

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

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ELECTIONS DIVISION OF THE SECRETARY OF STATE,

Complainant,

vs.

CARBAJAL FOR KIDS et al

Respondents.

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**SETTLEMENT AGREEMENT**

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This Settlement Agreement is entered into among the Elections Division of the Colorado Secretary of State (“Division”), and Melinda Rose Carbajal and Carbajal For Kids (collectively “Respondent”).

**Recitals**

A. Respondent Melinda Rose Carbajal was a candidate for the Brighton 27J School Board in the November 7, 2023, election. Respondent Carbajal For Kids is a candidate committee formed to support the candidacy of Respondent Melinda Rose Carbajal for the Brighton 27J School Board.

B. On November 2, 2023, the Division received a Complaint filed against Respondent alleging that the Respondent had failed to place a “paid for by” disclaimer on campaign yard signs. Notice of the Complaint was delivered to Respondent on November 2, 2023.

C. On November 7, 2023, the Division provided Respondent with its Notice of Initial Review and Opportunity to Cure and additionally requested certain information, documents, and other items.

D. Based on the Division’s review of the Respondent’s responses to the Division’s request, the Respondent’s Facebook page and postings and the Respondent’s filings in the TRACER system, the Division determined that Respondent spent approximately \$1,770.00 on biennial school electioneering

communications that were distributed after September 8, 2023, during the sixty days immediately preceding the November 7, 2023 election.

E. The biennial school electioneering communications included yard signs, business cards, a banner, stickers adhered to candy, wooden tags and an updated profile page and posts to Respondent's Facebook Page. Except for the banner, none of the electioneering communications included a "paid for by" disclaimer. Due to the limited size of the business cards, stickers and wooden tags, only the yard signs, banner and the Facebook profile page and posts required disclaimers under Colorado campaign and political finance law.

F. Upon receiving notice of the Complaint four days before the November election, Respondent took no steps to place a disclaimer on the yard signs or the Facebook profile page and posts.

G. During its initial review and investigation, the Division learned that Respondent failed to report in TRACER the printing costs of Respondent's business cards incurred on August 9, 2023. Respondent intends to amend its September 5, 2023 Report in TRACER to include the business card expense.

H. The Division has advised Respondent that the Division must file an administrative complaint with the Administrative Hearing Officer (the "Administrative Proceedings") before this proposed Settlement Agreement can be presented to the Deputy Secretary of State for approval. The Administrative Proceedings, including the administrative complaint, shall be dismissed only if all the following occurs: (1) the Settlement Agreement is approved by the Deputy Secretary of State; (2) the Respondent pays the stipulated penalty to the Division; and (3) the Respondent amends her September 5, 2023 Report in TRACER to disclose the business card expense.

I. The Division and Respondent desire to resolve and settle this matter without expending the time and expense of continued litigation.

**THEREFORE IN CONSIDERATION OF** the mutual covenants contained in this Settlement Agreement, the parties agree and covenant as follows:

Section 1. Recitals Are Part of the Agreement. The foregoing recitals are true and correct, are binding on the parties hereto, and are part of the terms of this Settlement Agreement.

Section 2. Deputy Secretary of State Approval. This Settlement Agreement and all promises contained herein are contingent upon approval of the Settlement Agreement by the Deputy Secretary of State. In the event the Deputy Secretary of State does not approve this Settlement Agreement, nothing in this Settlement

Agreement shall be binding upon, or enforceable against, the Division or the Respondent.

Section 3. Payment of Stipulated Penalty. Within 14 calendar days of the Respondent's receipt of an invoice from the Division, **Respondent shall pay a stipulated penalty in the amount of \$183.36 to the Division.** If the Respondent fails to comply with this term or any other terms of the Settlement Agreement, the Division shall be entitled to pursue all remedies allowed under state or federal law.

Section 4. Determination of Stipulated Penalty. This stipulated penalty derives from Rules 23.3.3(d)(2) and 23.3.3(b)(1) of the Secretary's Rules Concerning Campaign and Political Finance (8 CCR 1505-6). Because Respondent failed to include the "paid for by" disclaimer on biennial school electioneering communications and did not mitigate the noncompliant communications before the election, Rule 23.3.3(d)(2) requires a penalty of at least 10% of the cost of the noncompliant communications. The Respondent spent \$1,105.26 on those electioneering communications that required the disclaimer. As a result, Rule 23.3.3(d)(1) suggests a base penalty of at least \$110.53 (10% of \$1,105.26). Additionally, because Respondent failed to file a complete and accurate report on September 5, 2023, Rule 23.3.3(b)(1) requires a penalty of \$100 plus 5% of the activity not accurately or completely reported. The Respondent spent \$119.89 for the business cards that was not reported in TRACER. As a result, Rule 23.3.3(d)(1) requires a penalty of \$105.99 (\$100 plus 5% of \$119.89).

However, there are mitigating factors. During the Division's initial review and investigation, Respondent fully cooperated with the Division, including responding to numerous follow-up requests for information and providing relevant documentation. Respondent's reporting omission occurred early in her campaign, and Respondent reported in TRACER all other campaign spending. Respondent candidate committee's registered agent was Respondent Melinda Rose Carbajal, and her name was prominently displayed on all biennial school electioneering communications in question. It also should be noted that this is the first time Respondent has run for public office. The Division learned nothing in its initial review and investigation that suggested an intent by Respondent to mislead the electorate. There is no evidence of an intentional act or practice of misconduct.

Accordingly, the Division finds that a penalty of \$77.37, or 7% of the cost of the noncompliant biennial school electioneering communications, is appropriate for Respondent's failure to include a "paid for by" disclaimer on those communications. After adding the mandatory penalty of \$105.99 for failing to report the business card expense, the stipulated penalty computes to \$183.36.

Section 5. Compliance with Reporting Requirements. Within 14 calendar days of the date Respondent signs this Settlement Agreement, Respondent shall amend her September 5, 2023 Report in TRACER to include the business card expense. Respondent agrees to otherwise comply with Colorado Campaign and Political Finance Law, including Article XXVIII of the Colorado Constitution, the Fair Campaign Practices Act, §§ 1-45-101, *et seq.*, and the Secretary of State's Rules Concerning Campaign and Political Finance (8 CCR 1505-6).

Section 6. Dismissal of Administrative Proceedings. So long as Respondent has complied with her obligations under Sections 3 and 5 hereof, the Division will move to dismiss the Administrative Proceedings with prejudice within 14 calendar days after the date the Secretary of State sends a receipt to the Respondent after Respondent's payment of the stipulated penalty under Section 3 of this Settlement Agreement.

Section 7. Admissions. Respondent admits that they did not place a required "paid for by" disclaimer on certain biennial school electioneering communications after Respondent spent \$1,000 in the aggregate on biennial school electioneering communications and admits that they did not disclose in the September 5, 2023 Report on TRACER a campaign expense for business cards.

Section 8. Release and Covenant Not to Sue. Respondent, for themselves and for their respective agents, assigns, representatives, attorneys and subrogees, release and forever discharge the Division, the Secretary of State, 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 initial complaint filed on November 2, 2023, the Division's initial review and investigation and the Administrative Proceedings. Respondent further expressly agree and covenant that they, individually or jointly, will not sue or assert any claim or cause of action at law or in equity in or before a court of law, administrative agency or any other forum, against the Division, the Secretary of State, the State of Colorado, or any of their former, current, and successor officers, employees, agents, and attorneys, for any claim arising from or relating to the initial complaint filed on November 2, 2023, the Division's initial review and investigation and the Administrative Proceedings.

Section 9. 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 Settlement Agreement, including but not limited to any rights provided by §§ 24-4-105, C.R.S., and 24-4-106, C.R.S.

Section 10. Public Records. Respondent understands and agrees that this Settlement Agreement will 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 request under the Colorado Open Records Act, Part 2, § 24-72-200.1, *et seq.*, C.R.S.

Section 11. Full and Complete Agreement. This Settlement Agreement constitutes the full and complete agreement of the parties and shall supersede any and all prior agreements and understandings, whether written or oral.

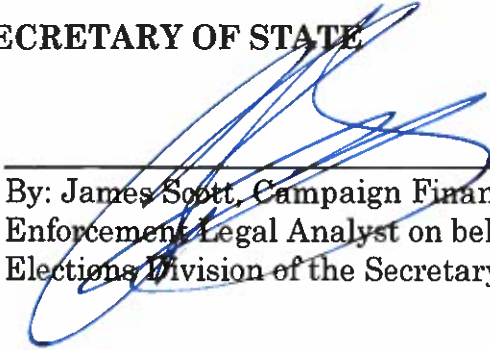
Section 12. Final Agency Action. Upon its approval by the Deputy Secretary of State, this Settlement Agreement shall become final agency action under the State Administrative Procedure Act, §§ 24-4-101 *et seq.*

Section 13. Warranties. Respondent and the Division expressly warrant that they have carefully and completely read the terms of this Settlement Agreement. Respondent and the Division expressly warrant that they have had an adequate opportunity to consult with legal counsel before executing this Settlement Agreement, that they fully understand the terms of this Settlement Agreement, and that they enter into this Settlement Agreement knowingly and voluntarily, and without coercion, duress or undue influence. Respondent and the Division warrant that in signing this Settlement Agreement, neither has relied upon any promise, warranty, or representation made by anyone, including but not limited to the Respondent or the Division, except as to those promises, warranties, or representations that are expressly stated in this Settlement Agreement.

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**ELECTIONS DIVISION OF THE SECRETARY OF STATE**

1/30/24  
DATE

  
By: James Scott, Campaign Finance  
Enforcement Legal Analyst on behalf of the  
Elections Division of the Secretary of State

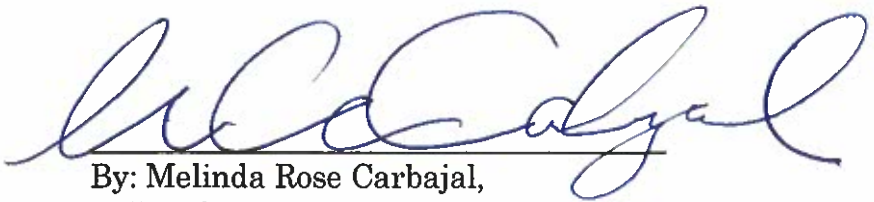
**MELINDA ROSE CARBAJAL**

1/5/24<sup>me</sup>  
DATE

  
By: Melinda Rose Carbajal

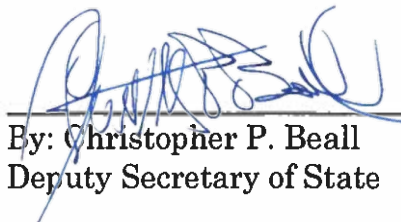
**CARBAJAL FOR KIDS**

1/5/24  
DATE

  
By: Melinda Rose Carbajal,  
as Resident Agent

**ADOPTED AND APPROVED BY:**

January 31, 2024  
DATE

  
By: Christopher P. Beall  
Deputy Secretary of State