

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

ELECTIONS DIVISION OF THE SECRETARY OF STATE,

Complainant,

vs.

CANDACE FOR D49

Respondent.

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into between the Elections Division of the Colorado Secretary of State (“Division”), and Candace for D49 (“Respondent” or “Committee”).

Recitals

- A. Respondent is a candidate committee formed to support the candidacy of Candace Lehmann for election to the District 49 School Board in the November 7, 2023, election.
- B. On October 23, 2023, the Division received a Complaint filed against respondent alleging that the Committee had failed to identify a registered agent on its yard signs, even though the signs had not been paid for by a natural person.
- C. On October 31, 2023, The Division provided Respondent with its Notice of Initial Review and Opportunity to Cure and a request for information.
- D. Based on Respondent’s responses to the Division’s questions and a review of the Committee’s filings in the TRACER system, the Division determined that Respondent spent approximately \$3,540.23 on campaign communications that were distributed in the months leading up to the election.
- E. The communications included yard signs, banners, mailers, door hangers, a website, and texts. All of Respondent’s communications included the

disclaimer: "Paid for by Candace for D49," but none of them listed a registered agent.

F. Upon receiving notice of the Complaint, Respondent worked quickly to cure existing communications by adding stickers and handwriting to signs and banners. Respondent also posted on social media asking supporters to correct any signs that they were displaying to identify Candace Lehmann as the registered agent.

G. During the Division's review and investigation, Respondent fully cooperated with the Division, including by providing copies of the communications in questions and submitting detailed invoices.

H. Nothing in the Division's investigation suggested an intent to mislead the electorate. Furthermore, Respondent worked diligently to include a registered agent on communications after being notified of this Complaint.

I. 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 adopted and approved.

J. 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, **Respondent shall pay \$141.61 to the Division.**

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

Because the Committee failed to identify its registered agent on communications, Rule 23.3.3 (d)(1) calls for a penalty of at least 5% of the cost of the noncompliant communications. The Committee spent \$3,540.23 on communications that did not identify the Committee's registered agent. Accordingly, Rule 23.3.3(d)(1) suggests a base penalty of \$177.01.

However, the Division finds mitigating factors. Upon receiving notice of the Complaint, Respondent quickly and diligently worked to remedy the noncompliant communications. Respondent also fully cooperated with the Division's investigation and provided extensive documentation of the committee's transactions as well as the communications themselves.

Accordingly, the Division finds that a penalty of \$141.61, or 4% of the cost of the noncompliant communications, is appropriate.

If Respondent 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 reporting contributions and expenditures 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 they did not identify a registered agent with respect to \$3540.23 of campaign communications.

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 he 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.

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ELECTIONS DIVISION OF THE SECRETARY OF STATE

01/29/2024
DATE

Chance Cochran
By: Chance Cochran
Campaign Finance Enforcement Legal Analyst

CANDACE FOR D49

12/19/2023
DATE

Candace Lehmann
By: Candace Lehmann
Candidate, Registered Agent

ADOPTED AND APPROVED BY:

January 30, 2024
DATE


By: Christopher P. Beall
Deputy Secretary of State