

STATE OF COLORADO SECRETARY OF STATE ADMINISTRATIVE HEARING OFFICER 1700 Broadway #550 Denver, Colorado 80290	▲ COURT USE ONLY ▲ □
BEFORE THE SECRETARY OF STATE, COLORADO DEPARTMENT OF STATE, <i>in re</i> ED L2024-02	
ELECTIONS DIVISION OF THE SECRETARY OF STATE, Complainant, vs. STEPHAN CAPRA Respondent.	CASE NUMBER 2024 AHO 0021
SETTLEMENT AGREEMENT	

This Settlement Agreement is entered into between the Elections Division of the Colorado Secretary of State (“Division”), and Stephan Capra (“Respondent”).

Recitals

A. On March 6, 2024, the Division received a Complaint filed by John Williams against Respondent alleging that Respondent had engaged in lobbying members of the General Assembly on February 14, 2024, and February 15, 2024, without first registering with the Secretary of State as required under Colorado law. In the Complaint, Williams recited a “transcript” from one of two videos posted on Facebook showing Respondent and Rhonda Dern in the Colorado State Capital discussing their activities that day at the Capital. According to the Complaint, Respondent stated in the video (among other things) that ‘It’s always fun to lobby when you have a great partner.’

B. The Division conducted an investigation pursuant to Rule 5.3.1 of the Secretary of State’s Rules Concerning Lobbyist Regulation (8 CCR 1505-6). In its investigation, the Division determined that Respondent met the definition of a professional lobbyist under Colorado law. The Division additionally determined that Respondent had lobbied six members of the General Assembly on the dates in question in connection with pending legislation: specifically, the Colorado Wildlife Coexistence Bill (HB24-1375). The Division also confirmed that before lobbying members of the General Assembly Respondent had not registered as a lobbyist with the Secretary of State as required by section 24-6-303(1), C.R.S.

C. At the conclusion of its investigation, the Division through counsel filed an administrative complaint with the Secretary of State against Respondent pursuant to Rule 5.6.1 of the Rules Concerning Lobbyist Regulation. The Division essentially alleged that in violation of Colorado law, Respondent, as a professional lobbyist, had lobbied members of the General Assembly regarding pending legislation without first registering with the Secretary of State. The Division additionally alleged that Respondent had failed to file with the Secretary of State certain disclosure statements in connection with Respondent's lobbying activities, also required by Colorado law.

D. Pursuant to Rule 5.6.1 and section 24-4-105(2)(a), C.R.S., the Deputy Secretary of State designated the Department of State's Administrative Hearing Officer to conduct a hearing and adjudicate the claims raised by the Division in the administrative hearing complaint. This matter currently is before the designated Administrative Hearing Officer, pending a written response from Respondent due June 12, 2024, and thereafter the scheduling of a hearing on the merits.

E. At this time, the Division and Respondent desire to resolve and settle this matter without expending additional 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 and Other Requirements. 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 \$250.00 to the Division.** Additionally, Respondent shall register as a lobbyist with the Colorado Secretary of State and complete and file all disclosure statements related to Respondent's lobbying activities in Colorado as required by the Division's Compliance Department. Respondent shall initiate contact and speak with the Division's Compliance Department for assistance in completing the registration and disclosure reports. Any late penalties that may be assessed or due in connection with such filings in compliance with this Settlement Agreement will be waived by the Division. If 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 and Other Requirements. This stipulated penalty derives from Rule 5.6.2(a) and 5.6.2(f) of the Secretary of State's Rules Concerning Lobbyist Regulation. Rule 5.6.2(a) allows the imposition of penalties. Additionally, Rule 5.6.2(f) allows remedies that are in accordance with sections 24-6-301 et seq., C.R.S., which pertain to the regulation of lobbyists. Rule 5.6.2(f) does not restrict a remedy to only those set forth in section 24-6-305, C.R.S., so long as the remedy is in accordance with section 24-6-301, C.R.S. through section 24-6-309, C.R.S. Consequently, a remedy that requires the Respondent to comply with the registration and disclosure requirements of sections 24-6-302 and 24-6-303, C.R.S. is appropriate in this matter and is consistent with the goals of transparency and openness of government under the Colorado Sunshine Law, which includes sections 24-6-301 et. eq. C.R.S.

The Secretary of State's Rules Concerning Lobbyist Regulation do not include a provision pertaining to aggravating and mitigating factors; however, whether expressly stated or not, such considerations routinely are considered when determining in an administrative proceeding the appropriate sanction for the violation of a statute or rule. There are some mitigating factors in this matter. The Respondent's violation was not extensive. Respondent's lobbyist activities involved only a few hours over a two-day period during the 2024 legislative session. Respondent's focus was one House bill that did not pass. Respondent generally cooperated with the Division's investigation, including responding timely and in good faith to two Requests for Information.

Accordingly, the Division finds that a penalty of **\$250.00** for Respondent's violations is appropriate, as well as requiring Respondent to register and file the disclosure statements required of a lobbyist.

Section 5. Dismissal of Administrative Proceedings. The Division will move to dismiss with prejudice the Administrative Proceedings after the Secretary of State approves this Settlement Agreement.

Section 6. Admissions. Respondent admits that Respondent violated section 24-6-303, C.R.S. by failing to register with the Secretary of State as a professional lobbyist and section 24-6-302, C.R.S. by failing to file with the Secretary the disclosure statements required of a professional lobbyist.

Section 7. Release and Covenant Not to Sue. Respondent Stephan Capra, for himself and for Bold Visions Conservation, Inc., 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 March 6, 2024, the Division's investigation of the Complaint, and the Administrative Proceedings. Respondent further expressly agrees and covenants that it 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 Complaint filed on March 6, 2024, the Division's investigation of the Complaint or 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 Lobbyists Complaint docket 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.

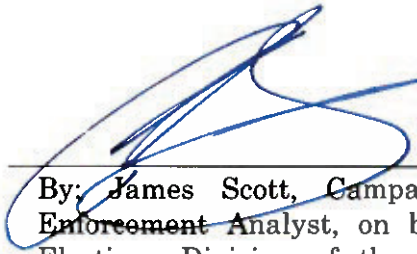
Section 11. Final Agency Action. Upon its approval by the Deputy Secretary of State, this Settlement Agreement shall become final agency action under the State Administrative Procedure Act, §§ 24-4-101 et seq.

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.

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ELECTIONS DIVISION OF THE SECRETARY OF STATE

6/11/2024
DATE


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

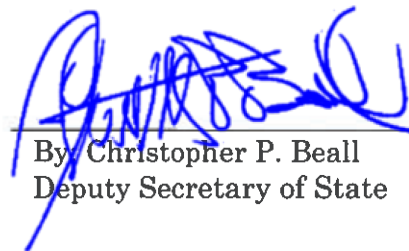
RESPONDENT

June 11, 2024
DATE


Stephan Capra

ADOPTED AND APPROVED BY:

June 17, 2024
DATE


By: Christopher P. Beall
Deputy Secretary of State