

Settlement Agreement  
Elections Division v. Van Winkle for Colorado  
**STATE OF COLORADO**  
**IN THE OFFICE OF THE SECRETARY OF STATE**

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ELECTIONS DIVISION OF THE SECRETARY OF STATE,

Complainant,

vs.

VAN WINKLE FOR COLORADO

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 Van Winkle for Colorado (“Respondent” or “the Committee”).

**Recitals**

A. Kevin Van Winkle is a candidate for County Commissioner in Douglas County, Colorado. His candidate committee is Van Winkle for Colorado.

B. Van Winkle appeared on the June 25, 2024, Republican primary ballot in Douglas County. He was victorious, and will appear on the November general election ballot.

C. In June 2024, the Committee sent four text messages to eligible voters in the upcoming Republican primary election. Two of those messages contained links to the Committee’s website, but did not include a “paid for by” disclaimer.

D. Two of those messages included the disclaimer “Paid for by Van Winkle for Colorado,” but did not identify the Committee’s registered agent.

E. Under the Secretary’s Rules on Campaign and Political Finance, the Committee could have satisfied its disclaimer obligations by including a link in the text messages “to a web page or application screen containing the [disclaimer] statement.” 8 CCR 1505-6, Rule 22.1.3.

F. However, at the time the first two messages were sent, the Committee’s website did not include a “paid for by” disclaimer.

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G. A “paid for by” disclaimer was added to the Committee’s website on July 1, 2024, after the June 25 primary election, and after all the text messages had been sent.

H. In total, the Committee spent \$800 on the website, and a total of \$3,123.32 on the text messages—\$1,665.82 on the two text messages without a disclaimer statement, and \$1,457.50 on the two text messages with a “Paid for by Van Winkle for Colorado” disclaimer statement.

I. The Division initiated proceedings against the Committee with an Administrative Hearing Officer titled *Elections Division of the Secretary of State v. Van Winkle for Colorado* (the “Administrative Proceedings”). The matter number before the Administrative Hearing Officer is 2024 AHO 0025.

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**

The Committee **shall pay a penalty of \$300.**

This penalty reflects Rule 23.3.3(d) of the Secretary’s Rules Concerning Campaign and Political Finance. 8 CCR 1505-6.

Under that Rule, the recommended penalty is 5% of the cost of all noncompliant communications that are mitigated prior to the election, and 10% of the cost of all noncompliant communications that are not mitigated prior to the election. Here, the Committee’s website was not updated to include a disclaimer statement until after the June 25, 2024, primary election. Accordingly, the recommended penalty is 10% of the cost of the text messages and website. Ten percent of the cost of all four text messages is \$312, and 10% of the cost of the website is \$80.

However, the parties recognize and acknowledge legal uncertainty relating to the two text messages that included a disclaimer but did not identify the



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Committee's registered agent. To mitigate that uncertainty on both sides, the parties agree that a reduction, but not elimination, of the penalty related to those text messages is appropriate.

Accordingly, the Division proposes a penalty of **\$300**.

Section 3. Compliance with Colorado Campaign Finance Law

Respondent agrees to comply with Colorado law relating 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 after the Deputy Secretary of State approves this Settlement Agreement.

Section 5. Admissions

Respondent admits that it distributed some electioneering communications in 2024 that did not include compliant disclaimer statements.

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. (2023).

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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 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. (2022).

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. The parties agree that this agreement may be executed in counterparts and, if executed in more than one counterpart, the executed counterparts shall each be deemed an original but all such counterparts together shall constitute one and the same instrument.

Section 10. Final Agency Action

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

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Section 11. Warranties

Respondents 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**

08/16/2024  
DATE

*Timothy Gebhardt*  
By: Timothy Gebhardt  
Campaign Finance Enforcement Manager

**VAN WINKLE FOR COLORADO**

8/16/24  
DATE

*[Signature]*  
By: Kevin Van Winkle  
Registered Agent

**ADOPTED AND APPROVED BY:**

August 19, 2024  
DATE

*[Signature]*  
By: Christopher P. Beall  
Deputy Secretary of State