



**FEDERAL ELECTION COMMISSION**  
Washington, DC 20463

April 8, 2022

**VIA ELECTRONIC MAIL**

Thomas J. Spulak  
John Richter  
William McClintock  
King & Spalding, LLP  
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[tspulak@kslaw.com](mailto:tspulak@kslaw.com)

RE: MUR 7613

Dear Messrs. Spulak, Richter, and McClintock:

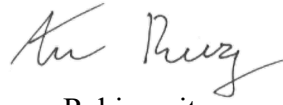
On April 6, 2022, the Federal Election Commission accepted the signed conciliation agreement submitted on behalf of your clients, Zekelman Industries, Inc., and Wheatland Tube, LLC, in settlement of violations of 52 U.S.C. § 30121. Further, on April 6, 2022, the Commission voted to take no further action as to your client, Barry Zekelman. Accordingly, the file has been closed 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) 694-1476 or [arabinowitz@fec.gov](mailto:arabinowitz@fec.gov).

Messrs. Spulak, Richter, and McClintock  
MUR 7613  
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Sincerely,

A handwritten signature in cursive script, appearing to read "A. Rabinowitz".

Aaron Rabinowitz  
Attorney

Enclosure  
Conciliation Agreement

# BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Zekelman Industries, Inc.,	)	MUR 7613
Wheatland Tube, LLC	)	
	)	
	)	

## CONCILIATION AGREEMENT

This matter was generated by a complaint filed with the Federal Election Commission (“Commission”). The Commission found reason to believe that Zekelman Industries, Inc., and Wheatland Tube, LLC, (collectively, the “Respondents”) violated 52 U.S.C. § 30121(a)(1)(A).

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

I. The Commission has jurisdiction over the 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 in this matter are as follows:

1. Wheatland Tube, LLC, is a pipe and tube manufacturer that is organized under the laws of Pennsylvania.

2. Zekelman Industries, Inc., is the parent company of Wheatland Tube and is incorporated in Delaware and headquartered in Illinois.

3. Barry Zekelman is a Canadian citizen and is the Chief Executive Officer, Chairman, and an owner of Zekelman Industries.

4. Mickey McNamara is a United States citizen and is the President and a Director of Wheatland Tube and General Counsel of Zekelman Industries.

5. America First Action, Inc. ("AFA"), is registered with the Commission as an independent expenditure-only political committee. Jon Proch is its Treasurer.

6. Wheatland Tube made three contributions to AFA in the following amounts: \$1 million on April 5, 2018; \$250,000 on June 4, 2018; and \$500,000 on October 17, 2018.

7. Prior to Wheatland Tube's contributions to AFA, Roger Schagrin, who is counsel for Zekelman Industries, communicated with Barry Zekelman regarding contributing to AFA through a U.S.-based company with which Zekelman was affiliated. Zekelman thereafter discussed the information provided by Schagrin and Wheatland Tube's contributions to AFA with McNamara.

8. A "foreign national" is prohibited from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure, independent expenditure, or disbursement, in connection with a federal, state, or local election. 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.20(b), (c), (e), (f). A "foreign national" includes an individual who is not a citizen or national of the United States and who is not lawfully admitted for permanent residence. 52 U.S.C. § 30121(b); 22 U.S.C. § 611(b)(3); *see also* 11 C.F.R. § 110.20(a)(3).

9. Commission regulations implementing the Act's foreign national prohibition provide that "a foreign national shall not direct, dictate, control, or directly or

indirectly participate in the decision-making process of any person, such as a corporation . . . with regard to such person's . . . election-related activities, such as decisions concerning the making of contributions." 11 C.F.R. § 110.20(i).

V. Respondents contend that the contributions were made with the good faith understanding that they were permissible. Respondents further contend that Mr. McNamara, as the President of Wheatland Tube, and in consultation with and the concurrence of the other U.S.-based director of Wheatland Tube, exercised his authority to approve Wheatland Tube's contributions. Respondents also contend that the funds that were contributed to AFA came from Wheatland Tube's accounts, and the contributions were not reimbursed by Zekelman Industries, Mr. Zekelman, or any other entity or individual. And Respondents contend that neither Mr. McNamara nor Mr. Zekelman had an understanding that having Mr. Zekelman participate in discussions about a contribution, when the contribution would be made by a U.S. company with the approval of its U.S. officers and directors, could have any legal implications.

VI. As a result of Zekelman's communications regarding having Wheatland Tube contribute to AFA, Wheatland Tube, LLC and Zekelman Industries, violated 52 U.S.C. § 30121(a)(1) when Wheatland Tube made three contributions totaling \$1,750,000 to AFA after Zekelman, a foreign national and a Zekelman Industries officer and director, participated in Wheatland Tube's decision-making process in the making of the contributions.

VII. The Commission did not find that the violation was knowing or willful.

VIII. To resolve this matter expeditiously and without the uncertainty and expense of litigation, Respondents will take the following actions:

1. Respondents will cease and desist from committing further violations of 52 U.S.C. § 30121(a)(1)(A).
2. Respondents will pay a civil penalty to the Commission in the amount of nine hundred seventy-five thousand dollars (\$975,000), pursuant to 52 U.S.C. § 30109(a)(5)(A).
3. Respondents will request that AFA refund the \$1,750,000 in contributions or, in the alternative, request that AFA disgorge the \$1,750,000 in contributions to the U.S. Treasury. Respondents will inform the Commission when it notifies AFA of the matters set forth in this paragraph, and of any refund or disgorgement of the \$1,750,000 in contributions.

IX. 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.

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

XI. Respondents shall have no more than 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.

XII. This Conciliation Agreement constitutes the entire agreement between the Commission and Respondents and constitutes a final settlement as to Respondents and their officers and directors. 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 J. Stevenson  
Acting General Counsel

**Charles  
Kitcher**

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Charles Kitcher  
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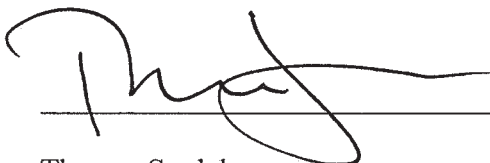
BY:

Charles Kitcher  
Associate General Counsel  
for Enforcement

4/7/22

Date

FOR THE RESPONDENTS:



Thomas Spulak  
Counsel for Respondents

March 24, 2022

March 24, 2022