

**BEFORE THE  
FEDERAL ELECTION COMMISSION**

Nevada State Democratic Party  
William McCurdy II, Chairman  
2320 Paseo Del Prado  
Suite B107  
Las Vegas, NV 89102,

**MUR # 7355**

Complainant,

v.

Heller for Senate  
Chrissie Hastie, Treasurer  
PO Box 371907  
Las Vegas, NV 89137

Respondents.

2019 MAR 28 PM 12:18  
OFFICE OF  
GENERAL COUNSEL

**COMPLAINT**

Complainant files this complaint under 52 U.S.C. § 30109(a)(1) against Heller for Senate, and Chrissie Hastie, in her official capacity as Treasurer (collectively “Respondents”) for violating the Federal Election Campaign Act of 1971, as amended (“the Act”), and Federal Election Commission (“FEC” or “Commission”) regulations, as described below.

**FACTS**

Senator Dean Heller currently serves as a Senator for the state of Nevada.<sup>1</sup> Heller for Senate is serving as Senator Heller’s principal campaign committee for his 2018 reelection campaign.<sup>2</sup> As is illustrated in the photographs set forth in Exhibit A, ten different advertisements in support of Senator Heller are being projected on an electronic billboard in Nevada without a proper disclaimer to identify the sponsor of the advertisements.<sup>3</sup>

<sup>1</sup> Meet Dean Heller, U.S. Senate, available at <https://www.heller.senate.gov/public/index.cfm/biography>.

<sup>2</sup> FEC Statement of Organization, Heller for Senate (filed Apr. 27, 2017).

<sup>3</sup> Exhibit A, Electronic Billboards in Nevada in Support of Heller.

Displayed on at least one electronic billboard at a 76 gas station in Las Vegas, Nevada, ten different images are running on a loop, all featuring Senator Dean Heller's name and title on different Nevada-themed license plates.<sup>4</sup> None of the ten advertisements include a disclaimer, or in any way indicate who paid for the communications. However, interspersed between the various advertisements featuring Senator Heller's name, there are different advertisements that explicitly say: "provided by 76" with the 76 gas station logo.<sup>5</sup> Absent any disclaimer language on the Heller-specific advertisements, it appears that a corporate gas station is providing an impermissible in-kind contribution to Heller for Senate, in direct violation of Commission regulations.

### LEGAL ANALYSIS

Pursuant to FEC regulations, a "disclaimer" is "a statement that must appear on certain communications to identify who paid for them and, where applicable, whether the communications were authorized by a candidate."<sup>6</sup> The question of whether a particular communication must include a disclaimer depends on who paid for the communication, what the communication says, and whether the communication qualifies as a "public communication" under 11 C.F.R. § 100.26.<sup>7</sup>

For these purposes, a "public communication" means "a communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising" including "communications placed for a fee on another person's Web

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Internet Communication Disclaimers, 76 Fed. Reg. 63,567 (Oct. 13, 2011).

<sup>7</sup> 11 C.F.R. §§ 110.11(a)(1), 100.26.

site.”<sup>8</sup> The phrase “general public political advertising” has been interpreted broadly by this Commission and Congress to “encompass[] all the terms explicitly included by Congress [in 11 C.F.R. § 100.26], in addition to other potential forms of general public political advertising not specifically listed.”<sup>9</sup> Accordingly, under the FEC’s broad interpretation of “general public political advertisement”, electronic billboards would qualify as a public communication under 11 C.F.R. § 100.26.

As a public communication, if these electronic billboards were sponsored by a federal campaign committee like Heller for Senate, the communication must (i) make clear that it was paid for by a candidate’s authorized campaign committee, and (ii) present that information in a clear and conspicuous manner to give the reader adequate notice of the sponsor’s identity.<sup>10</sup> On the other hand, if the ten advertisements were paid for by a corporate gas station, as the language “provided by 76” interspersed alongside the Heller-specific advertisements suggests, such a payment would constitute an impermissible corporate contribution under Commission regulations: “[a]ny corporation...is prohibited from making a contribution” as defined in FEC regulations, which provide that “anything of value made by any [corporation] for the purpose of influencing any election for Federal office is a contribution.”<sup>11</sup>

The problem with the advertisements currently on display in Las Vegas is it is impossible to tell who paid for them – was it the corporate gas station, Heller’s federal campaign committee or a completely different entity? Either way, there is a clear violation of law here, either for failing to adhere to the disclaimer requirements of 11 C.F.R. §110.11 or for accepting an impermissible corporate contribution in violation of 11 C.F.R. § 114.2(b).

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<sup>8</sup> 11 C.F.R. § 100.26.

<sup>9</sup> Disclaimers, Fraudulent Solicitation, Civil Penalties, and Personal Use of Campaign Funds; Final Rule, 67 Fed. Reg. 76,962 (Dec. 13, 2002).

<sup>10</sup> 11 C.F.R. § 110.11(c)(1), (f)(1).

<sup>11</sup> 11 C.F.R. §§ 114.2(b), 100.52(a).

Because none of the ten images include language indicating who paid for the communications, the public has absolutely no information on who sponsored the advertisements in support of Dean Heller. Moreover, by allowing these advertisements to run alongside a similar advertisements that are explicitly “provided by 76” the obvious implication here is that a corporate gas station has paid for these advertisements in support of Heller.<sup>12</sup> Without additional disclaimer information to indicate that the gas station was *not* the sponsor of the advertisements – that is, without additional language on the Heller-specific advertisements that identifies who is the sponsor of those ads – the public is left to think that a corporate gas station is engaging in federal election activity, despite the clear rule prohibiting such engagement.

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<sup>12</sup> Exhibit A, Electronic Billboards in Nevada in Support of Heller.

**REQUESTED ACTION**

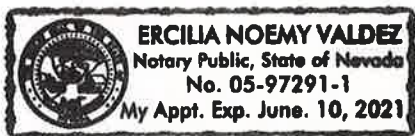
As we have shown above, it appears Respondents have violated the Act and Commission regulations either by failing to include proper disclaimer on ten different advertisements in support of Dean Heller or accepting an impermissible corporate contribution. Failing to provide the public with adequate notice of the identity of the communication's sponsor is a clear violation of law, as is accepting an impermissible corporate contribution if the ads were in fact paid for by a corporate gas station as is suggested in the attached images.<sup>13</sup> Accordingly, we respectfully request that the Commission investigate these alleged violations, and that Respondents be enjoined from further violations and be fined the maximum amount permitted by law.

Sincerely,

Chairman William McCurdy II  
Nevada State Democratic Party

STATE OF NEVADA     )  
                                  )  
County of Clark     )

SUBSCRIBED AND SWORN to before me this 13<sup>th</sup> day of March, 2018.



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Notary Public

My Commission Expires: June 10, 2021

<sup>13</sup> *Id.*

**Exhibit A**

**Electronic Billboards in Nevada in Support of Heller**

