

OFFICE OF
FEDERAL COUNSEL
BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Ryan Phillips.)

2019 MAY 30 PM 2: 21

MUR # 7615

COMPLAINT

Pursuant to 52 U.S.C. § 30109(a)(1), the undersigned submits this complaint to the Federal Election Commission (the "FEC" or "Commission") against Ryan Phillips (the "Respondent") for various violations of the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations.

SUMMARY

This complaint is submitted as a result of certain conduct engaged in by Ryan Phillips while providing administrative record-keeping and compliance consulting services to Heller for Senate and Hellerhighwater PAC (collectively, the "Committees"). While providing such services to the Committees, Mr. Phillips knowingly and willfully:

- (i) Converted campaign funds to personal funds within the meaning of 52 U.S.C. § 30114 and 11 C.F.R. § 113.1(g); and
- (ii) Caused certain false reports to be filed with the FEC on behalf of the Committees in violation of 52 U.S.C. § 30104, 11 C.F.R. § 111.24, and 11 C.F.R. § 111.30.

FACTUAL BACKGROUND

Senator Dean Heller (ID# S2NV00183) is a former U.S. Senator from Nevada who unsuccessfully sought reelection to the U.S. Senate in the 2018 general election. Heller for Senate (ID# C00494229) was the principal campaign committee for Mr. Heller's 2018 election campaign. Hellerhighwater PAC is Mr. Heller's federally registered leadership political action committee (ID# C00471607), as defined by 52 U.S.C. § 30101(8)(a).

Ryan Phillips is an individual who has, through his employer In Compliance Inc., provided administrative record-keeping and compliance consulting services to political candidates, campaigns, and other committees. From the period beginning in or about 2017 through February 2019, Mr. Phillips, through In Compliance Inc., provided administrative record-keeping and compliance consulting services to the Committees, including the filing of the Committees' campaign-finance reports with the FEC. As a function of these services, the Committees provided Mr. Phillips with access to their respective bank accounts, including debit and checking authority.

Beginning in or about September 2018 and continuing through February 2019, Mr. Phillips misappropriated funds belonging to the Committees, and he converted those misappropriated funds to personal use. By relying on their own internal financial controls, with the assistance of In Compliance Inc., and conducting subsequent internal investigations

into each Committee's financial activities, the Committees were able to identify the following:

- Mr. Phillips made \$31,123.83 in unauthorized debit withdrawals from Heller for Senate for his own personal use.
- Mr. Phillips issued an additional \$14,950.83 in unauthorized electronic funds transfers and checks, which were made payable to himself, from Heller for Senate.
- Mr. Phillips diverted a \$152 cash deposit of funds from Heller for Senate to his own personal use.
- Mr. Phillips made \$134,644.88 in unauthorized debit withdrawals from Hellerhighwater PAC for his own personal use.
- Mr. Phillips issued an additional \$4,406.50 in unauthorized electronic funds transfers and checks, which were made payable to himself, from Hellerhighwater PAC.

Through their internal investigations, the Committees discovered discrepancies in the Committees' accounts and were further able to confirm that Mr. Phillips, in an apparent attempt to avoid detection by the Committees, used a variety of methods to conceal his misappropriation of funds. First, In Compliance Inc. detected that Mr. Phillips primarily disguised the debit transfers and checking withdrawals issued to himself as paid to other non-affiliated campaign vendors and service providers. Mr. Phillips knowingly prepared and subsequently filed false disclosure reports on behalf of the Committees that inaccurately disclosed payments to third parties that, in actuality, represented the value of funds misappropriated by Mr. Phillips. Second, In Compliance Inc. discovered that, in several other instances, Mr. Phillips simply chose not to disclose the Committees' misappropriated funds in any capacity on their campaign-finance reports. In Compliance Inc. voluntarily brought these issues to the attention of the Committees and the Committees verified these discrepancies with their own subsequent internal investigations.

As a result of Mr. Phillips's misappropriation of funds and his attempts to disguise the fraudulent transactions, Mr. Phillips caused Heller for Senate to file the following inaccurate campaign-finance reports: (i) 2018 October Quarterly Form 3 Report of Receipts of Disbursements; (ii) 2018 Pre-General Form 3 Report of Receipts and Disbursements; (iii) 2018 Post-General Form 3 Report of Receipts and Disbursements; and (iv) 2018 Year-End Form 3 Report of Receipts and Disbursements.

Additionally, as a result of Mr. Phillips's misappropriation of funds and his attempts to disguise the fraudulent transactions, Mr. Phillips caused Hellerhighwater PAC to file the following inaccurate campaign-finance reports: (i) 2018 Pre-General Form 3X Report of Receipts and Disbursements; (ii) 2018 Post-General Form 3X Report of Receipts and Disbursements; and (iii) 2018 Year-End Form 3X Report of Receipts and Disbursements.

ANALYSIS

I. The Respondent's conduct constitutes an impermissible conversion of political contributions to personal use.

The Act prohibits all persons who receive contributions in connection with federal elections from converting those contributions to personal use.¹ Contributions will be considered converted to personal use when those contributions are used by any individual to fulfill any expense that exists "irrespective" of a candidacy for federal office.² Although the typical scenario involving conversion of committee contributions involves a conscious use of those funds by a candidate, the FEC has applied its "irrespective" test to the use of campaign funds to satisfy the expenses of campaign consultants.³

The scheme perpetrated by Mr. Phillips caused \$46,226.66 to be diverted from Heller for Senate's bank account and \$139,051.38 to be diverted from Hellerhighwater PAC's bank account. To the extent these misappropriated funds were used by Mr. Phillips to satisfy his personal expenses, he impermissibly converted these funds to personal use in violation of the Act and Commission regulations.

II. The Respondent caused incorrect and incomplete reports of receipts and disbursements to be filed with the Commission in violation of the reporting requirements of 52 U.S.C. § 30104.

The Act and Commission regulations establish a duty for all FEC-registered committees to timely file reports of receipts and disbursements that are true and correct to the best of the filer's knowledge and belief.⁴ In addition to assessing administrative fines for failing to comply with such reporting requirements,⁵ the Act and commission regulations also authorize additional civil penalties for knowing and willful violations of the Act.⁶

Due to the scheme perpetrated by him, Mr. Phillips directly caused the Committees to file inaccurate reports with the FEC in violation of the Act's disclosure requirements. It is the Committees' belief that Mr. Phillips knowingly and willfully caused the Committees to file inaccurate and erroneous campaign-finance reports with the FEC.

¹ 52 U.S.C. § 30114(b)(1).

² 52 U.S.C. § 30114(b)(2).

³ See generally FEC AO 2011-07 (Agreeing funds acquired from political contributions could be used to pay a campaign consultant's legal fees because the fees were associated with work for the campaign).

⁴ See generally 52 U.S.C. § 30104.

⁵ See 11 C.F.R. § 111.3-46.

⁶ See 52 U.S.C. § 30109(a)(5); see 11 C.F.R. § 11124.

CONCLUSION

The facts and analysis provided in this complaint establish clear violations of the Act and Commission regulations on the part of Ryan Phillips. Therefore, this complaint demonstrates the need for the Commission to (i) immediately investigate these matters, as required by the Act; and (ii) ensure that all actions necessary to remediate these violations are taken.


Thank you for your attention to this matter. Please do not hesitate to contact me if I can be of additional assistance as you pursue this investigation.

Respectfully submitted,



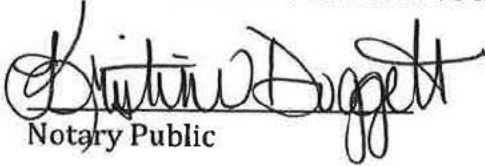
Chris K. Gober
Complainant and Counsel for Heller for
Senate and Hellerhighwater PAC

I hereby swear and affirm that the facts presented in this complaint are true to the best of my knowledge, information and belief. Sworn pursuant to 18 U.S.C. § 1001.



Chris K. Gober
P.O. Box 341016
Austin, TX 78734

Subscribed and sworn to before me this 24 day of May 2019.


Notary Public

My commission expires: 8/27/2022