

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

ELECTIONS DIVISION OF THE SECRETARY OF STATE,

Complainant,

vs.

J.B. MOSS VOICE OF THE ELECTORATE (VOTE)

Respondent.

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into between the Elections Division of the Colorado Secretary of State (“Division”) and J.B. Moss Voice of the Electorate (Vote) (“Respondent” or “Committee”).

Recitals

A. J.B. Moss Voice of the Electorate (Vote) is a political committee registered with the Colorado Secretary of State.

B. The Committee accepted six contributions from Richard X. Correa on March 29, 2023 totaling \$2,400. The Committee reported the contributions on its April 17, 2023 Report of Contributions and Expenditures filed with the Division.

C. The Committee accepted nine contributions from Erin Allen on March 29, 2023 and August 7, 2023 totaling \$900. The Committee reported the contributions on its October 16, 2023 Report of Contributions and Expenditures filed with the Division.

D. Under Colorado law, the aggregate limit of contributions from any natural person to a political committee is \$725 per State House of Representatives election cycle. COLO. CONST. art. XXVIII, section 3(5). *See* 8 CCR 105-6, Rule 10.17.1(f). Election cycle means the period beginning 31 days following a general election which was December 9, 2022 and ending 30 days following the next general election which will be December 5, 2024. COLO. CONST. art. XXVIII, section 2(6)(a).

E. On September 11, 2023, the Division filed campaign finance Complaint 2023-30 against the Committee. The Division alleged the Committee accepted contributions from Richard X. Correa which exceeded the aggregate contribution limit for natural persons.

F. On January 9, 2024, the Division filed a second campaign finance complaint, Complaint 2024-02, against the Committee. The Division alleged the Committee accepted contributions from Erin Allen, which exceeded the aggregate contribution limit. Of note, this violation took place prior to the Committee receiving notice of the initial Complaint filed on September 11, 2023.

G. After receiving Notice of each Complaint, the Committee took immediate action to cure the violations. The Committee returned the contributions over the aggregate limit to the original contributors, Richard X. Correa, and Erin Allen, and amended its reporting related to the April 17, 2023 and October 16, 2023 Reports of Contributions and Expenditures.

H. The Committee cooperated with the Division's review and investigation, including by taking immediate action to cure the violations.

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

J. 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.

K. 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, whose 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 \$292.50** 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(c)(1).

Rule 23.3.3(c)(1) calls for a fine of \$100 and 10% of the prohibited activity. Here, the Committee had two separate violations in exceeding the aggregate contribution limits. First, the Committee accepted \$2,400 from Richard X. Correa that exceeded the contribution limits by \$1,675. Next, the Committee accepted \$900 from Erin Allen that exceeded the contribution limits by \$175. Thus, the Rule would suggest penalties of \$100 per violation plus 10% of the contribution overage.

However, the Division finds mitigating circumstances here. The Committee took immediate action in curing the violations by returning the contribution overages to the original contributors and amending their reporting. Additionally, in September 2023 the Committee contacted their software vendor, NPG, requesting a flag be added to their system for managing contributions and expenditures to alert the Committee of the limit when entering contributions.

Also, the Committee fully cooperated with the Division's investigation, most notably by promptly responding to the Divisions contacts and inquires.

Accordingly, the Division finds that a fine of \$100 for each violation and 5% of the prohibited activity is sufficient to further the purposes of Colorado campaign finance law. That comes out to a total of \$292.50.

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, on two occasions, accept contributions that exceeded the aggregate contribution limits of \$725 a political committee can receive from any natural person per House of Representatives cycle.

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

02/23/2024
DATE

Timothy Gebhardt
By: Timothy Gebhardt
Campaign Finance Enforcement Manager

J.B MOSS VOICE OF THE ELECTORATE (VOTE)

1-18-2024
DATE

Mary Mahoney
By: Mary Mahoney
Registered Agent

ADOPTED AND APPROVED BY:

Feb. 28, 2024
DATE


By: Christopher P. Beall
Deputy Secretary of State