



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA EMAIL

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January 12, 2022

Michael Bayes, Jason Torchinsky, & Timothy Kronquist
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Washington, DC 20037

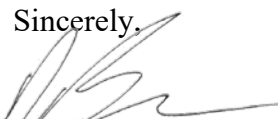
RE: MUR 7923
Friends of David Schweikert and
Valerie Giramberk in her official
capacity as treasurer

Dear Messrs. Bayes, Torchinsky, and Kronquist:

On December 15, 2021, 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. § 30104(b)(5) and (b)(6) and 11 C.F.R. § 104.3(b)(3) and (b)(4) by misreporting the purpose of disbursements; 52 U.S.C. § 30104(b)(5) and (b)(6) by misreporting the payees of disbursements; and 52 U.S.C. § 30114(b) and 11 C.F.R. § 113.1(g) by converting campaign funds to personal use. 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) 694-1650.

Sincerely,

Nicholas Bamman

Enclosure:
Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	MUR 7923
Friends of David Schweikert and)	
Valerie Giramberk in her official capacity as)	
as treasurer)	

CONCILIATION AGREEMENT

This matter was generated by a *sua sponte* submission filed by Friends of David Schweikert and Valerie Giramberk in her official capacity as treasurer (the “Committee” or “Respondent”) with the Federal Election Commission (the “Commission”). The Commission found reason to believe that Respondent knowingly and willfully violated 52 U.S.C. § 30104(b)(5) and (b)(6) and 11 C.F.R. § 104.3 (b)(3) and (b)(4) by misreporting the purpose of disbursements; Respondent knowingly and willfully violated 52 U.S.C. § 30104(b)(5) and (b)(6) by misreporting the payees of disbursements; and Respondent knowingly and willfully violated 52 U.S.C. § 30114(b) and 11 C.F.R. § 113.1(g) by converting campaign funds to personal use.

NOW, THEREFORE, the Commission and the Respondent, 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 the Respondent 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. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. David Schweikert has served as the U.S. Representative for Arizona's 5th or 6th District from 2011 through the present.
2. The Committee has been Schweikert's principal campaign committee since January 11, 2013 through the present.
3. Oliver Schwab was Schweikert's Campaign Manager and Chief of Staff in his House of Representatives office from approximately 2010 until July 2018. Chartwell Associates, LLC is Schwab's single-member LLC.
4. Respondent reported approximately \$78,000 in disbursements with insufficiently detailed purpose entries, for example using generic labels such as "strategic consulting" for purposes such as "advertising," "website design," "lodging," and "food & beverage." Respondent also misreported payees for approximately \$50,000 in disbursements by, for example, reporting disbursements to Schwab's personal credit card companies instead of the underlying vendor or disclosing that Schwab made the underlying disbursement. The Commission's Factual and Legal Analysis stated that "The Ethics Committee, however, found that the improper purpose statements were not just inadequately vague descriptions of campaign expenses, but intentional misstatements designed to conceal the real purpose of disbursements and Schwab's involvement in the transaction."
5. As Campaign Manager, Schwab had the authority to receive contributions and make disbursements on behalf of the Schweikert Committee. Schwab submitted to the Committee false consulting invoices for Chartwell in order to conceal the true purpose of certain disbursements and further concealed his own involvement by routing payments through Chartwell. Schwab's falsification of records, including submitting false purpose of disbursement

and payee records to the treasurer, undermined the Schweikert Committee's ability to file accurate reports with the Commission.

6. The Report of the U.S. House of Representatives Committee on Ethics concluded that the Schweikert Committee made disbursements from its funds to pay for expenses such as childcare expenses and repaying staff for their payment of Schweikert's personal expenses including meals, dry cleaning, and flight upgrades for personal travel. The Committee on Ethics was unable to assess an exact amount in violation due to a lack of underlying records, but was able to identify \$1,476.90 of such expenses.

7. The Act and Commission regulations require political committees to report the name and address of each person to whom they make expenditures or other disbursements 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)(5), (6); 11 C.F.R. § 104.3(b)(4). Commission regulations define "purpose" as a "brief statement or description of why the disbursement was made." 11 C.F.R. § 104.3(b)(4)(i)(A).

8. Merely reporting the immediate recipient of a committee's payment will not satisfy the requirements of 52 U.S.C. § 30104(b)(5) when the facts indicate that the immediate recipient is merely a conduit for the intended recipient of the funds or where a committee took efforts to conceal the ultimate payee.

9. The Act prohibits the conversion of campaign funds by any person to "personal use," and defines personal use as the use of funds in a campaign account "to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal office." 52 U.S.C. § 30114(b).

10. The Commission's implementing regulation enumerates types of disbursements that are *per se* personal use. 11 C.F.R. § 113.1(g)(1)(i). For all other disbursements, the regulation provides that the Commission shall determine on a case-by-case basis whether a given

disbursement is personal use by applying the “irrespective test” formulated in the statute. *Id.*

§ 113.1(g)(1)(ii).

V. Respondent committed the following violations:

1. Respondent violated 52 U.S.C. § 30104(b)(5) and (b)(6) and 11 C.F.R. § 104.3(b)(3) and (b)(4) by misreporting the purpose of disbursements.

2. Respondent violated 52 U.S.C. § 30104(b)(5) and (b)(6) by misreporting the payees of disbursements.

3. Respondent violated 52 U.S.C. § 30114(b) and 11 C.F.R. § 113.1(g) by converting campaign funds to personal use.

4. Respondent acknowledges that the Commission found reason to believe that these violations were knowing and willful, but does not admit to the knowing and willful aspect of these violations.

VI. Respondent will take the following actions:

1. Respondent will pay a civil penalty to the Federal Election Commission in the amount of one hundred and twenty-five thousand dollars (\$125,000), pursuant to 52 U.S.C. § 30109(a)(5)(A).

2. Respondent will cease and desist from violating 52 U.S.C. §§ 30104(b)(5), (b)(6) and 30114(b) and 11 C.F.R. §§ 104.3 (b)(3), (b)(4) and 113.1(g).

3. Respondent will amend its disclosure reports to accurately reflect payees and purposes of disbursements.

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.

MUR 7923 (Friends of David Schweikert)

Conciliation Agreement

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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. Respondent 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.

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 J. Stevenson
Acting General Counsel

BY: Charles Kitcher
Charles Kitcher
Associate General Counsel for
Enforcement

1/11/22
Date

FOR THE RESPONDENT:

Jason Torchinsky
Counsel to Respondent

11/12/2021
Date