

RELEASE AND SETTLEMENT AGREEMENT

This Release and Settlement Agreement ("Release") is made by and between COLLON KENNEDY ("Mr. Kennedy"), and the COLORADO DEPARTMENT OF STATE, a principal department of the State of Colorado, ("CDOS"). In this Release, Mr. Kennedy and CDOS are referred to jointly as the "Parties," and each is sometimes referred to individually as a "Party."

WHEREAS, on January 17, 2018, Mr. Kennedy filed a civil lawsuit against CDOS entitled *COLLON KENNEDY v. COLORADO SECRETARY OF STATE, a Colorado State Agency*, in Denver County District Court Case No. 2018CV030200 ("the Litigation"), asserting claims related to a final agency Order and Stipulation issued by CDOS and executed by Mr. Kennedy on October 23, 2017, that disposed of an administrative complaint filed by Colorado State Senator Irene Aguilar on March 13, 2017 alleging that Mr. Kennedy engaged in individual professional lobbyist activities during the 2017 Colorado legislative session without first registering as required by C.R.S. § 24-6-303 (2017), and that he failed to file reports disclosing his individual professional lobbyist activities during the 2017 Colorado legislative session as required by C.R.S. § 24-6-302 (2017), which is referred to generally in this Release as the "Dispute";

WHEREAS, after Mr. Kennedy initiated the Litigation but before the Parties reached an agreement in principle to settle the Litigation, Senator Aguilar submitted additional administrative complaints to CDOS alleging that Mr. Kennedy violated certain provisions of Title 24, Article 6, Part 3 of Colorado Revised Statutes while engaging in individual professional lobbyist activities during the 2017 Colorado legislative session, as well as earlier legislative sessions, that were not addressed by the Order and Stipulation issued by CDOS and executed by Mr. Kennedy on October 23, 2017, which is referred to generally in this Release as the "Expanded Dispute";

WHEREAS the Parties reached an agreement in principle to settle the Litigation and the Expanded Dispute on February 14, 2018, that was expressly contingent on the subsequent performance of specific actions by Mr. Kennedy and CDOS;

WHEREAS, in partial performance of the terms of the Parties' agreement in principle to settle the Litigation and the Expanded Dispute, Mr. Kennedy tendered a certified check in the compromised amount of \$22,500.00 USD to CDOS's counsel of record in the Litigation on February 14, 2018;

WHEREAS, in partial performance of the terms of the Parties' agreement in principle to settle the Litigation and the Expanded Dispute, CDOS staff updated Mr. Kennedy's individual professional lobbyist online account to reflect his compromised compliance with the final agency Order and Stipulation issued by CDOS and executed by Mr. Kennedy on October 23, 2017, thereby enabling Mr. Kennedy to register online

as an individual professional lobbyist for the 2018 Colorado legislative session as of February 14, 2018;

WHEREAS the Parties wish to avoid the uncertainties and expense of further litigation, and to settle and compromise on the terms set forth below any and all claims related to the Litigation and the Expanded Dispute;

WHEREAS this Release is made as a compromise of disputed claims and defenses and is intended to terminate all controversies between the Parties related to the Litigation and the Expanded Dispute.

NOW, THEREFORE, in consideration of the foregoing recitals, the Parties hereby expressly agree and covenant as follows:

1. DISMISSAL OF THE LITIGATION: Within three (3) business days of the Effective Date of this Release, the Parties will cause to be filed a C.R.C.P. 41(a)(1)(B) Joint Stipulation of Dismissal that: (a) has been signed by all counsel of record in the Litigation; (b) notifies the Denver County District Court that the Litigation is thereby dismissed with prejudice; and (c) notifies the Denver County District Court that Mr. Kennedy and the CDOS shall each bear their own attorney's fees and costs related to the Litigation.

2. RELEASE AND COVENANT NOT TO SUE BY MR. KENNEDY: Mr. Kennedy, for himself, his agents, assigns, heirs, representatives, attorneys, and subrogees, hereby releases, acquits, and forever discharges CDOS, 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 actions, debts, demands, liabilities, losses, injuries, and/or damages arising from or relating to the Litigation and/or the Expanded Dispute, whether now known and/or currently asserted, or that come to be known in the future. This Release extends and applies to all known and/or currently asserted claims for attorney's fees and costs related to the Litigation and the Expanded Dispute, as well as any such claim that comes to be known in the future. The provisions of any state, local, federal, or territorial law or statute providing in substance that releases shall not extend to claims, demands, injuries, or damages which are unknown or unsuspected to exist at the time by the person(s) executing such release, are expressly waived. Mr. Kennedy further expressly agrees and covenants that he will not sue, assert any cause of action, or file any appeal, at law or in equity, and whether before a court of law or an administrative agency, against CDOS, the State of Colorado, or any of their former, current, and successor officers, employees, agents, and attorneys, for any claim, including a claim for attorney's fees and costs, arising from or related to the Litigation and/or the Expanded Dispute.

3. RELEASE AND COVENANT NOT TO SUE BY CDOS: CDOS, for itself, its former, current, and successor officers, employees, agents, representatives, and attorneys, hereby releases, acquits, and forever discharges Mr. Kennedy from any

and all claims, counterclaims, actions, causes of actions, debts, demands, liabilities, losses, injuries, and/or damages arising from or relating to the Litigation and/or the Expanded Dispute, whether now known and/or currently asserted, or that come to be known in the future. This Release extends and applies to all known and/or currently asserted claims for attorney's fees and costs related to the Litigation and the Expanded Dispute, as well as any such claim that comes to be known in the future. The provisions of any state, local, federal, or territorial law or statute providing in substance that releases shall not extend to claims, demands, injuries, or damages which are unknown or unsuspected to exist at the time by the person(s) executing such release, are expressly waived. CDOS further expressly agrees and covenants that it will not sue, assert any cause of action, or file any appeal, at law or in equity, and whether before a court of law or an administrative agency, against Mr. Kennedy for any claim, including a claim for attorney's fees and costs, arising from or related to the Litigation and/or the Expanded Dispute.

4. UNKNOWN FACTS AND CLAIMS: The Parties acknowledge that they may hereafter discover facts from, or in addition to those which they now know or believe to be true with respect to the claims and counterclaims released hereby, and they agree that the Release shall be and remain effective in all respects notwithstanding such different or additional facts or the discovery thereof. For the avoidance of doubt, the Parties acknowledge that this Release (specifically including the releases set forth above in Paragraphs 2 and 3) is and is intended to be broad and includes any and all claims that were, are, or could be related to, or in any way based upon, any actual or potential complaint about Mr. Kennedy's pre-2018 Colorado legislative session individual professional lobbyist activities (specifically including his individual registration, reporting, or disclosure obligations for such activities) for any and all time periods up to and including February 14, 2018.

5. INTENDED THIRD PARTY BENEFICIARIES: The Parties agree and acknowledge that the State of Colorado and its departments, agencies, officers, officials, agents, and employees, although not signatory parties hereto, are intended third-party beneficiaries of this Full and final Release, and shall have the right to rely on and enforce this Release in any court of competent jurisdiction in the event that claims asserted against them for attorney fees and costs are not dismissed or any action on claims released hereby may be threatened or commenced hereafter.

6. NO ADMISSION OF LIABILITY: This Agreement is entered only for the purposes of avoiding litigation and does not constitute an admission of liability or evidence of any wrongdoing or omission of any kind. This Agreement shall not be offered or received into evidence or otherwise filed or lodged in any proceeding against any party except as may be necessary to prove or enforce its terms.

7. FURTHER ASSURANCES: The Parties agree to execute and deliver such documents and to perform such other acts, promptly upon request, as any other

Party hereto requests and which are reasonably necessary or appropriate to effectuate the purposes of this Release.

8 OPEN RECORDS ACT AND OTHER DISCLOSURE PROVIDED BY LAW: Mr. Kennedy understands and agrees that CDOS, the State of Colorado, and all of their current and successor officers, employees, agents, representatives, and attorneys, are bound by applicable public disclosure laws, including, without limitation, the provisions of the Colorado Open Records Act, § 24-72-200.1, *et seq.*, C.R.S. (2017), as presently or subsequently amended, and are required to disclose this Release in its entirety if requested to do so under any applicable law. Mr. Kennedy, his agents, assigns, heirs, representatives, attorneys, and subrogees, expressly agree not to hold CDOS, the State of Colorado, or any of their current and successor officers, employees, agents, representatives, and attorneys liable for the public disclosure of this Release under any applicable law.

9 WARRANTIES AND REPRESENTATIONS: The Parties, through their authorized representatives, represent and warrant that they are the sole owners of any and all claims and counterclaims released hereby, and they have not assigned or transferred any claim or counterclaim arising from or related to the Litigation and/or the Expanded Dispute to any third-party. The Parties further represent and warrant that no third-party has been subrogated to their interest in any claim or counterclaim released hereby, or if any third-party has been subrogated to a Party's interest, that the interest of any subrogee has been settled, compromised, and extinguished as of the Effective Date of this Release.

10. INTEGRATION: This Release constitutes the entire agreement of the Parties regarding the subject matter hereof. The terms of this Release are contractual in nature and not mere recitals. As such, the Parties understand, acknowledge and agree that this Release is fully integrated and supersedes all previous oral or written agreements of the Parties.

11. BINDING EFFECT: This Release shall inure to the benefit of, and be binding upon, the heirs, successors, assigns and legal representatives of the Parties and any third-party beneficiaries.

12. GOVERNING LAW: This Release is entered into in the State of Colorado, and shall be governed by the laws of the State of Colorado.

13. HEADINGS: The headings used in this Release are for the convenience of the Parties only. As such, these headings shall not have any legal effect whatsoever or, in any other way alter or modify the meaning or interpretation of the express terms of this Release.

14. **SEVERABILITY:** If any provision of this Release should be declared to be unenforceable, the remainder of this Release shall continue to be binding upon the Parties.

15. **ADVICE OF COUNSEL:** This Release is entered into voluntarily by the Parties, without duress and after each party has had the opportunity to consult with legal counsel of his or her choosing, has read and understood the release and obtained full knowledge of its legal significance.

16. **COSTS:** The Parties agree that each Party shall be responsible for their own costs and expenses, including attorney's fees, associated with the negotiation and execution of this Release.

17. **EXECUTION IN COUNTERPARTS:** This Release may be executed in counterparts, each of which shall have full force and effect upon execution by all Parties to this Release.

18. **EFFECTIVE DATE:** The effective date of this Release is the date on which the last of the signatory Parties executes same ("Effective Date").

CAUTION: THIS A RELEASE. READ BEFORE SIGNING.


FOR COLLON KENNEDY:



Collon Kennedy

DATE: 4/20/18

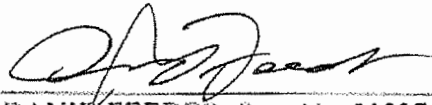
FOR THE COLORADO DEPARTMENT OF STATE:



Suzanne Staiert,
Colorado Deputy Secretary of State

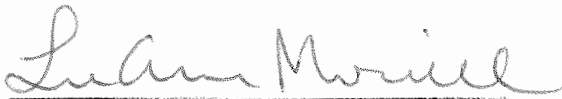
DATE: 4/20/18

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