

BEFORE THE FEDERAL ELECTION COMMISSION

CAMPAIGN LEGAL CENTER
1101 14th Street NW, Suite 400
Washington, DC 20005
(202) 736-2200

MARGARET CHRIST
1101 14th Street NW, Suite 400
Washington, DC 20005
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v.

MUR No. _____

WEBUILDTHEWALL, INC.
PO Box 131567
Houston, TX 77219

COMPLAINT

This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information and belief that WeBuildTheWall, Inc., has violated the Federal Election Campaign Act (“FECA”), 52 U.S.C. § 30101 *et seq.*

1. On August 1, 2019, WeBuildTheWall solicited its email subscribers for contributions to the United States Senate campaign of Kris Kobach, who is a director of WeBuildTheWall. By doing so, WeBuildTheWall violated the federal prohibition on corporate facilitation of contributions to candidates, 11 C.F.R. § 114.2(f).
2. “If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [FECA] . . . [t]he Commission *shall* make an investigation of such alleged violation” 52 U.S.C. § 30109(a)(2) (emphasis added); *see also* 11 C.F.R. § 111.4(a).

FACTS

3. WeBuildTheWall, Inc., is a Florida corporation.¹ WeBuildTheWall’s website is webuildthewall.us.
4. Kris Kobach is a candidate in the 2020 United States Senate election in Kansas.² Kobach for Senate (FEC ID C00711325) is Kobach’s authorized committee.³
5. Kobach is a director of WeBuildTheWall.⁴
6. On August 1, 2019, the following mass email was sent from the address “info@webuildthewall.us”:⁵

¹ Fla. Dep’t of State Division of Corps., *Search for Corporations*, <http://search.sunbiz.org/Inquiry/CorporationSearch/ByName> (search for WeBuildTheWall) (last visited Aug. 8, 2019).

² Kris Kobach, FEC Form 2, <https://docquery.fec.gov/pdf/473/201907089150453473/201907089150453473.pdf>

³ *Id.*

⁴ *See* Fla. Dep’t of State, *supra* n.1; *see also* We Build the Wall, <https://webuildthewall.us/team/> (last visited Aug. 8, 2019).

⁵ *See* Lachlan Markay, *Kris Kobach Uses Border Wall Group to Fund Senate Bid, Likely Illegally*, Daily Beast (updated Aug. 2, 2019), <https://www.thedailybeast.com/kris-kobach-uses-border-wall-group-to-fund-senate-bid-likely-illegally>.

From: Kris Kobach - WeBuildTheWall, Inc. <info@webuildthewall.us>
Date: Thu, Aug 1, 2019 at 2:13 PM
Subject: It's not over
To: [REDACTED]



Dear [REDACTED]

The "Wall Symposium" was a huge success, and President Trump scored a huge win for the wall at the Supreme Court. For those of us who are working to secure our border and keep Americans safe, things are finally getting done.

I was excited to welcome dozens of conservative leaders and media influencers like Donald Trump Jr, Michelle Malkin, Candace Owens, and Congressmen Louis Gohmert to the wall that we were only able to build because of your generous support. I got to show off what we accomplished together and it was incredible.

Our work to secure our border and protect the constitution is far from over.



As you may have heard, **I've decided to run for the United States Senate in 2020**. I'm working hard to earn the support I need to win and frankly, I need to get you on my team.

As a donor to WeBuildTheWall, I humbly ask you to support my run for the Senate.

As a United States Senator I will fight to make sure that **the federal government completes the entire wall with the speed and quality that we are implementing with WeBuildTheWall!**

Kobach For Senate

I'm making calls to potential donors and would be happy to answer any questions you might have. You can schedule your call with me by emailing Jen@KrisKobach.com

If you don't want to talk on the phone but want to support my campaign with a financial contribution of \$50, \$100, \$250, \$500, or any amount up to the maximum of \$2800 per individual, you can do so by clicking [this link](#).

I'm want to represent you in the United States States the same way I'm going to continue to represent WeBuildTheWall as General Counsel. With your support I know we are going to get the job done!

Kobach For Senate

Sincerely,
Kris Kobach
General Counsel, WeBuildTheWall

WeBuildTheWall, Inc. | PO Box 131567, Houston, TX 77219-1567

[Unsubscribe](#) [REDACTED]

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Sent by info@webuildthewall.us in collaboration with



7. In the email, the two “Kobach For Senate” banners and the phrase “this link” were hyperlinked to Kobach for Senate’s fundraising page, <https://secure.anedot.com/kobach-for-senate/>.
8. On August 2, 2019, Common Cause and Paul S. Ryan filed with the Commission a complaint noting a number of FECA violations arising from this email.⁶

SUMMARY OF THE LAW

9. FECA prohibits any corporation from making a contribution in connection with a federal election. 52 U.S.C. § 30118. Commission regulations implementing this statute prohibit corporations from “facilitating the making of contributions to candidates or political committees.” 11 C.F.R. § 114.2(f)(1). “Facilitation means using corporate . . . resources or facilities to engage in fundraising activities in connection with any federal election . . .” *Id.*
10. The Commission has made clear that “fundraising activities” for purposes of section 114.2(f) include soliciting contributions, helping contributors make contributions, or helping campaigns engage in these activities, such as by hosting and organizing fundraising events or by providing “stamps, envelopes . . . , or other similar items which would aid in transmitting or delivering contributions.” 11 C.F.R. § 114.2(f)(2); *see, e.g.*, MUR 6322 (Square), Factual & Legal Analysis at 5 (Mar. 21, 2011), <http://eqs.fec.gov/eqsdocsMUR/11044291719.pdf> (noting that corporation would violate facilitation ban by allowing its logo to appear on invitation to campaign fundraiser); MUR 6218 (Ball4NY), Factual & Legal Analysis at 8 (June 22, 2010), <http://eqs.fec.gov/eqsdocsMUR/10044273088.pdf> (same); MUR 6215 (Tate Snyder

⁶ *See* https://www.commoncause.org/wp-content/uploads/2019/08/CC-v.-Kobach_FEC-Complaint_8.2.19.pdf.

Kimsey Architects), Factual & Legal Analysis at 11-15 (July 27, 2010), <http://eqs.fec.gov/eqsdocsMUR/15044384605.pdf> (finding that corporation violated facilitation ban by having corporate staff plan fundraiser, soliciting attendance at fundraiser, paying for catering at fundraiser, and collecting contributions at fundraiser); *cf.* MUR 7111 (Trump), Factual & Legal Analysis at 6 (June 18, 2018), <http://eqs.fec.gov/eqsdocsMUR/18044445579.pdf> (affirming that “[f]acilitation means using corporate resources or facilities to engage in fundraising activities in connection with any federal election” but dismissing matter because complaint “fail[ed] to implicate any fundraising activity”).

CAUSE OF ACTION

I. WEBUILDTHEWALL VIOLATED THE PROHIBITION ON CORPORATE FACILITATION OF CONTRIBUTIONS

11. As set forth above, WeBuildTheWall—which is a corporation—sent an email that explicitly solicited contributions to Kobach for Senate. The email was sent from a “webuildthewall.us” email address; used the sent-by name “Kris Kobach — WeBuildTheWall, Inc.”; displayed the WeBuildTheWall logo in the header; and concluded with the signature line “General Counsel, WeBuildTheWall.”
12. Under the Commission’s regulations and precedents, WeBuildTheWall violated section 114.2(f) by:
 - a. soliciting contributions to Kobach for Senate, 11 C.F.R. § 114.2(f)(1) (prohibiting corporate “fundraising activities in connection with any federal election”);
 - b. using WeBuildTheWall’s email list to solicit contributions to Kobach for Senate, 11 C.F.R. § 114.2(f)(2)(i)(C) (prohibiting use of “corporate . . . list of customers, clients, vendors, or others . . . to solicit contributions”);

- c. providing the link for recipients to make contributions to Kobach for Senate, *see* 11 C.F.R. § 114.2(f)(ii) (prohibiting corporations from “[p]roviding materials for the purpose of transmitting or delivering contributions, such as stamps, envelopes addressed to a . . . political committee . . . , or other similar items which would assist in transmitting or delivering contributions”); and
 - d. using WeBuildTheWall’s corporate logo on the solicitation; MUR 6322 (Square), Factual & Legal Analysis at 5 (Mar. 21, 2011), <http://eqs.fec.gov/eqsdocsMUR/11044291719.pdf>; MUR 6218 (Ball4NY), Factual & Legal Analysis at 8 (June 22, 2010), <http://eqs.fec.gov/eqsdocsMUR/10044273088.pdf>.
13. Therefore, there is reason to believe that WeBuildTheWall facilitated contributions to Kobach for Senate, in violation of 52 U.S.C. § 30118 and 11 C.F.R. § 114.2(f).


PRAYER FOR RELIEF

14. Wherefore, the Commission should find reason to believe that WeBuildTheWall violated 52 U.S.C. § 30118 and 11 C.F.R. § 114.2(f) and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2). Further, the Commission should determine and impose appropriate sanctions for any and all violations, should enjoin the respondent from any and all violations in the future, and should impose such additional remedies as are necessary and appropriate to ensure compliance with FECA.

Respectfully submitted,



Campaign Legal Center, by
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Adav Noti
Brendan M. Fischer
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Counsel to the Campaign Legal Center & Margaret Christ

August 12, 2019

VERIFICATION

The complainants listed below hereby verify that the statements made in the attached complaint are, upon their information and belief, true.

Sworn pursuant to 18 U.S.C. § 1001.

For Complainant Campaign Legal Center

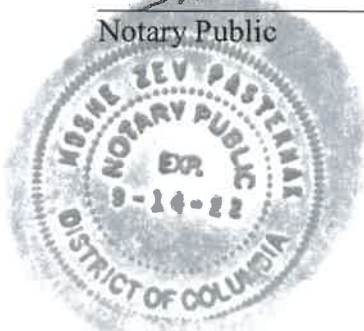


Adav Noti

Sworn to and subscribed before me this 12 day of August 2019.



Notary Public



For Complainant Margaret Christ


Margaret Christ

Sworn to and subscribed before me this 12 day of August 2019.



Notary Public

