

BEFORE THE FEDERAL ELECTION COMMISSION

DANIEL RUFTY ESQ.
5753 Hwy 85 North #3181
Crestview, FL 32536
(704) 302-7425

MUR # 7606

RECEIVED
FEDERAL MAIL CENTER
2019 MAY -6 PM 5:00

v.
COMMITTEE TO ELECT LEIGH BROWN
4711 MYERS LANE
HARRISBURG, NC 28075,

NATIONAL ASSOCIATION OF REALTORS PAC
430 NORTH MICHIGAN AVENUE
CHICAGO, IL 606114011

2019 MAY -7 PM 12:35
OFFICE OF
GENERAL COUNSEL

COMPLAINT

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information and belief that Leigh Brown and the National Association of Realtors Political Action Committee (“NAR”) conducted unauthorized coordinated communication in violation of the Federal Election Campaign Act (“FECA”), 52 U.S.C. § 30101, *et seq.*
2. Specifically, based on published reports, and advertisements paid for by the NAR, complainants have reason to believe Leigh Brown and the NAR violated FECA’s ban on coordinated communication between a political action committee, and a candidate for the United States Congress, 11 CFR 109.21(a); *see also* AO 2016-21.
3. “If the Commission, upon receiving a complaint ... has reason to believe that a person has committed, or is about to commit, a violation of [the FECA] ... [t]he Commission shall make an investigation of such alleged violation” 52 U.S.C. § 30109 (a)(2).

FACTS

4. On March 19, 2019, the NAR announced on their website, www.nar.realtor, that Ms. Brown had tendered her resignation as NAR Party Fundraising Liason on March 13, 2019, and announced her candidacy on March 15, 2019 for the NC 9th congressional district special election. *See Exhibit 1.*
5. On April 12th, 2019, the *Charlotte Observer* reported that ““A national Realtors group is planning to spend more than \$400,000 on TV ads in support of a candidate in North Carolina’s 9th District Republican primary. The spending could be as high as \$900,000,

according to media trackers for another national group. The money appears to be in support of real estate broker Leigh Brown of Cabarrus County..." *see Exhibit 2.*

6. Soon after the NAR March 19, 2019 announcement of Leigh Brown's resignation from NAR, voters that reside in the 9th US Congressional District received letters from NAR urging them to "Vote Leigh Brown for Congress Republican Primary May 14th." *See Exhibit 3.* Voters in the 9th District also received television advertisement from NAR urging voters to support Leigh Brown for US Congress. *See Exhibit 4.*

SUMMARY OF THE LAW

7. Federal law prohibits coordinated communication between a political action committee, and a candidate for the United States Congress, 11 CFR 109.21(a).
8. In determining whether a communication is coordinated, Commission regulations provide for a three-prong test. First, the communication must be paid for, in whole or in part, by a person other than the candidate committee or political party committee. Second, the communication must satisfy one of five content standards. Third, the communications must satisfy one of five conduct standards. *See, generally, 11 CFR 109.21(a).*
9. Content prong, the second prong, can be satisfied if, a public communication, expressly advocates the election or defeat of a clearly identified candidate for Federal office. *See, generally, 11 CFR 109.21 (c)(3).*
10. Conduct prong, the third prong, would be satisfied if an employee of the person paying for the communication (a) was employed by the candidate identified in the communication or that candidate's opponent, or a political party committee, within the previous 120 days, and (b) that employee uses or conveys to the payor information about the candidate's or party's plans, projects, activities, or needs, or information used by the employee in providing services to the candidate or party, and the information is material to the creation, production, or distribution of the communication. This conduct standard is not satisfied, however, if the information in question was obtained from a publicly available source. 11 CFR 109.21(d)(5).
11. The FECA provides that neither agreement nor formal collaboration is necessary to establish coordination. 11 CFR 109.21(e).
12. The Commission concluded that this "former employee" conduct standard is dependent on the materiality of the information that the employee uses or conveys and that the regulations make no distinction between categories or ranks of employees. The regulations therefore apply to any employee who uses or conveys information that is material to the communication, regardless of their rank within the organization, AO 2016-21.

CAUSES OF ACTION

LEIGH BROWN AND NAR HAS KNOWINGLY AND ILLEGALLY COORDINATED COMMUNICATION

13. The first prong, in the three-prong test provided by the Commission regulations, is satisfied since the NAR has paid for the communications. NAR payment for the mailer and television advertisement is conspicuous in the advertisement material.
14. The second prong, in the three-prong test provided by the Commission regulations, is satisfied because the mailers and television advertisement qualifies as public communications that expressly advocates the election of a federal candidate. The mailers and television advertisement state, "Vote Leigh Brown For Congress Republican Primary May 14th." See *Exhibit 3 and 4*.
15. The third prong, in the three-prong test provided by the Commission regulations, is satisfied because Leigh Brown was employed by NAR within 120 days of the NAR communication in support of Leigh Brown's candidacy. As stated above, regulations make no distinction between categories or ranks of employees. If the regulations applies to a low level employee, surely they will apply to the highest member of the campaign, the candidate themselves.
16. The timing of the advertisement makes the coordination obvious. Ms. Brown resigned as NAR Party Fundraising Liason on March 13, 2019, and Ms. Brown announced her candidacy on March 15, 2019. NAR purchased six-figure ad buys in less than a month supporting Ms. Brown. The close proximity in timing makes the coordination self-evident. In addition, The information used in the advertisement, the voter information mailing lists, campaign plans, projects, and activities used by NAR and Leigh Brown's campaign are not publicly available.
17. Therefore, based on the published reports, and the NAR advertisements, there reason to believe Leigh Brown and the NAR violated FECA's ban on coordinated communication between a political action committee, and a candidate for the United States Congress, in violation of the FECA. 11 CFR 109.21(a).

PRAYER FOR RELIEF

18. Wherefore, the Commission should find reason to believe that Leigh Brown and the NAR has violated 52 U.S.C. § 30101, *et seq.*, and conduct an immediate investigation. Further, the Commission should determine and impose appropriate sanctions for any and all violations, should enjoin the the respondents from any and all violations in the future, and should impose such additional remedies as are necessary and appropriate to ensure compliance with the FECA.

Signature on the following poage:

May 4~~th~~, 2019

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Rufty', written over a horizontal line.

DANIEL RUFTY ESQ.

5753 Hwy 85 North #3181

Crestview, FL 32536

daniel.rufty.esq@gmail.com

(704) 302-7425

Exhibit 1:

NAR Statement on Leigh Brown North Carolina Congressional Special Election Candidacy



March 19, 2019

Leigh Brown, CEO of RE/MAX Leigh Brown & Associates, Concord, N.C., announced her candidacy for her state's 9th congressional district special election on March 15.

Brown tendered her resignation as REALTOR® Party Fundraising Liaison on March 13.

Brown and the National Association of REALTORS® agreed it is necessary for her to separate her leadership role in the association from her efforts as a congressional candidate.



Source:

<https://www.nar.realtor/nar-statement-on-leigh-brown-north-carolina-congressional-special-election-candidacy>

Exhibit 2:

April 12th, 2019 Charlotte Observer Article:

“A national Realtors group is planning to spend more than \$400,000 on TV ads in support of a candidate in North Carolina’s 9th District Republican primary.

The spending could be as high as \$900,000, according to media trackers for another national group.

The money appears to be in support of real estate broker Leigh Brown of Cabarrus County...”

Source:

<https://www.charlotteobserver.com/news/politics-government/election/article229186434.html>

LEIGH BROWN

Conservative Business Owner for Congress

*To Strengthen Our Economy &
Keep Our Neighborhoods Safe*

*Wife & Mother.
Small Business Owner & CEO.
Not a Politician.*

VOTE
LEIGH BROWN
FOR CONGRESS
REPUBLICAN PRIMARY
MAY 14TH

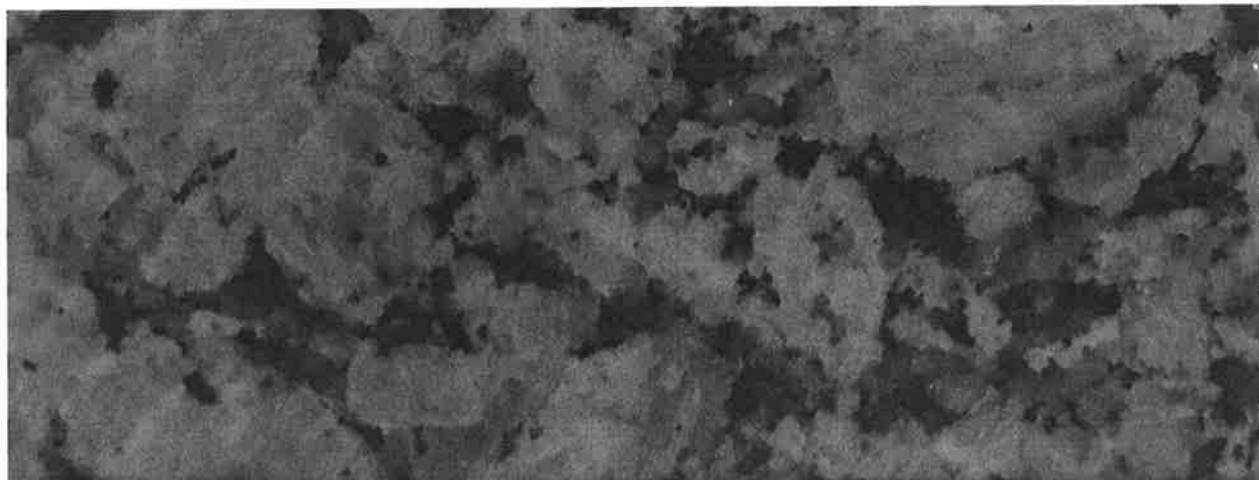


Paid for by NATIONAL ASSOCIATION OF REALTORS *
Political Action Committee (202) 383-1000.
Not authorized by any candidate or candidate's committee.

The National Association of REALTORS *
430 North Michigan Avenue
Chicago, IL 60611



Exhibit 3:



The National Association of REALTORS ®
430 North Michigan Avenue
Chicago, IL 60611

Paid for by NATIONAL ASSOCIATION OF REALTORS ®
Political Action Committee (202-383-1000).
Not authorized by any candidate or candidate's committee.

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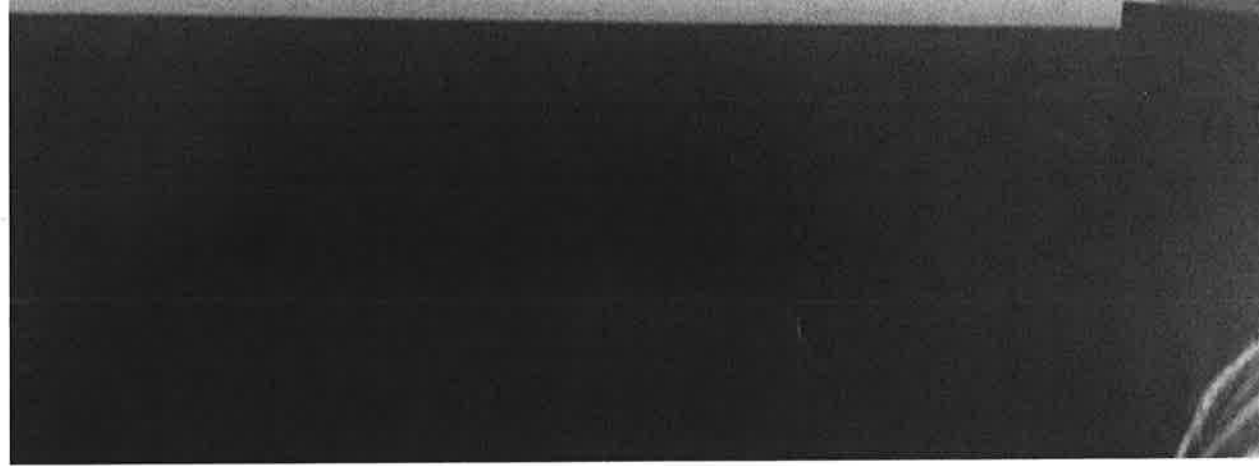
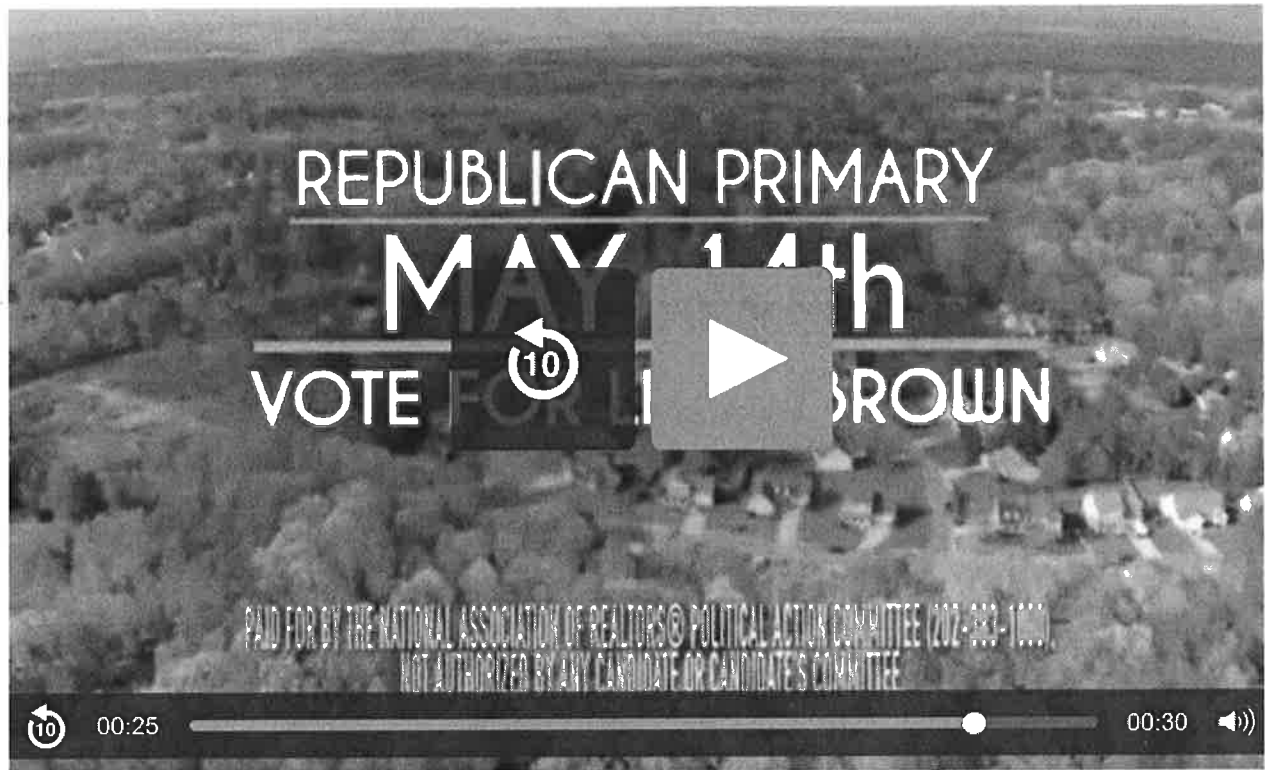


Exhibit 4:

National Association of Realtors TV Ad On Behalf of Leigh Brown:



<https://youtu.be/Hjxpz7n8mZQ>

<https://www.ispot.tv/ad/lhib/national-association-of-realtors-leigh-brown#>

VERIFICATION

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

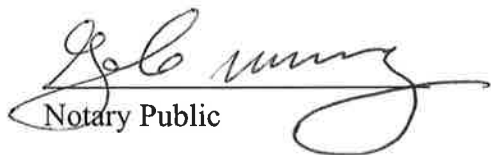
Sworn pursuant to 18 U.S.C. § 1001.

Complainant



Daniel Rufty Esq.

Sworn to and subscribed before me this 04 day of May 2019.



Notary Public

