

**STATE OF COLORADO  
IN THE OFFICE OF THE SECRETARY OF STATE**

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ELECTIONS DIVISION OF THE SECRETARY OF STATE,

Complainant,

vs.

COMMITTEE TO IMPROVE FOOTHILLS FIRE PROTECTION DISTRICT

Respondent.

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**SETTLEMENT AGREEMENT**

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This Settlement Agreement is entered into between the Elections Division of the Colorado Secretary of State (“Division”) and the Committee to Improve Foothills Fire Protection District (“Respondent” or “Committee”).

**Recitals**

A. The Committee to Improve Foothills Fire Protection District is a political committee registered with the Colorado Secretary of State. Its purpose is to “help candidates get elected who care to improve Foothills Fire Protection District.”

B. The Committee spent \$2,126.77 to support the election of a slate of candidates to the Foothills Fire Protection District Board of Directors in the May 2, 2023, special district election.

C. The Committee failed to report any of its expenditures prior to receiving notice of the Complaint.

D. Under Colorado law, expenditures should have been reported on three separate reports of contributions and expenditures.

E. On May 23, 2023, the Elections Division received a campaign finance complaint against several candidates supported by the Committee. The complaint alleged the candidates failed to report expenditures. The complaint also incorrectly alleged that the candidates failed to register a committee. The Division provided the

candidates and the Committee with the Notice of Initial Review and Opportunity to Cure on June 5, 2023.

F. The Division filed a Notice of Investigation on August 14, 2023, and provided notice that the review of the Complaint would proceed with the Committee named as the lone respondent.

G. While reviewing the complaint, the Division discovered that the Committee spent \$1,443.65 on 2,600 flyers that supported the Committee's preferred candidates. That communication included the disclaimer "Paid for by the Committee to Improve Foothills Fire Protection District," but it did not identify a registered agent.

H. A late-filing penalty for one of the reports of contributions and expenditures, totaling \$400, was automatically imposed by the campaign finance compliance team under Rule 18 of the Secretary's Rules on Campaign and Political Finance. The Committee requested a waiver of that penalty on June 6, 2023. A determination on that waiver request has not yet been made.

I. The Committee cooperated with the Division's review and investigation, including by sharing receipts and invoices related to the communications in question. The Committee also worked to ensure that all of its reports of contributions and expenditures were amended to accurately reflect all campaign activity.

J. Nothing in the Division's review and investigation suggested an intent to mislead the electorate.

K. The Division will be filing a complaint with the Administrative Hearing Officer (the "Administrative Proceedings"). The Administrative Hearing Officer complaint will be dismissed if the Settlement Agreement is approved by the Deputy Secretary of State.

L. The Division and Respondent desire to resolve this matter without the expense of continued litigation. Therefore, in consideration of the mutual covenants contained in this Agreement, the parties agree and covenant as follows:

### **Agreement**

#### **Section 1. Deputy Secretary of State Approval**

This Settlement Agreement and all promises contained within are contingent upon approval of the Deputy Secretary of State, which approval will be demonstrated by the Deputy Secretary's signature to this agreement. In the event the Deputy Secretary does not approve this Settlement Agreement, neither the

Recitals above nor the promises below shall be binding upon, or enforceable against, either the Division or Respondent.

Section 2. Payment of Stipulated Penalty

Within 14 days of the Committee's receipt of an invoice from the Division, **the Committee shall pay \$275** to the Division.

This penalty reflects Rule 23.3.3 of the Secretary's Rules on Campaign Finance. 8 CCR 1505-6. Specifically, Rule 23.3.3(b)(1) and Rule 23.3.3(d)(2).

Because the Committee failed to file complete and accurate reports, Rule 23.3.3 (b)(1) calls for a penalty of \$100 per report plus 5% of the activity not accurately or completely reported. Here, the Committee failed to report \$2,126.77 of expenditures that should have been reflected on three reports, which would suggest a penalty of approximately \$406.34.

Because the Committee did not mitigate its noncompliant disclaimer violations prior to the election, the Rule 23.3.3(d)(2) calls for a penalty of 10% of the cost of the communication, including the cost to distribute. Here, the Committee spent a total of \$1,443.65 on a communication without compliant disclaimer statements, which would suggest a penalty of approximately \$144.37.

Although the suggested penalties total \$550.71, the Division finds mitigating circumstances here.

The Committee fully cooperated with the Division's investigation—most notably by providing documentation to assist with the Division's review of the expenditures requiring disclaimer statements. The Committee amended its reports to ensure all activity was reported. This demonstrates that the Committee lacked any intent to mislead the electorate.

Furthermore, the communication in question included the disclaimer "Paid for by the Committee to Improve Foothills Fire Protection District" and was only noncompliant in that it failed to identify the Committee's registered agent. The Committee was registered and someone looking for additional information about the communication would have been able to locate the Committee, and the registered agent, through the TRACER system.

Accordingly, the Division finds that a penalty of \$275—\$50 per inaccurate or incomplete report plus 2.5% of the cost of the unreported activity and approximately 5% of the cost of the noncompliant communication—is sufficient to further the purposes of Colorado campaign finance law.

The Committee also agrees to work with the Division's compliance team to satisfy any applicable Rule 18 late penalty violations.

If the Committee fails to comply with the terms of the settlement agreement, the Division may pursue other remedies available at law.

Section 3. Compliance with Colorado Campaign Finance Law

Respondent agrees to comply with Colorado law relating to disclaimer statements and to otherwise comply with Colorado Campaign Finance Law, including Article XXVIII of the Colorado Constitution, the Fair Campaign Practices Act, §§ 1-45-101, *et seq.*, and the rules of the Secretary of State concerning campaign and political finance.

Section 4. Dismissal of Administrative Proceedings

The Division will move to dismiss the Administrative Proceedings with prejudice within 7 days of when the Secretary of State sends a receipt to the Committee for the payment provided for in Section 2 of this Agreement.

Section 5. Admissions

Respondent admits that it did not include compliant disclaimer statements on a \$1,443.65 campaign communication and filed three inaccurate or incomplete reports of contributions and expenditures.

Section 6. Release and Covenant Not to Sue

Respondent, for itself, its agents, assigns, representatives, attorneys, and subrogees, releases and forever discharges the Division, the Secretary of State, and the State of Colorado, and all of their former, current, and successor officers, employees, agents, and attorneys, from any and all claims, actions, causes of action, debts, demands, liabilities, losses, injuries, and/or damages arising from or relating to the Administrative Proceedings. Respondent further expressly agrees and covenants that it will not sue or assert any cause of action, at law or in equity and whether before a court of law or an administrative agency, against the Division, the Secretary of State, or the State of Colorado, or any of their former, current, and successor officers, employees, agents, and attorneys, for any claim arising from or related to the Administrative Proceedings.

Section 7. Waiver of Appeal Rights

Respondent expressly waives any right for further administrative or judicial review of any matter related to the Administrative Proceedings or this Agreement, including but not limited to any rights provided by §§ 24-4-105 and -106, C.R.S. (2022).

Section 8. Public Records

Respondent understands and agrees that this Agreement may be made available to the public on the Secretary of State's TRACER Campaign Finance reporting system and may also be made available to members of the public who serve a valid request under the Colorado Open Records Act, § 24-72-101, *et seq.*, C.R.S. (2021).

Section 9. Full and Complete Agreement

This Agreement, including any attachments referenced in the Agreement, constitutes the full and complete agreement of the parties and shall supersede any and all prior understandings, whether written or oral.

Section 10. Final Agency Action

This Settlement Agreement shall become final agency action under the State Administrative Procedures Act, §§ 24-4-101 *et seq.*, upon completion of all terms of compliance contained herein, including but not limited to dismissal of the Administrative Proceedings.

Section 11. Warranties

Respondent and the Division expressly warrant that they have carefully and completely read the terms of this Agreement. The parties expressly warrant that they have had the opportunity to consult with legal counsel before executing this Agreement, that they fully understand the terms of this Agreement, and that they enter into this Agreement knowingly and voluntarily, and without coercion, duress or undue influence. Each of the parties warrants that, in executing this Agreement, the parties have not relied upon any promise, warranty, or representation made by any other party, except as such promises, warranties, or representations are expressly stated in this Agreement. Finally, each of the signatories below warrants that they have authority to enter into the Agreement on behalf of the named parties.

**ELECTIONS DIVISION OF THE SECRETARY OF STATE**

08/15/2023

DATE

*Chance Cochran*

By: Chance Cochran

Campaign Finance Enforcement Legal Analyst

**COMMITTEE TO IMPROVE FOOTHILLS FIRE PROTECTION DISTRICT**

8/15/23

DATE

*Dennis Polhill*

By: Dennis Polhill

Registered Agent

**ADOPTED AND APPROVED BY:**

December 28, 2023

DATE

*Christopher P. Beall*

By: Christopher P. Beall

Deputy Secretary of State