



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA EMAIL

eberke@berkefarah.com

January 12, 2022

Elliot S. Berke
Berke Farah LLP
701 8th Street NW, Suite 620
Washington, DC 20001

RE: MUR 7923
Richard Oliver Schwab

Dear Mr. Berke:

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. § 30102(c)(5) by failing to maintain records. 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,

A handwritten signature in black ink, appearing to read "Nicholas Bamman".

Nicholas Bamman

Enclosure:
Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	MUR 7923
Richard Oliver Schwab)	

CONCILIATION AGREEMENT

This matter was generated by a *sua sponte* submission filed by Richard Oliver Schwab (“Respondent”) with the Federal Election Commission (the “Commission”). The Commission found reason to believe that Respondent violated 52 U.S.C. § 30102(c)(5) by failing to maintain records of disbursements made by the Schweikert Committee.

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. Friends of David Schweikert (“the Schweikert Committee” or “the Committee”) has been Schweikert’s principal campaign committee since January 10, 2013 through the present.

3. Schwab was Schweikert's Campaign Manager and Chief of Staff in his House of Representatives office from approximately 2010 until July 2018, excluding a period of time between 2012-2013 when Schwab did not serve in either capacity. Chartwell Associates LLC ("Chartwell") was Schwab's single-member LLC.

4. The Schweikert Committee 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." The Schweikert Committee 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 and disclosing that Schwab made the underlying disbursement to the underlying vendor. The Factual and Legal Analysis notes that "Schwab testified that Schweikert was aware of the arrangement, and instructed him to 'be creative' in seeking reimbursement for [Schweikert's] personal use expenditures."

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 consulting services invoices on behalf of Chartwell for expenses related to goods and services that were, in some instances, provided by other vendors for purposes other than consulting services. These invoices, listing Chartwell as the payee instead of the underlying vendor and an inaccurate purpose of the disbursement, contributed to the filing of inaccurate disclosure reports by the Schweikert Committee to the Commission.

6. The Act and Commission regulations provide that political committees must maintain an accurate account of its disbursements and must report those amounts in its public filings with the Commission. 52 U.S.C. §§ 30102(c)(5) and 30104(b)(4), (b)(5); 11 C.F.R. §§ 104.3 and

104.14(d). The Commission has further recognized that these obligations apply to the treasurer of the committee “or an agent authorized by the treasurer to receive contributions and make expenditures.” 11 C.F.R. § 102.9.

7. Commission regulations define “purpose” as a “brief statement or description of why the disbursement was made.” 11 C.F.R. § 104.3(b)(3)(i)(A)-(B), (b)(4)(i)(A). “The ‘purpose of disbursement’ entry, when considered along with the identity of the disbursement recipient, must be sufficiently specific to make the purpose of the disbursement clear.” Statement of Policy: “Purpose of Disbursement” Entries for Filings with the Commission, 72 Fed. Reg. 887 (Jan. 9, 2007)

8. Neither the Act nor the Commission’s relevant implementing regulations address the concepts of ultimate payees, vendors, agents, contractors, or subcontractors in the context of payee reporting. Advisory Op. 1983-25 (Mondale for President). The Commission has determined, however, that merely reporting the immediate recipient of a committee’s payment will not satisfy the requirements of Section 30104(b)(5) when the facts indicate that the immediate recipient is merely a conduit for the intended recipient of the funds. Factual and Legal Analysis at 9, MUR 6724 (Bachmann for President).

V. Respondent violated 52 U.S.C. § 30102(c)(5) by failing to maintain records.

VI. Respondent will take the following actions:

1. Respondent will pay a civil penalty to the Federal Election Commission in the amount of seven thousand five hundred dollars (\$7,500) pursuant to 52 U.S.C. § 30109(a)(5)(A).
2. Respondent will cease and desist from violating 52 U.S.C. § 30102(c)(5).

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. 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 1/11/22
Charles Kitcher Date
Associate General Counsel
for Enforcement

FOR THE RESPONDENT:

Elliot S Berke 11/10/21
(Name) Elliot S Berke Date
(Position) Counsel for Richard Oliver Schools