASTERN VIRGINIA MEDICAL SCHOOL

DocuSigned by:

Helen Heselius

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By: Helen Heselius

Vice President of Administration and Finance

Its:

3/21/2022

Date:

EXHIBIT A

Original, Challenged Policy from SGA Constitution, EVMS, pg. 7, § 5(D) “Denial of Activities,”:

The SGA Clubs and Student Organizations Subcommittee may deny charter to any proposed club or student organization or deny any current club or student organization the right to carry out an activity or function should the subcommittee deem that the activity or function in question is inconsistent with the rules, ideals, goals or objectives of EVMS. Clubs or student organizations may appeal any such decision to the Student Body President. The ultimate decision on this appeal will be made by a simple majority vote at an SGA general meeting. This vote must take place within thirty days of the appeal.

Proposed Replacement for SGA Constitution, EVMS, pg. 7, § 5(D) “Denial of Activities,”:

The SGA Clubs and Student Organizations Subcommittee’s decision to recognize any proposed club or student organization shall be based on whether the student organization provided the material required for a complete application listed in Subsection B and meets the Criteria for Approval of a New Student Organization, which may be amended from time to time, but such denial shall not be based on the proposed group’s viewpoint, opinions, or activities, provided those activities are not prohibited by law. If the SGA Clubs and Student Organizations Subcommittee denies an application for recognition, it shall explain in writing how the decision was reached, stating the basis for the denial, and including recommendations for how the defect can be corrected. A copy of the report shall be provided to the student organization whose recognition was denied and made available for viewing to all students upon request. The proposed organization may appeal a denial of recognition and will have an opportunity at the next regularly-scheduled meeting of the SGA Clubs and Student Organizations Subcommittee to demonstrate that it has remedied the identified defects. The SGA Clubs and Student Organizations Subcommittee may deny any club or student organization the right to carry out an activity or function should the Subcommittee deem that the activity or function in question be a violation of law or EVMS policy, but denials will not be based on a student organization’s point of view.

Proposed Changes to Criteria 1 and 3

1. Complement the mission and goals of Eastern Virginia Medical School and the EVMS Student Government Association

Student organizations approved by the SGA are therefore given recognition by the Office of Student Affairs and operate under the umbrella of Eastern Virginia Medical School. This requires that student organizations complement the mission and the goals of the institution, liberally construed. As a general rule, the mission of Eastern Virginia Medical School includes being recognized as the most community oriented medical and health professions school in the nation and three core values of excellence, collegiality, and integrity. The SGA, on behalf of Eastern Virginia Medical School, does not determine whether a prospective organization complements the mission and goals of the School based on the organization’s viewpoint, opinions or activities, provided those activities are not prohibited by law.

In addition, prospective student organizations should ensure that their purpose complements the mission of the EVMS SGA, which is to promote leadership, service and a sense of solidarity between the classes and organizations of our institution, as well as meeting our goals to better our school, our community and our society at large by encouraging engagement in the EVMS

community and supporting active participation. Please come prepared to address how proposed student organizations can reach beyond individual programs and support interprofessional activities at our institution.

Less successful examples: A student organization that is only open to students in one program (ie. a club for only MedMasters students), that has no plans or ideas regarding community outreach activities, or whose goals do not engage with our internal or external community.

More successful example: Young at Heart, a student organization that whose mission is to work with children in a local elementary school on educational activities. This organization is open to all students, is congruent with making EVMS more community oriented, and engages our local community.

3 Fulfill a need on campus that is not currently being met by the institution or another student organization or complements the mission of another student organization all the while demonstrating the need to exist as a solitary student organization.

The SGA currently recognizes over ____ student organizations that are engaged on campus for a student population of approximately ____ students. Due to the finite amount of space, money, and time coupled with a relatively small-sized student body, we may not be able to approve every proposed student organization, but approval/disproval or an organization is not based on the organizations viewpoint, opinions or activities, provided those activities are not prohibited by law. In addition, we have a charge from the Office of Student Affairs and are highly committed to encouraging collaboration when possible with existing student organizations as we work to strengthen them and maintain sustainability.

With these goals as background, proposals for new student organizations should either fulfill a need on campus that is not currently being addressed by the institution or another student organization, or complements the mission of another student organization all the while demonstrating the need to exist as a solitary student organization rather than joining or incorporating with a currently recognized student organization. [next sentence deleted]. We also expect that applicants have already searched for existing student organizations on EventMedley and considered incorporation prior to application.

[remainder of the section remains the same].

EXHIBIT B

VICTORY: Med student prohibited from starting a club promoting universal healthcare reaches settlement with Eastern Virginia Medical School

NORFOLK, VA., Mar. 22, 2022 — Today, seven months after [filing a lawsuit](#) against Eastern Virginia Medical School with help from the Foundation for Individual Rights in Education, medical student Edward Si has signed a settlement agreement with the university.

“Now that we’ve reached a settlement,” said Si, “I hope that future students, faculty, and university administrators will learn the importance of the First Amendment and freedom of expression in discussing and sharing bold, new ideas and being able to constructively critique society to be better.”

In December 2020, Si tried to establish a chapter of Students for a National Health Program (the student branch of the national organization Physicians for a National Health Program) at EVMS. Recognized clubs receive a variety of benefits, including funding eligibility, and use of campus facilities.

But when Si first applied, the EVMS Student Government Association told him they denied SNaHP’s application for recognition because they did not want to approve clubs “based on opinions.”

To defend his First Amendment rights, Si reached out to FIRE, which sent [two letters](#) last year calling on the university to end its viewpoint discrimination and recognize the club. When the school failed to take action, FIRE and Si [filed a lawsuit](#) against EVMS university officials. The next day, Si received notice that his club had been [approved](#).

COURTESY PHOTOS FOR MEDIA USE

Public universities are bound by the First Amendment, and [it is unconstitutional](#) to deny a student organization recognition granted to others on account of its viewpoint. As part of the settlement, EVMS has revised their student group recognition policies to prevent future viewpoint discrimination. Si sued EVMS in part because their former policies were vague and overly broad, granting SGA members unfettered discretion to deny some student clubs school resources available to others, thereby denying students like Si their Fourteenth Amendment right to due process of law.

“We’re pleased that EVMS has worked with FIRE to expeditiously revise the policies that violated Edward Si’s First Amendment rights,” said FIRE attorney Jeff Zeman. “Because of Edward’s dedication, we believe EVMS students can now express themselves more freely and join with others of like-mind on campus without fear of viewpoint discrimination.”

Since EVMS officially granted SNaHP recognition the club has held presentations to introduce other med students to single-payer healthcare, including a talk from the president of PNHP. Si himself traveled with a PNHP delegation to Washington D.C. to advocate for an end to the privatization of Medicare, and he intends to use what he learned from that trip to further his chapter’s mission next semester.

“FIRE took me seriously and eagerly fought to defend my First Amendment rights,” said Si. “So I say to FIRE: Keep up the good work!”

The Foundation for Individual Rights in Education (FIRE) is a nonpartisan, nonprofit organization dedicated to defending and sustaining the individual rights of students and faculty members at America’s colleges and universities. These rights include freedom of speech, freedom of association, due process, legal equality, religious liberty, and sanctity of conscience — the essential qualities of liberty.

CONTACT:

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