



FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 30, 2023

Via Email

RWilson@nativelawgroup.com

Rollie Wilson, Esq.
Patterson Earnhart Real Bird & Wilson LLP
601 Pennsylvania Ave., NW
South Building, Suite 900
Washington, D.C. 20004

RE: MUR 8067 (UtePAC)

Dear Mr. Wilson:

On March 28, 2023, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of violations of 52 U.S.C. §§ 30102(c), 30102(d), 30102(h), and 30104(b) of the Federal Election Campaign Act of 1971, as amended. 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. Payment can be made by check payable to the Federal Election Commission and mailed to the Federal Election Commission, 1050 First Street NE, Washington DC 20463. Please write "MUR 8067 civil penalty" on the memo line of the check. Alternatively, payment can be made online by using this link: <https://www.pay.gov/public/form/start/316805379>. 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)	
)	
UtePAC and Skyler Massy)	MUR 8067
in his official capacity as treasurer)	

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission (“Commission”) pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that UtePAC and its treasurer (“Respondent” or “Committee”) violated 52 U.S.C. §§ 30102(c) and (d), 30102(h) and 30104(b), provisions of the Federal Election Campaign Act of 1971, as amended (the “Act”).

NOW, THEREFORE, the Commission and 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 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. The Ute Indian Tribe established UtePAC, a nonconnected political committee, in September 2016. It is a political committee within the meaning of 52 U.S.C. § 30101(4). Respondent is a separate and distinct legal entity from the Ute Indian Tribe.

2. Skyler Massy is the current treasurer of UtePAC. Violations covered by this Agreement occurred while Robert Lucero served as treasurer for the Committee.

3. The Act requires committee treasurers to file accurate reports of receipts and disbursements and the cash on hand. 52 U.S.C. § 30104(b).

4. A political committee may only make expenditures in cash, not to exceed \$100, from a petty cash fund. 52 U.S.C. § 30102(h). A written journal for such cash expenditures is to be maintained by the treasurer. 11 C.F.R. § 102.11. All other disbursements shall be made by check or similar draft drawn on accounts established at the committee's depositories. 52 U.S.C. § 30102(h).

5. The Act requires each political committee to maintain records with respect to the matters required to be reported, which shall provide in sufficient detail the necessary information and data from which the filed reports may be verified, explained, clarified, and checked for accuracy and completeness. 52 U.S.C. § 30102(c) and (d).

6. The Act requires committees to report the correct purpose of disbursements on reports filed with the Commission. 52 U.S.C. § 30104(b)(5)(A).

7. In its original reports the Committee understated receipts by \$209,332 and disbursements by \$198,202, overstated beginning cash on hand by \$15,422, and understated ending cash on hand by \$12,065 in calendar year 2018. In response to the Commission's audit, the Committee corrected the misstated receipts, disbursements, beginning cash on hand and ending cash on hand for 2018 by filing several Form 99 (Miscellaneous Electronic Submission) submissions. Additionally, the Committee continued to misstate its financial activity in 2019 and 2020.

8. The Committee understated its receipts by \$248,162 and disbursements by \$255,268 on the original reports filed over the two-year period ending on December 31, 2018. Additionally, the Committee disbursed \$317,619.98 between December 2018 and February 2020, but disclosed only \$20,943.61 in total disbursements during the entire 2019-2020 election cycle.

9. The Committee made cash disbursements, totaling \$13,590, which were cash withdrawals, including ATM withdrawals from the Committee's bank account in 2017-2018. The Committee did not use a petty cash fund for these withdrawals, nor did it ever maintain a petty cash fund. The Committee made an additional \$57,985.17 in cash withdrawals in 2018-2019.

10. The Committee did not maintain sufficient records for 16 transactions totaling \$18,140, nor did the Committee maintain records to support 15 disbursements on Schedules B and H4 totaling \$61,822 in 2017-2018. Additionally, the Committee failed to maintain records to support \$317,619.98 in disbursements in 2018-2019.

11. The Committee contends that while it understands that it bears the ultimate responsibility for compliance with the Commission's reporting requirements, it relied upon the Committee's former treasurer and director, Robert Lucero, to comply with Commission regulations, who was found to have violated the Act and Commission regulations in his personal capacity by failing to keep records and file accurate disclosure reports. The Committee contends that since becoming aware of the violations, the Committee terminated Mr. Lucero. On September 13, 2022, the Commission and Mr. Lucero entered into a conciliation agreement regarding the same violations addressed in this conciliation agreement.

V. The parties agree to the following:

1. Respondent violated 52 U.S.C. § 30104(b) by misstating financial activity.
2. Respondent violated 52 U.S.C. § 30104(b) by understating total receipts and disbursements.
3. Respondent violated 52 U.S.C. § 30102(h) by making cash disbursements.
4. Respondent violated 52 U.S.C. § 30102(c) and (d) by failing to maintain records to support disbursements.
5. Respondent violated 52 U.S.C. § 30104(b) by failing to correctly disclose disbursements.

VI.

1. In ordinary circumstances, the Commission would seek a substantially higher civil penalty based on the violations outlined in this agreement. However, the Commission is taking into account the fact that the Committee has agreed to terminate and as of the filing of its 2022 Post-General Report has \$20,226.21 in funds remaining. Respondent will pay a civil penalty to the Federal Election Commission in the amount of Seventeen Thousand Dollars (\$17,000), pursuant to 52 U.S.C. § 30109(a)(5)(A).

2. Respondent will cease and desist from violating 52 U.S.C. §§ 30102(c) and (d), 30102(h) 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.

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 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

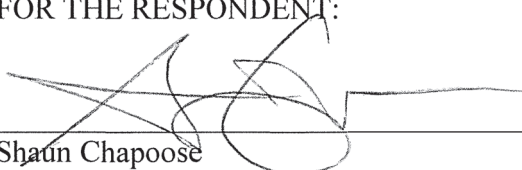
BY: **Charles Kitcher**
 Charles Kitcher
 Associate General Counsel
 for Enforcement

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 Charles Kitcher
 Date: 2023.03.30
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3/30/23

Date

FOR THE RESPONDENT:


 Shaun Chapoose
 UtePAC Designated Representative

Date

2/9/2023