

**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 ELECT DEB SCHMIDT, 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 the Committee to Elect Deb Schmidt and Debra Schmidt (individually or collectively “Respondent”).

**Recitals**

A. Respondent Debra Schmidt was a candidate for the District Falcon 49 School Board Director in the November 7, 2023, election. Respondent Committee to Elect Deb Schmidt is a candidate committee formed to support the candidacy of Respondent Debra Schmidt for that School Board seat.

B. On October 24, 2023, the Division received a Complaint filed by Lindsey Lee against Respondent alleging that the Respondent had failed to place a “paid for by” disclaimer on campaign yard signs. Thereafter, on October 26, 2023, the Division received a second Complaint filed by Mary Ellen Rickard against Respondent, also alleging that Respondent had failed to place a “paid for by” disclaimer on campaign yard signs. The content of the yard signs referenced in each Complaint was identical. Notice of each Complaint was delivered by the Division to the Respondent on the same days, respectively, that each Complaint was filed.

C. During the campaign, Respondent spent \$3,400.31 on regular biennial school electioneering communications distributed during the sixty days immediately prior to the November 7 election. The communications consisted of flyers (or palm cards, as Respondent called them), a campaign video, and yard signs. Respondent’s spending on its regular biennial school electioneering communications reached the

\$1,000 expense threshold under section 1-45-108.3(1)(III), C.R.S., no later than September 16, 2023, when Respondent began distributing some of the 6,000 palm cards that Respondent had ordered on August 27, 2023, at a printing cost of \$1,028. Respondent's palm cards did contain a "paid for by" disclaimer, but the disclaimer failed to accurately identify the registered agent of the committee. Instead, the disclaimer identified a former registered agent of the committee; Respondent had changed her registered agent after submitting the palm card print order but before distributing the palm cards.

D. Respondent did not include any disclaimer on the video or the yard signs. Before being taken off the Internet by Respondent for reasons unconnected to the absent disclaimer, the video was available to the electorate for two to three weeks beginning September 25, 2023. Respondent ordered 100 yard signs on October 4, 2023, and distributed all of them beginning on or about October 10, 2023. Upon receiving notice of the first Complaint in late October, Respondent located as many of the yard signs as she could and handwrote a properly worded disclaimer on them. The Division has concluded that Respondent attempted to cure the disclaimer violation for the yard signs.

E. 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 the Settlement Agreement is approved by the Deputy Secretary of State.

F. 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 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 \$123.84 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 Rule 23.3.3(d) of the Colorado Secretary of State's Rules Concerning Campaign and Political Finance (8 CCR 1505-6). Rule 23.3.3(d) pertains to disclaimer violations. Specifically, Rule 23.3.3(d)(2) requires a penalty of at least 10% of the cost of the noncompliant communication. Rule 23.3.3(d)(1) assesses a penalty of at least 5% of the cost of the noncompliant communication if the communication is mitigated before the election. The Respondent spent \$3,400.31 on those regular biennial school electioneering communications that required a proper disclaimer. As a result, Rule 23.3.3(d)(2) suggests a base penalty of at least \$340.03 (10% of \$3,400.31).

There are mitigating factors. As to the nature and extent of the violations, the palm cards did include a disclaimer, albeit with an inaccurate registered agent. Nonetheless, the disclaimer on the palm cards contained sufficient information about the Respondent committee to give an inquiring voter a direct path in TRACER to discover the name of the registered agent and other information about the committee that paid for the palm cards. Also, Respondent's removal of the video from the Internet after it was available to the electorate for only two to three weeks resulted in a *de facto* cure of the disclaimer violation. Finally, Respondent did make an effort to mitigate the lack of a disclaimer on the yard signs by handwriting a disclaimer (with the correct registered agent) on the back of those signs Respondent could find.

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. The Division has concluded that the Respondent did not attempt to mislead the Division. The Division also has determined that none of the violations were intentional or the result of misconduct. The Division learned nothing in its initial review and investigation that suggested an intent by Respondent to mislead the electorate.

Accordingly, the Division finds that a reduced penalty of \$123.84 for Respondent's failure to include proper "paid for by" disclaimers on the three regular biennial school communications in issue is appropriate. The reduced penalty is computed by lowering to 3% the penalty assessed for the palm cards (\$69.27) and by lowering to 5% the respective penalties assessed for the yard signs (\$42.07) and the video (\$12.50).

Section 5. Dismissal of Administrative Proceedings. The Division will move to dismiss the Administrative Proceedings with prejudice within 14 calendar days

after the date the Secretary of State sends an Invoice to the Respondent for payment of the stipulated penalty under Section 4 of this Settlement Agreement.

Section 6. Admissions. Respondent admits that Respondent did not place a proper “paid for by” disclaimer on the regular biennial school electioneering communications identified in this Settlement Agreement after Respondent spent \$1,000 in the aggregate on regular biennial school electioneering communications.

Section 7. Release and Covenant Not to Sue. Respondents Debra Schmidt and Committee to Elect Deb Schmidt, 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 Complaint filed on October 24, 2023, or from the Complaint filed on October 26, 2023. or the Division’s initial review and investigation of these Complaints, and the Administrative Proceedings. Respondents 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 Complaint filed on October 24, 2023, or from the Complaint filed on October 26, 2023. or the Division’s initial review and investigation of these Complaints, and the Administrative Proceedings.

Section 8. 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 9. 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.

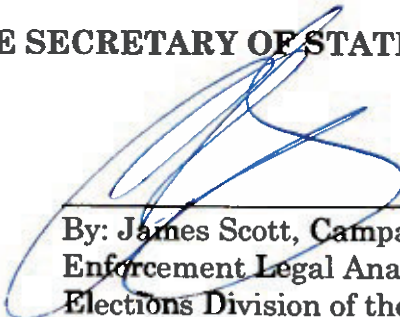
Section 10. Full and Complete Agreement. This Settlement Agreement constitutes the full and complete agreement of the parties and shall supersede any and all prior agreements and understandings, whether written or oral.

Section 11. 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 12. 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.

**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


**DEBRA SCHMIDT and COMMITTEE TO ELECT DEB SCHMIDT**

January 30, 2024  
DATE

  
By: Debra Schmidt

**ADOPTED AND APPROVED BY:**

March 5, 2024  
DATE

  
By: Christopher P. Beall  
Deputy Secretary of State