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ATTORNEYS AT LAW

WASHINGTON HARBOUR
 3000 K STREET, N.W.
 SUITE 600
 WASHINGTON, D.C. 20007-5109
 202.672.5300 TEL
 202.672.5399 FAX
 WWW.FOLEY.COM

WRITER'S DIRECT LINE
 202.295.4081
 cmtchell@foley.com

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 999100-0100

MUR 7839

October 27, 2020

Filed electronically / followed by USPS Filing

Ms. Lisa J. Stevenson, Esq.
 Acting General Counsel
 Federal Election Commission
 1050 First Street, NE
 Washington, DC 20463

Re: Complaint against Westerleigh Press and John Doe / John Doe
 Committee(s) for Anonymous Mailers in 2020 General
 Election

Dear Ms. Stevenson:

Pursuant to 52 U.S.C. § 30109 and 11 C.F.R. § 111.4, Steve Daines for Montana ("Daines Campaign") files this Complaint against Westerleigh Press, located at 2 Hollywood Court, South Plainfield, NJ 07080 and its customers John Doe and John Doe Committee for their violations of federal law as more fully described below.

This complaint is filed against the individual(s) and entities responsible for at least two anonymous (2) mailings to registered voters in Montana, in violation of the Federal Election Campaigns Act, Title 52 United States Code, Subtitle III, Chapter 301, Subchapter I ("the Act") and the regulations promulgated thereunder by the Federal Election Commission ("FEC"), specifically as described below.

Respondent Westerleigh Press describes itself as having specialty knowledge and information about 'political printing'. Its website proclaims: that 'Westerleigh Press is the nationwide leader in union political print and mail' and identifies several Democratic candidates as clients, including former Democratic Presidential candidate Bernie Sanders, among others.¹ Westerleigh Press, as an experienced 'political printer', is well aware of the requirements of federal law regarding the inclusion of disclaimers and information as to the source of payment for political mailers about federal candidates and campaigns. Westerleigh Press has conspired with unknown Democratic operatives and/or committees to violate federal law by sending anonymous mailings to Montana voters in false and desperate last minute attacks against Sen. Daines.

¹ See <https://wpprinting.com/political-printing/>

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Facts of the Violation(s)

United States Senator Steve Daines (R-MT) is seeking reelection and is on the November 3, 2020 general election ballot in Montana. Steve Daines for Montana is the principal authorized campaign committee for Sen. Daines' reelection.

On or about October 22, 2020, Montana voters began receiving the attached mailers. The mailing and receipt of the communications occurred within twelve days of the November 3, 2020 General Election. It is believed that at least five hundred (500) of the mailers were sent to Montana voters within the span of just a few days.

Both mailers contain attacks against Sen. Daines and his record on legislation involving appropriations and spending, with an unmistakable message that the recipient should oppose Sen. Daines' reelection. Coupled with the proximity to the election and the unambiguous call to defeat Sen. Daines, the mailers constitute a public communication expressly advocating Sen. Daines' defeat (the "Mailers"). *See* Mailers, Ex. 1 and Ex. 2.

The Mailers each contain a pre-paid postage stamp and pre-printed number, which identify Respondent Westerleigh Press (*See* Westerleigh Press, Ex.3), but the Mailers contain *no* information as to the sponsor of the Mailers. Since neither of the Mailers contain a disclaimer stating who paid for them, there is also no statement that the mass mailings were not authorized by any candidate or candidate's committee.

The Mailers Violate Multiple Provisions of Federal Law

Federal campaign finance law is premised upon a requirement that public communications expressly advocating the election of or defeat of a clearly defined federal candidate must contain a disclaimer stating the source of the payment for the communication. 52 U.S.C. § 30120; 11 C.F.R. § 110.11(a)(2); *Federal Election Commission v. Survival Education Fund, Inc.*, 65 F.3d 285 (2d Cir. 1995).

The Mailers contain an unmistakable and unambiguous message that Sen. Daines should be defeated. *See* Ex.1 and Ex.2. The Mailers have been disseminated within close proximity to the November 3, 2020 general election, thus constituting an express advocacy communication as described in federal law. 52 U.S.C. § 30101(17); 11 C.F.R. § 100.22.

The content of the Mailers constitute public political advertising. 52 U.S.C. § 30101(22); 11 C.F.R. § 100.26. In addition, the Mailers meet the definition of "mass mailing" since they constitute "a mailing by U.S. mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period." 52 U.S.C. § 30101(23); 11 C.F.R. § 100.27.



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An express advocacy public communication must state that the communication was not authorized by a candidate or candidate's committee, along with the full name and permanent street address, telephone number, or website address of the person who paid for the communication. 52 U.S.C. § 30120; 11 C.F.R. § 110.11(b)(3). Furthermore, there are specific size and legibility requirements for the disclaimer which Respondent(s) have not complied with. 52 U.S.C. § 30120; 11 C.F.R. § 110.11(c).

The Mailers have been produced and mailed by and through Respondent Westerleigh Press, which advertises its history of working for Democratic candidates. If coordinated with the campaign of Sen. Daines' opponent Steve Bullock, the Mailers constitute an in-kind illegal contribution from Respondent(s) to Montanans for Bullock (the "Bullock Campaign").² 11 C.F.R. § 100.52(d). If *not* coordinated with the Bullock Campaign, Respondent(s) have failed to report the Independent Expenditure within 24-hours of public dissemination of the Mailers, in violation of U.S. campaign finance law. 11 C.F.R. § 109.10(c), (d). Respondent(s) have failed to disclose to the public whether the Mailers were or were not authorized by a candidate; therefore, the public has no way of knowing the extent of the involvement of the Bullock Campaign in this last minute attack on Sen. Daines.

The Mailers do not comply with any of the requirements of U.S. campaign finance law. The Respondents have deliberately failed to comply with the disclosure requirements of all such communications.

Similar disclosure requirements to the ones Respondents are purposefully flouting at the expense of a better informed electorate, have been upheld by the U.S. Supreme Court as recently as 2010. *See Citizens United v. Federal Election Comm'n*, 130 S. Ct. 876, 885 (2010) (finding that disclosure requirements and disclaimers for political ads "provide information to the electorate, *McConnell v. Federal Election Comm'n*, 540 U.S. 93, 196 (2003), and 'insure that the voters are fully informed' about who is speaking, *Buckley v. Valeo*, 424 U.S. 1, 76 (1976). At the very least, they avoid confusion by making clear that the ads are not funded by a candidate or political party."). The disclosure requirements for independent expenditures outlined by Congress are an essential aspect of our campaign finance system. It is these same disclosure requirements that enable citizens to have access to "the information needed to hold corporations and elected officials accountable for their positions." *Citizens United*, 558 U.S. at 370 (citing *McConnell*, 540 U.S. at 259 (opinion of Scalia, J.)). The transparency that the disclosure requirements provide has proved crucial in enabling "the electorate to make informed decisions and give proper weight to different speakers and messages." *Citizens United*, 558 U.S. at 371.

² *Types of Contributions*, U.S. Federal Election Commission, <https://www.fec.gov/help-candidates-and-committees/candidate-taking-receipts/types-contributions/>, (last visited Oct. 25, 2020), stating that "when a committee, group or individual pays for a communication that is coordinated with a campaign or a candidate, the communication is either an in-kind contribution or, in some limited cases, a coordinated party expenditure by a party committee."



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The amount of the in-kind contribution or the independent expenditure is unknown due to the lack of transparency in the Mailers; however, if the amount at issue is \$25,000 or more, Respondents should be criminally prosecuted to the fullest extent of the law pursuant to U.S. 52 U.S.C. § 30109(d).

Conclusion

Westerleigh Press is a printer in New Jersey with a self-described specialty in the area of 'political printing' for unions and Democratic candidates and committees. Westerleigh has conspired with the unknown Respondent(s) to deliberately disguise the identity and source of payment for the Mailers, and should be required to identify the source of payment for the Mailers. The Commission must prosecute each of those responsible to the fullest extent of the law, including, but not limited to, the maximum civil and criminal penalties.

Respectfully submitted,


A handwritten signature in cursive script that reads 'Clea Mitchell'.

Clea Mitchell, Esq.
FOLEY & LARDNER, LLP
3000 K Street NW #600
Washington, DC 20007
cmitchell@foley.com
(202) 295-4081 (direct)

Counsel, Steve Daines for Montana

Submitted this 27th day of October 2020

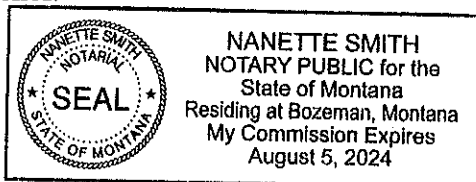
Upon information and belief, I hereby swear and affirm that the above and foregoing is true and correct to the best of my knowledge and belief.


Shane Scanlon, Campaign Manager
Steve Daines for Montana
PO Box 1598
Helena, MT 59624

State of Montana,
County of Gallatin

Before me this 26th day of Oct, 2020, appeared Shane Scanlon and under penalty of perjury did swear and affirm that the above and foregoing facts are true and correct to the best of his knowledge and belief.

S E A L




Nanette Smith
Notary Public

My Commission Expires: August 5, 2024

EXHIBIT 1

STEVE DAINES IS ON A GOVERNMENT SPENDING SPREE

*"DC on spending binge with no plan
to cut back, as debt held by the public
to top GDP by year's end"*

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FOX
NEWS
April 24, 2020

STEVE DAINES' \$2 TRILLION SPREE WILL COST EVERY FAMILY \$19,000

Even before the pandemic,

Steve Daines voted for over \$2 trillion in new spending, piling \$19,000 in debt on every family in Montana. Since the pandemic hit, Steve Daines' support for runaway spending has increased the national deficit by trillions more.¹ He has helped drive our national debt from \$18 trillion when he entered the Senate to \$26 trillion today—an increase of 44 percent.²

CHECK THE FACTS:

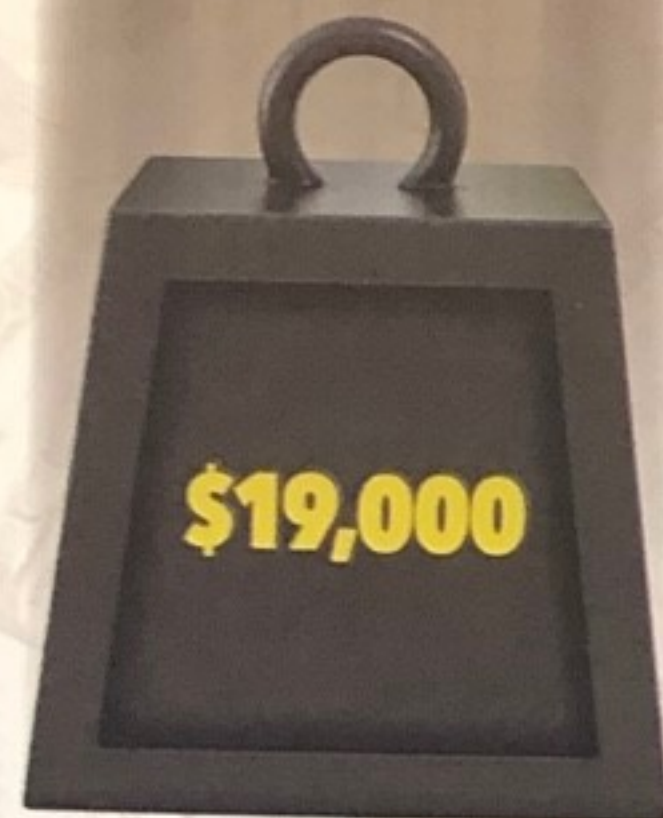
1. H.R. 748; CBO, 4/16/20. 2. Department of Treasury, Monthly Statement of the Public Debt of the United States.

**CALL STEVE DAINES AT 202-224-2651 AND TELL
HIM TO STOP SPENDING OUR FAMILIES INTO GOVERNMENT DEBT.**

HELP!



EXHIBIT 2



Montana families are footing the bill for Steve Daines's spending spree.

Steve Daines's pre-pandemic spending spree will pile **\$19,000 of debt** onto every Montana family.



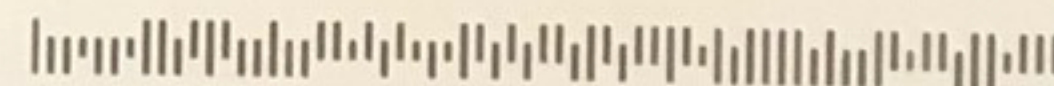
Even before the pandemic, Steve Daines voted for over \$2 trillion in new spending, piling \$19,000 in debt on every Montana family.¹ The spending has grown by trillions more since the pandemic hit.² Since he took office, our national debt has grown from \$18 trillion to \$26 trillion today—an increase of 44 percent.³

Sources: 1. H.R. 3877, 2019; NPR, 8/1/19; USA Today, 8/2/19. 2. H.R. 3877, 2019; NPR, 8/1/19; USA Today, 8/2/19. 3. Department of Treasury, Monthly Statement of the Public Debt of the United States.

**CALL STEVE DAINES AT (202) 224-2651 AND TELL HIM TO
STOP SPENDING OUR FAMILIES INTO GOVERNMENT DEBT.**

**Even before the
pandemic, **Steve Daines**
voted for over **\$2 trillion**
in new government
spending.**

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EXHIBIT 3

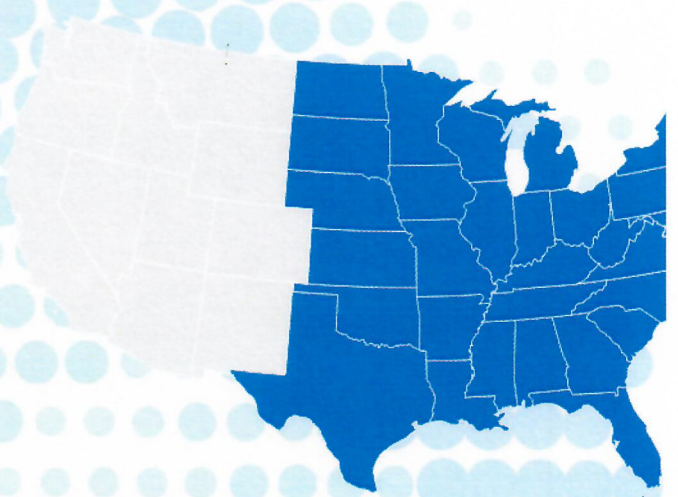
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For over 98 years, Westerleigh Press has been a leading innovator in the printing and mailing industry, specializing in political printing for local, state, and national campaigns.

Our combination of state-of-the-art equipment and unmatched experience has instilled confidence in our clients who rely on us for high-quality printing and quick turnarounds. We offer in-house solutions for each stage of the print process—it's innovation, delivered on time.

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"Westerleigh is one of my go-to partners for political work. The pricing is fair, the turnaround is phenomenal, and work ethic can't be beat. An all-around great team of professionals."

Sarah Giordano,
Production Director, The
Pivot

"I trust Westerleigh with big jobs, small jobs – high-stakes work – because they always get the job done."

Alex Navarro-McKay,
Managing Director,
BerlinRosen

"We've been working with Westerleigh for almost 20 years. In terms of political mail no one is more knowledgeable or gets the job done faster."

Allen Fong, Vice President
of Operations,
BaughmanMerrill

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Serving clients nationwide. Westerleigh Press is a family owned and operated printing and direct mail company headquartered in South Plainfield, NJ.

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