



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

December 1, 2022

**Via Email**

[jweddle@weddlelaw.com](mailto:jweddle@weddlelaw.com)

Justin Weddle, Esq.  
250 West 55th Street, 30th Floor  
New York, NY 10019

RE: MURs 7628 and 7636  
WeBuildTheWall, Inc.

Dear Mr. Weddle:

On November 16, 2022, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of a violation of 52 U.S.C. § 30118, a provision of the Federal Election Campaign Act of 1971, as amended, regarding WeBuildTheWall, Inc., making a corporate contribution by renting an email list below market value.

As to the other allegations in these matters, the Commission was equally divided on whether to find reason to believe that your client violated 52 U.S.C. § 30118 by making a corporate contribution by permitting usage of its corporate logo. There was also an insufficient number of votes to dismiss this allegation. If the Commission issues a Statement of Reason(s) on this issue, it will be provided. Accordingly, the Commission has closed the file in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 52 U.S.C. § 30109(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1021.

Sincerely,

*Richard Weiss*

Richard L. Weiss  
Attorney

Enclosure  
Conciliation Agreement

## BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Kris Kobach	)	MURs 7628, 7636 & 7992
Kobach for Senate and	)	
Elizabeth Curtis in her	)	
official capacity as treasurer	)	
WeBuildTheWall, Inc	)	
	)	

### CONCILIATION AGREEMENT

These matters were initiated by signed, sworn, and notarized complaints and pursuant to information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Kris Kobach, Kobach for Senate and Elizabeth Curtis in her official capacity as treasurer (the “Committee”), and WeBuildTheWall, Inc. (collectively, “Respondents”) violated 52 U.S.C. § 30118 of the Federal Election Campaign Act of 1971, as amended (the “Act”). The Commission also found reason to believe that the Committee violated 52 U.S.C. § 30104(b).

NOW, THEREFORE, the Commission and Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

- I. The Commission has jurisdiction over Respondents and the subject matter of this proceeding, and this Agreement has the effect of an agreement entered pursuant to 52 U.S.C. § 30109(a)(4)(A)(i).
- II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Respondents enter voluntarily into this Agreement with the Commission.
- IV. The pertinent facts and law in this matter are as follows:

1. Kris Kobach was a candidate for U.S. Senate in Kansas in 2020 and the Committee is his principal campaign committee.

2. WeBuildTheWall, Inc. (“WBTW”) is a 501(c)(4) non-profit organization incorporated in Florida.

3. Under the Act, corporations are prohibited from making a contribution to a candidate’s committee, and candidates and their committees are prohibited from knowingly accepting or receiving a prohibited contribution. 52 U.S.C. § 30118(a); *accord* 11 C.F.R. § 114.2(a). A “contribution” includes “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.” 52 U.S.C. § 30101(8)(A)(i); 11 C.F.R. § 100.52(a). “Anything of value” includes all in-kind contributions, including the provision of goods or services without charge or at a charge that is less than the usual and normal charge. 11 C.F.R. § 100.52(d)(1).

4. The Act requires committee treasurers to file reports of receipts and disbursements. 52 U.S.C. § 30104(a)(1); *accord* 11 C.F.R. § 104.1(a). Political committees are required to report the name and address of each person who makes a contribution aggregating more than \$200 per calendar year, or per election cycle for authorized committees, as well as the date, amount, and purpose of such payments. 52 U.S.C. § 30104(b)(3)(A); 11 C.F.R. § 104.3(a)(4).

5. The Committee rented WBTW’s 295,000-person email list, which consisted of past donors to WBTW, to solicit contributions to the Committee for a rate of \$2,000 — significantly below the usual and normal charge for comparable political list rentals.

6. On July 18, 2019, and August 1, 2019, the Committee sent emails to WBTW's email list from the WBTW server, announcing Kobach's candidacy, and soliciting contributions to the Committee.

7. Respondents contend that the Committee and WBTW believed, at the time of the rental, that the rental rate was consistent with market rates for non-candidate lists, but now agree that it was significantly below the usual and normal rate for comparable political list rentals.

V. Respondents committed the following violations:

1. Kris Kobach and the Committee violated 52 U.S.C. § 30118 by accepting an in-kind corporate contribution from WBTW in the form of a list rental below the usual and normal charge.

2. WBTW violated 52 U.S.C. § 30118 by making an in-kind corporate contribution to the Committee in the form of a list rental below the usual and normal charge.

3. The Committee violated 52 U.S.C. § 30104(b) by failing to report the in-kind corporate contribution from WBTW.

VI. Respondents will take the following actions:

1. Respondents will pay a civil penalty of Thirty Thousand Dollars (\$30,000) pursuant to 52 U.S.C. § 30109(a)(5)(A).

2. Respondents will cease and desist from violating 52 U.S.C. §§ 30118 and 30104(b).

VII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this Agreement. If the Commission believes that this Agreement or any

requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This Agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than thirty (30) days from the date this Agreement becomes effective to comply with and implement the requirements contained in this Agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written Agreement shall be enforceable.

FOR THE COMMISSION:

Lisa Stevenson  
Acting General Counsel


BY: **Charles Kitcher**  
Charles Kitcher  
Associate General Counsel  
for Enforcement

Digitally signed  
by Charles Kitcher  
Date: 2022.11.18  
11:07:34 -05'00'


11/18/22

Date

FOR THE RESPONDENTS:

  
Michael Adams, Esq.  
Counsel for Kris Kobach  
and Kobach for Senate

November 3, 2022  
Date

  
Justin Weddle, Esq.  
Counsel for WeBuildTheWall, Inc.

Nov. 1, 2022  
Date