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FEDERAL ELECTION COMMISSION
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OFFICE OF GENERAL COUNSEL

**BEFORE THE
FEDERAL ELECTION COMMISSION**

End Citizens United
Tiffany Muller
100 M St. SE
Washington, DC 20003
Complainant,

MUR 7802

v.

Nicole Malliotakis

Staten Island, NY 10308

Nicole For New York and Laura Schwartz, Treasurer
PO Box 60487
Staten Island, NY 10306

Nicole for New York
PO Box 68
South Salem, NY 10590

Respondents.

COMPLAINT

This complaint is filed under 52 U.S.C. § 30109(a)(1) against Nicole Malliotakis, Nicole for New York and Laura Schwartz, 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 (the “FEC” or “Commission”) regulations, as described below. Respondents have failed to comply with the Commission’s disclaimer requirements for two television advertisements that they have approved and sponsored. As a result, the FEC should immediately investigate and levy appropriate sanctions against Respondents for their failure to comply with very basic requirements the Act and Commission regulations.

FACTS

Nicole Malliotakis is a candidate for Congress in the eleventh district of New York.¹ Her principal campaign committee is Nicole for New York (the “Committee”)² and its treasurer is Laura Schwartz.³ The Committee has paid for and is airing two television advertisements that appear to be titled “Hypocrite” and “Work Boots” in support of her election to Congress.⁴ The first advertisement, “Hypocrite,” includes a verbal disclaimer by Nicole Malliotakis and includes a written disclaimer at the end of the advertisement indicating who paid for it, but fails to include a written statement indicating that Nicole Malliotakis has approved the communication. The second advertisement, “Work Boots,” includes a verbal disclaimer by Nicole Malliotakis as well as a written disclaimer at the end of the advertisement indicating who paid for it. But, that advertisement does not include a written statement indicating that Nicole Malliotakis approved the communication.

LEGAL DISCUSSION

Under the Act, whenever a political committee makes a disbursement for the purpose of financing any television advertisement or public communication, there are several disclaimers required.⁵ If the communication is paid for and authorized by a candidate, an authorized committee of a candidate, or agent of either, the communication must contain a disclaimer that clearly states that the communication has been paid for by the authorized political committee.⁶

¹ Nicole Malliotakis, FEC Form 2, Statement of Candidacy, (08/14/2020) *available at* <https://docquery.fec.gov/cgi-bin/forms/H0NY11078/1432387/>

² *Id.*; *see also* Nicole for New York FEC Form 1, Statement of Organization (08/14/2020) *available at* <https://docquery.fec.gov/cgi-bin/forms/C00694778/1432384/>

³ Nicole for New York FEC Form 1, Statement of Organization (08/14/2020) *available at* <https://docquery.fec.gov/cgi-bin/forms/C00694778/1432384/>

⁴ The first advertisement can be viewed here: <https://youtu.be/Zcb236YEPWA>. This ad may be called “Hypocrite” The second advertisement can be viewed here: https://www.youtube.com/watch?v=fXfdYsPYSo&feature=emb_logo This ad may be called “Work Boots.”

⁵ 52 U.S.C. § 30120(a); 11 C.F.R. § 110.11(a); *see id.* § 100.26 (defining public communication).

⁶ 52 U.S.C. § 30120(a)(1); 11 C.F.R. § 110.11(b)(1).

Such a disclaimer must be presented in a clear and conspicuous manner to give the reader or observer adequate notice of the identity of the person or political committee that paid for the advertisement.⁷

There are additional disclaimers required for television advertisements. Specifically, a television advertisement that is authorized or paid for by a candidate or the authorized committee of a candidate “must include a statement that identifies the candidate and states that he or she has approved the communication.”⁸ The candidate must convey this audio statement either (1) through an unobscured, full screen view of the him/her making the statement or (2) through a voice-over by him/her accompanied by a clearly identifiable photograph or similar image of the candidate.⁹ A similar statement that identifies the candidate and indicating that he approves the communication “must appear in clearly readable writing” at the end of the advertisement.¹⁰

Here, Respondents have failed to fully comply with one of these basic requirements. The disclaimer rules are designed precisely to ensure the American people are aware of who is sponsoring political advertisements. However, in both “Hypocrite” and “Work Boots,” Respondents have completely ignored the requirement to include a written statement at the end of the advertisement that the candidate has approved the communication. Simply including a written paid for by disclaimer does not comply with all of the requirements of the law. This failure to include the full disclaimer is clearly a violation of the law.

The Commission requires written and audio disclaimers for television advertisements in order to provide an important notice to viewers regarding the source of political advertisements.

⁷ 11 C.F.R. § 110.11(c)(1), (3).

⁸ *Id.* § 110.11(c)(3)(ii).

⁹ *Id.* § 110.11(c)(3)(ii)(A), (B).

¹⁰ *Id.* § 110.11(c)(3)(iii).

To that end, the Act and Commission regulations are clear; Respondents are required to include a specific written disclaimer at the end of their advertisement. Respondents failed to satisfy this basic requirement, in clear violation of the Act.

REQUESTED ACTION

As we have shown, Respondents have repeatedly violated the Act and Commission regulations by failing to comply with the full written disclaimer requirements. As such, we respectfully request that the Commission immediately investigate this violation and that Respondents be enjoined from further violations and be fined the maximum amount permitted by law.

Sincerely,

Tiffany Muller
End Citizens United
100 M St. SE
Washington, DC 20003

SUBSCRIBED AND SWORN to before me this 21st day of September, 2020.

Mark Andrews

Notary Public

MARK ANDREWS
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires July 14, 2024

My Commission Expires: _____

