

**FEDERAL ELECTION COMMISSION****FIRST GENERAL COUNSEL'S REPORT****Pre-MUR: 625**

DATES SUBMITTED: 6/11/19; 1/15/20

DATE ACTIVATED: 1/21/20

[REDACTED]

EXPIRATION OF SOL: 9/6/23-1/14/24

ELECTION CYCLE: 2018

**SOURCE:***Sua Sponte***RESPONDENTS:**Heller for Senate and Chrissie Hastie  
in her official capacity as treasurerHellerHighWater PAC and Chrissie Hastie  
in her official capacity as treasurer**MUR: 7615**

DATE COMPLAINT FILED: 5/30/19

DATE OF NOTIFICATION: 6/5/19

LAST RESPONSE RECEIVED: 6/28/19

DATE ACTIVATED: 1/21/20

[REDACTED]

**COMPLAINANTS:**Heller for Senate and Chrissie Hastie  
in her official capacity as treasurerHellerHighWater PAC and Chrissie Hastie  
in her official capacity as treasurer**RESPONDENTS:**Ryan Phillips  
In Compliance Inc.**RELEVANT STATUTES  
AND REGULATIONS:**

52 U.S.C. § 30102(b)(3), (c)

52 U.S.C. § 30104(b)

52 U.S.C. § 30114(b)

11 C.F.R. § 102.15

11 C.F.R. § 104.3

11 C.F.R. § 113.1(g)

**INTERNAL REPORTS CHECKED:**

Disclosure Reports

**FEDERAL AGENCIES CHECKED:**

None

1    **I.     INTRODUCTION**

2           The *sua sponte* submission and related MUR involve Ryan Phillips's embezzlement of  
3 funds from Heller for Senate and Chrissie Hastie in her official capacity as treasurer ("Heller  
4 Committee") and from HellerHighWater PAC and Chrissie Hastie in her official capacity as  
5 treasurer ("PAC") over the course of several months during 2018-2019. Phillips admits to  
6 embezzling \$46,226.66 from Heller Committee and \$139,051.38 from the PAC, which caused  
7 those committees to file inaccurate reports with the Commission.

8           Based on the available information and the Commission's past practice regarding similar  
9 committees, we recommend that the Commission transfer both committees to the Alternative  
10 Dispute Resolution Office ("ADRO"). We also recommend that the Commission find reason to  
11 believe that Phillips knowingly and willfully violated 52 U.S.C. § 30114(b) by converting  
12 principal campaign committee funds to personal use and 52 U.S.C. § 30102(b)(3) by  
13 commingling campaign and leadership PAC funds with his personal funds, and enter into pre-  
14 probable cause to believe conciliation with him. Further, we recommend that the Commission  
15 take no action as to the committees' recordkeeping and reporting vendor, In Compliance, Inc.,  
16 where Phillips was a partner, as the information shows that Phillips acted independently and  
17 without the knowledge of anyone else at the company. Finally, because neither Committee  
18 reported Phillips's substantial theft of committee funds to law enforcement authorities, we  
19 recommend that the Commission report the embezzlements to the Department of Justice and the  
20 Nevada Attorney General for whatever action those offices deem appropriate.

21    **II.    FACTUAL SUMMARY**

22           The Heller Committee is then-Senator Dean Heller's principal campaign committee for his  
23 2018 reelection campaign. The PAC is Heller's federal leadership political action committee.

1 Chrissie Hastie is the treasurer of both committees and the owner, President, and CEO of In  
2 Compliance, Inc., through which the committees contracted to receive recordkeeping and  
3 reporting services. Ryan Phillips was a partner at In Compliance, Inc. and is related to Hastie.

4 The Heller Committee and the PAC filed a complaint alleging Phillips converted  
5 campaign funds to personal use and caused the committees to file inaccurate reports with the  
6 Commission.<sup>1</sup> Subsequently, the committees submitted a joint *sua sponte* alleging the same  
7 facts.<sup>2</sup> The Complaint and *sua sponte* allege that from September 2018 through February 2019,  
8 while Phillips was a partner at In Compliance, he misappropriated \$46,226.66 from the Heller  
9 Committee and \$139,051.38 from the PAC, through unauthorized withdrawals, checks, and  
10 transfers.<sup>3</sup> Phillips allegedly converted those funds to personal use by making direct payments to  
11 himself or paying his personal expenses directly to merchants including Walmart, Chevron, Cox  
12 Communications, Vons, La Bellas Pizzeria, NV Energy, Shell, Funnys, Albertsons, Joanie's,  
13 Smiths Food Store, Santa Fe Hotel, IC Systems, Inc., Molly's, and Aliante.<sup>4</sup> Of the stolen  
14 leadership PAC funds, Phillips made \$12,204.68 payments directly to himself.<sup>5</sup>

15 Phillips admits that he misappropriated funds from the Heller Committee and the PAC,  
16 and he used the money for personal expenses.<sup>6</sup> After making this admission, he states that he has

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<sup>1</sup> MUR 7615 Compl. (May 30, 2019).

<sup>2</sup> Pre-MUR 625 *Sua Sponte* (Heller for Senate, *et al.*) (June 11, 2019).

<sup>3</sup> *See* MUR 7615 Compl. at 1-2; Pre-MUR 625 *Sua Sponte* at 2.

<sup>4</sup> *See* Pre-MUR 625 *Sua Sponte* Supplement at Attach (Jan. 15, 2020). Of the disbursements noted in the attachment to the supplemental *sua sponte*, we are including those to Globalcash and RapidCash as payments made directly to Phillips.

<sup>5</sup> *See* Pre-MUR 625 *Sua Sponte* Supp. at Attach.

<sup>6</sup> MUR 7615 Phillips Resp. (June 28, 2019).

1 “since admitted to having a gambling problem and admitted to using these funds for my own  
2 personal use.”<sup>7</sup> Phillips maintains no one at the Committee, PAC, or In Compliance knew at the  
3 time that he had misappropriated the funds.<sup>8</sup>

4 According to In Compliance, Phillips handled all of the Heller Committee’s and the  
5 PAC’s receipts, disbursements, and bank reconciliations.<sup>9</sup> In those roles, he had check-signing  
6 authority and a debit card linked to the committees’ accounts, which bank policies required he  
7 possess to make wire transfers from the committees’ accounts.<sup>10</sup> In Compliance further asserts  
8 that Phillips abused the debit cards and his banking privileges to misappropriate the committees’  
9 funds. In particular, Phillips, without anyone’s knowledge, removed the Heller Committee’s and  
10 PAC’s debit cards from a safe, used them to make disbursements, and did not return them to the  
11 safe, in contravention of company policies.<sup>11</sup>

12 According to the *sua sponte*, the Heller Committee’s and the PAC’s other internal controls  
13 in place at the time of the embezzlement provided that all bank accounts be opened in the name of  
14 the committees, not in the name of an individual, and incoming checks and receipts be received  
15 and monitored by someone who did not have banking authority or handled bank statements.<sup>12</sup>  
16 Other internal controls were set out, but not strictly followed: bank records were reviewed and  
17 reconciled, but not always on a monthly basis; checks in excess of \$1,000 were not always

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> MUR 7615 In Compliance, Inc. Resp. at 1 (June 27, 2019).

<sup>10</sup> MUR 7615 In Compliance, Inc. Resp. at 2.

<sup>11</sup> *Id.*

<sup>12</sup> Pre-MUR 625 *Sua Sponte* Supp. at 1-2.

1 authorized by two individuals; and the petty cash fund was monitored but the value of the fund  
2 was set at \$1,000, rather than at \$500 as set forth in the Commission's policy.<sup>13</sup>

3 In Compliance and the committees further assert that, in addition to circumventing  
4 existing internal controls, Phillips made multiple false entries in In Compliance's accounting  
5 software and the Heller Committee's and PAC's campaign software to hide the illegal  
6 transactions.<sup>14</sup> Then, Phillips reconciled the bank statements to data in the accounting software  
7 and balanced the accounting software data to the campaign software data to conceal the illegal  
8 transactions.<sup>15</sup> According to the *sua sponte*, Phillips disguised his transfers as legitimate  
9 campaign expenditures and at other times "simply erased all record of his activity."<sup>16</sup> The *sua*  
10 *sponte* further asserts that Phillips knowingly prepared and caused false disclosure reports to be  
11 prepared on behalf of the committees that inaccurately disclosed payments to third parties or  
12 failed to disclose committee and PAC activity altogether.<sup>17</sup>

13 According to In Compliance's response, at the end of each reporting period, In  
14 Compliance compared the ending cash-on-hand balance in the accounting software with that in  
15 the software used to generate Commission reports, but because of the concealed transactions, the  
16 receipts, disbursements, and cash on hand appeared to match.<sup>18</sup> Nonetheless, other In  
17 Compliance partners did not review the bank statements or reconciliations to confirm the activity

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<sup>13</sup> See *id.*; see also MUR 7615 In Compliance, Inc. Resp. at 2; *Statement of Policy; Safe Harbor for Misreporting Due to Embezzlement*, 72 Fed. Reg. 16,695 (Apr. 5, 2007) ("Embezzlement Safe Harbor Policy").

<sup>14</sup> Pre-MUR 625 *Sua Sponte* at 2; MUR 7615 In Compliance, Inc. Resp. at 1-2.

<sup>15</sup> MUR 7615 In Compliance, Inc. Resp. at 2.

<sup>16</sup> Pre-MUR 625 *Sua Sponte* at 2.

<sup>17</sup> *Id.*

<sup>18</sup> MUR 7615 In Compliance, Inc. Resp. at 2.

1 because they trusted Phillips, who is a family member with whom they had worked closely for  
2 “numerous years and during such time had never given any reason to doubt his integrity.”<sup>19</sup>  
3 Consequently, the illegal transactions were not discovered until In Compliance conducted its  
4 standard annual audit, at which time, it notified the committees of the misappropriated funds,  
5 conducted an investigation, prepared a report, and terminated Phillips’s employment.<sup>20</sup>

6 According to the committees, after discovering the embezzlement, they reviewed and  
7 revised their internal controls to follow the Commission’s safe harbor policies, including setting  
8 up an imprest account for petty cash, and revising debit card procedures requiring them to be  
9 signed in and out for each use.<sup>21</sup> Also, while one partner is still assigned to manage each of In  
10 Compliance’s clients, a separate employee, who is not a signer on the committee’s bank account,  
11 is responsible for reconciling bank statements for that client.<sup>22</sup> Then, another partner reviews the  
12 reconciliation assuring that financial transactions are reviewed and verified by multiple parties.<sup>23</sup>  
13 In addition, all deposits and disbursements are reviewed by no fewer than two persons.<sup>24</sup> The  
14 committees provided a list of the misreported transactions and stated that they would amend the  
15 affected reports.<sup>25</sup> On their respective original reports filed with the Commission, the Heller

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<sup>19</sup> *Id.* at 1-2.

<sup>20</sup> *Id.* at 3; *see also* Pre-MUR 625 *Sua Sponte* at 2; *Sua Sponte* Supp. at 2.

<sup>21</sup> Pre-MUR 625 *Sua Sponte* at 2; Pre-MUR 625 *Sua Sponte* Supp. at 3; MUR 7615 In Compliance, Inc. Resp. at 3.

<sup>22</sup> MUR 7615 In Compliance, Inc. Resp. at 3.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> Pre-MUR 625 *Sua Sponte* Supp. at Attach; *Sua Sponte* at 2.

1 Committee and the PAC only disclosed two misreported transactions each.<sup>26</sup> The Heller  
2 Committee and the PAC have yet to amend the reports affected by the illegal transactions or file a  
3 Form 99 disclosing the false transactions. The affected reports for each committee are the 2018  
4 October Quarterly, 2018 Pre-General, 2018 Post-General, 2018 Year-End and the 2019 April  
5 Quarterly.<sup>27</sup>

6 Other than filing the instant complaint and *sua sponte*, In Compliance and the committees  
7 have not notified relevant law enforcement authorities of Phillips's embezzlements.<sup>28</sup> According  
8 to the committees, they have "prioritized maintaining [] cooperation" with Phillips and In  
9 Compliance "to ensure that" the committees receive a timely refund of all misappropriated funds  
10 as well as In Compliance's continued cooperation with the *sua sponte*.<sup>29</sup>

11 Phillips stated in his response that he "will return all funds [he has] misappropriated from  
12 the Committees via [his] personal funds and the partner compensation [he] will receive as part of  
13 [his] partial ownership buy out from In Compliance Inc."<sup>30</sup> The committees have since confirmed  
14 that Phillips, through In Compliance, fully refunded the misappropriated funds to the committees  
15 in October 2019.<sup>31</sup> The Heller Committee and the PAC each disclosed the receipt of an

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<sup>26</sup> Heller for Senate 2019 April Quarterly Rpt. at 9 (disclosing disbursements to Phillips on Jan. 14, 2019, in the amount of \$300 and on Feb. 6, 2019, in the amount of \$500) (Apr. 15, 2019); HellerHighWater PAC, 2019 Mid-Year Rpt. at 17, 20 (disclosing disbursements to Phillips on Feb. 6, 2019, in the amount of \$541.59 and on Feb. 12, 2019, in the amount of \$532.59) (July 15, 2019).

<sup>27</sup> MUR 7615 Compl. at 2.

<sup>28</sup> Pre-MUR 625 *Sua Sponte* Supp. at 1-2 (confirming the committees have not notified law enforcement).

<sup>29</sup> *Id.*

<sup>30</sup> MUR 7615 Phillips Resp.

<sup>31</sup> Pre-MUR 625 *Sua Sponte* Supp. at 3.

1 “indemnification payment” from In Compliance on October 7, 2019, in the amount of \$46,226.66  
2 and \$139,051.38, respectively.<sup>32</sup>

### 3 **III. LEGAL ANALYSIS**

4 The Federal Election Campaign Act of 1971, as amended (the “Act”), requires a  
5 committee, through its treasurer, to keep an accurate account of receipts, disbursements, and cash-  
6 on-hand balances.<sup>33</sup> Committees, through their treasurers, are then required to use these records  
7 to file accurate reports to the Commission.<sup>34</sup>

8 The Commission established a safe harbor policy to benefit committees that file inaccurate  
9 reports because their funds were unknowingly misappropriated by committee fiduciaries and  
10 staff.<sup>35</sup> In its safe harbor policy, the Commission stated that it would not seek a monetary penalty  
11 against a committee if the committee had certain minimal internal controls in place at the time of  
12 the embezzlement and took certain steps after discovering the embezzlement.<sup>36</sup> Nonetheless, the  
13 Commission will consider “the presence of some but not all” of the controls as mitigating  
14 factors when fashioning a civil penalty offer even if a committee fails to satisfy the policy’s  
15 additional requirements.<sup>37</sup>

16 The internal controls identified in the policy include: (1) opening all bank accounts in

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<sup>32</sup> Heller for Senate 2019 Year-End Rpt. at 14 (Jan. 31, 2019); HellerHighWater PAC 2019 Year-End Rpt. at 6 (Jan. 31, 2020).

<sup>33</sup> 52 U.S.C. §§ 30102(c), 30104(b); 11 C.F.R. §§ 104.3, 104.14(d).

<sup>34</sup> 52 U.S.C. § 30104(b)(1), (2), (4)(G), (4)(H)(v), (5), (6)(A), (6)(B)(v).

<sup>35</sup> Embezzlement Safe Harbor Policy at 16,695.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*



1 the name of the committee using its Employer Identification Number; (2) reviewing monthly bank  
2 statements for unauthorized transactions and reconciling the statements by someone  
3 other than the individual with check-signing authority or who has responsibility for the  
4 committee's accounting; (3) requiring two signatures on checks over \$1,000; (4) instituting  
5 procedures for handling incoming receipts by someone other than the individuals with  
6 accounting or banking authority; and (5) maintaining safeguards for managing a petty cash  
7 account. Further, when a committee discovers misappropriation of funds, under the policy,  
8 the committee must notify the Commission and relevant law enforcement authorities and  
9 promptly amend its reports.<sup>38</sup> Similarly, the Commission's *sua sponte* policy encourages  
10 submitters to self-report related violations to "any law enforcement agency with jurisdiction over  
11 the activity."<sup>39</sup>

12 The Act further requires that a political committee's funds "shall be segregated from, and  
13 may not be commingled with, the personal funds of any individual,"<sup>40</sup> and prohibits individuals  
14 from converting contributions to a candidate's political committee for personal use.<sup>41</sup>

15 A violation of the Act is knowing and willful when the "actions [were] taken with full  
16 knowledge of all the facts and a recognition that the action is prohibited by law."<sup>42</sup> This does not

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<sup>38</sup> *Id.*

<sup>39</sup> *Policy Regarding Self-Reporting of Campaign Finance Violations (Sua Sponte Submissions)*, 72 Fed. Reg. 16,695, 16,698 (Apr. 5, 2007).

<sup>40</sup> 52 U.S.C. § 30102(b)(3).

<sup>41</sup> 52 U.S.C. § 30114(b)(1). A contribution or donation shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of federal office. *Id.* § 30114(b)(2).

<sup>42</sup> 122 Cong. Rec. H3778 (daily ed. May 3, 1976).

1 require proving knowledge of the specific statute or regulation the respondent allegedly  
2 violated.<sup>43</sup> Rather, it is sufficient to demonstrate that a respondent “acted voluntarily and was  
3 aware that his conduct was unlawful.”<sup>44</sup> This awareness may be shown through circumstantial  
4 evidence from which the respondent’s unlawful intent reasonably may be inferred.<sup>45</sup> For example, a  
5 person’s awareness that an action is prohibited may be inferred from “the [person’s] elaborate scheme  
6 for disguising ... political contributions.”<sup>46</sup>

7 **A. The Heller for Senate Committee and HellerHighWater PAC Should Be Referred**  
8 **to ADRO.**  
9

10 Although the Heller Committee and the PAC had some internal controls in place, the  
11 record indicates that they lacked the controls that would have enabled them to detect Phillips’s  
12 embezzlement. Phillips had check-signing authority on the committees’ accounts as well as  
13 responsibility for reconciling their bank statements. Phillips was also allowed access to the  
14 accounts through debit cards that were not monitored. Had the committees’ bank statements been  
15 reviewed by someone other than Phillips on a monthly basis as provided by the safe harbor,<sup>47</sup>

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<sup>43</sup> *United States v. Danielczyk*, 917 F. Supp. 2d 573, 578 (E.D. Va. Jan. 9, 2013) (quoting *Bryan v. United States*, 524 U.S. 184, 195 & n.23 (1998) (holding that, to establish a violation is willful, government needs to show only that defendant acted with knowledge that conduct was unlawful, not knowledge of specific statutory provision violated)).

<sup>44</sup> *Id.* (citing jury instructions in *United States v. Edwards*, No. 11-61 (M.D.N.C. 2012), *United States v. Acevedo Vila*, No. 08-36 (D.P.R. 2009), *United States v. Fieger*, No. 07-20414 (E.D. Mich. 2008), and *United States v. Alford*, No. 05-69 (N.D. Fla. 2005)).

<sup>45</sup> *Cf. United States v. Hopkins*, 916 F.2d 207, 213 (5th Cir. 1990) (quoting *United States v. Bordelon*, 871 F.2d 491, 494 (5th Cir. 1989)). *Hopkins* involved a conduit contributions scheme, and the issue before the Fifth Circuit concerned the sufficiency of the evidence supporting the defendants’ convictions for conspiracy and false statements under 18 U.S.C. §§ 371 and 1001.

<sup>46</sup> *Id.* at 214-15. As the *Hopkins* court noted, “It has long been recognized that ‘efforts at concealment [may] be reasonably explainable only in terms of motivation to evade’ lawful obligations.” *Id.* at 214 (quoting *Ingram v. United States*, 360 U.S. 672, 679 (1959)).

<sup>47</sup> Embezzlement Safe Harbor Policy at 16,695.

1 Phillips's activity may have been identified earlier or prevented. Due to Phillips's  
2 misappropriations and attempts to conceal the illegal transactions, the committees filed inaccurate  
3 disclosure reports with the Commission.

4 Although the Heller Committee and the PAC have provided a detailed list of each illegal  
5 transaction, they have not yet amended the affected disclosure reports or filed a Form 99  
6 identifying the false transactions. Nor have they notified relevant law enforcement authorities of  
7 the wrongdoing. Thus, the committees did not have all the specified safeguards in place, nor did  
8 they follow all the post-discovery steps as set forth in the Commission's policies.<sup>48</sup> Therefore,  
9 they do not qualify for full protection under the safe harbor and would benefit from ADRO's  
10 guidance in implementing safeguards against unauthorized activity and assistance in filing  
11 amendments to its reports.

12 Here, the record is complete as to the amount in violation and the extent of the Heller  
13 Committee's and the PAC's reporting violations. Accordingly, and consistent with the  
14 Commission's handling of similarly situated committees, we recommend that the Commission  
15 transfer the Heller Committee and the PAC to ADRO.<sup>49</sup>

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<sup>48</sup> Embezzlement Safe Harbor Policy at 16,695; *Policy Regarding Self-Reporting of Campaign Finance Violations (Sua Sponte)*, 72 Fed. Reg. 16,695, 16,697 (Apr. 5, 2007).

<sup>49</sup> Certification, RR 16L-06 (Rohrabacher for Congress/Jack Wu) (March 22, 2017); Certification, Pre-MUR 596, MUR 7132 (Amedisys, Inc. PAC/Michael Pitts) (May 10, 2017); Certification, RRs 15L-03, 15L-12 & 15L-16 (McConnell Senate Committee/Samuel Pate) (Oct. 30, 2015); Certification, RRs 12L-39, 12L-44, 12L-46 & 12L-71 (Richardson for Congress, DREAM PAC, Santa Barbara County Democratic Central Committee Federal PAC, Democratic Foundation for Orange County) (Dec. 17, 2013); Certification, RR 12L-42, AR 12-09; Pre-MUR 534, RRs 12L-18, 12L-43; Pre-MUR 537, RR 12L-29; Pre-MUR 538, RR 12L-28; Pre-MUR 539, RR 12L-30 (Los Angeles County Democratic Central Committee; Feinstein for Senate; Fund for the Majority; Susan Davis for Congress; Committee to Re-Elect Linda Sanchez; Committee to Re-Elect Loretta Sanchez) (Dec. 19, 2013); Certification, Pre-MUR 524, MUR 6768 (Official 12th District Democratic Party/Deborah Doherty) (Dec. 19, 2013); Memorandum from CELA to ADRO, Pre-MUR 526 (Geoff Davis for Congress) (March 15, 2012) (transferring Committees to ADRO following embezzlements).

1           **B. The Commission Should Find Reason to Believe that Phillips Knowingly and**  
 2           **Willfully Violated the Act's Personal Use and Commingling Provisions.**

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 4           Phillips admits to the allegations that he diverted \$46,226.66 in campaign funds from the  
 5 Heller Committee and \$139,051 in leadership PAC funds from HellerHighWater, and used those  
 6 funds to make direct payments to himself; to pay his personal expenses, including groceries,  
 7 restaurant bills, gasoline, and hotel stays; and to make direct payments to his personal utility  
 8 providers and a debt collection agency.<sup>50</sup> Phillips therefore illegally converted the funds of an  
 9 authorized campaign committee for personal use.<sup>51</sup> Further, when Phillips diverted \$12,204.68 of  
 10 the leadership PAC's funds directly to himself, he impermissibly commingled the funds of a  
 11 political committee with his own.<sup>52</sup>

12           Phillips's violations also appear to have been knowing and willful. Specifically, Phillips  
 13 made multiple false entries in the accounting and campaign software and then reconciled the  
 14 committees' bank statements with the accounting and campaign software to hide his illegal  
 15 transactions without In Compliance's or the committees' knowledge.<sup>53</sup>

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<sup>50</sup>       *See* Pre-MUR 625 *Sua Sponte* Supplement at Attach; MUR 7615 Phillips Resp.

<sup>51</sup>       52 U.S.C. § 30114(b); *see* MUR 6761 (Kenneth A. Barfield) (finding reason to believe that Respondent violated 2 U.S.C. § 439a(b) (now 52 U.S.C. § 30114(b)) where he made unauthorized disbursements from an authorized campaign committee's account and used the funds for personal expenses); MUR 6980 (Samuel K. Pate, Jr.) (same); MUR 7225 (Jack Wu) (same).

<sup>52</sup>       The remaining \$126,846.70 in leadership PAC funds which Phillips diverted were in the nature of unauthorized payments made to vendors for his personal bills. *See supra* at 3; *Sua Sponte* Supp. at Attach. Since these diverted PAC funds went directly to vendors, and not to Phillips himself, they do not constitute commingling. *See* 52 U.S.C. § 30102(b)(3); *see also* MUR 7225 (Jack Wu) (finding reason to believe that treasurer violated the commingling provision where he made unauthorized disbursements from the committee to his personal bank account and to bank accounts belonging to his businesses; treasurer violated the personal use provision, but not the commingling provision, when he used committee funds to pay back a former employer he embezzled from); MUR 5872 (Jennifer Hildebrand) (finding reason to believe campaign worker violated the commingling provision related to unauthorized checks she wrote to herself from the committee's campaign account; worker violated the personal use provision, but not the commingling provision, when she wrote an unauthorized check from the committee's account payable to her day care provider).

<sup>53</sup>       *See* MUR 7615 Compl. at 2; Pre-MUR 625 *Sua Sponte* at 2; MUR 7615 In Compliance, Inc. Resp. at 1-2; MUR 7615 Phillips Resp.

1           Accordingly, we recommend that the Commission find reason to believe that Ryan  
 2 Phillips knowingly and willfully violated 52 U.S.C. §§ 30102(b)(3) and 30114(b).

3           **C. The Commission Should Take no Action as to In Compliance, Inc.**

4           The available information indicates that other partners and employees of In Compliance  
 5 did not know of the misappropriations until they conducted an annual internal review, at which  
 6 time In Compliance reported the illegal transactions to the committees. Phillips maintains that he  
 7 acted independently, without the knowledge of anyone else at In Compliance. In Compliance  
 8 immediately terminated Phillips after learning about the embezzlement and revised its internal  
 9 controls to prevent future misappropriations. Given this information, and the recommendations to  
 10 pursue Phillips individually and transfer the committees to ADRO, we recommend that the  
 11 Commission take no action as to In Compliance.<sup>54</sup>

12 **IV. [REDACTED] REPORTING TO LAW ENFORCEMENT AUTHORITIES**

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<sup>54</sup> See, e.g., Factual & Legal Analysis at 1, MUR 5652 (Terrell for Senate, *et al.*) (Commission found reason to believe former assistant treasurer, Susan Arceneaux, an employee of a professional compliance firm, violated the Act in her personal capacity when the political committee she served accepted prohibited corporate and excessive contributions and proceeds of an unsecured bank loan and committed various reporting violations; the committee paid the professional compliance firm for her services and the Commission took no actions as to the firm); Certification, MUR 5652 (formerly AR 04-06) at 6 (Apr. 6, 2005) (Commission approved recommendation to find reason-to-believe as to Arceneaux in her personal capacity); Second Gen. Counsel's Rpt. at 28-31, MUR 6454 (Cornwell, *et al.*) (recommending taking no action as to employer of wrongdoer where employer's funds not used in the conduit scheme, employee acted independently and without employer's knowledge, employer curtailed employee's duties and closely supervised him, promptly reported wrongdoing, cooperated with the Commission, and implemented internal controls); Certification at 1, MUR 6454 (Cornwell, *et al.*) (Apr. 26, 2012) (Commission approved recommendation to take no action as to employer Anchin, Block & Anchin LLP).

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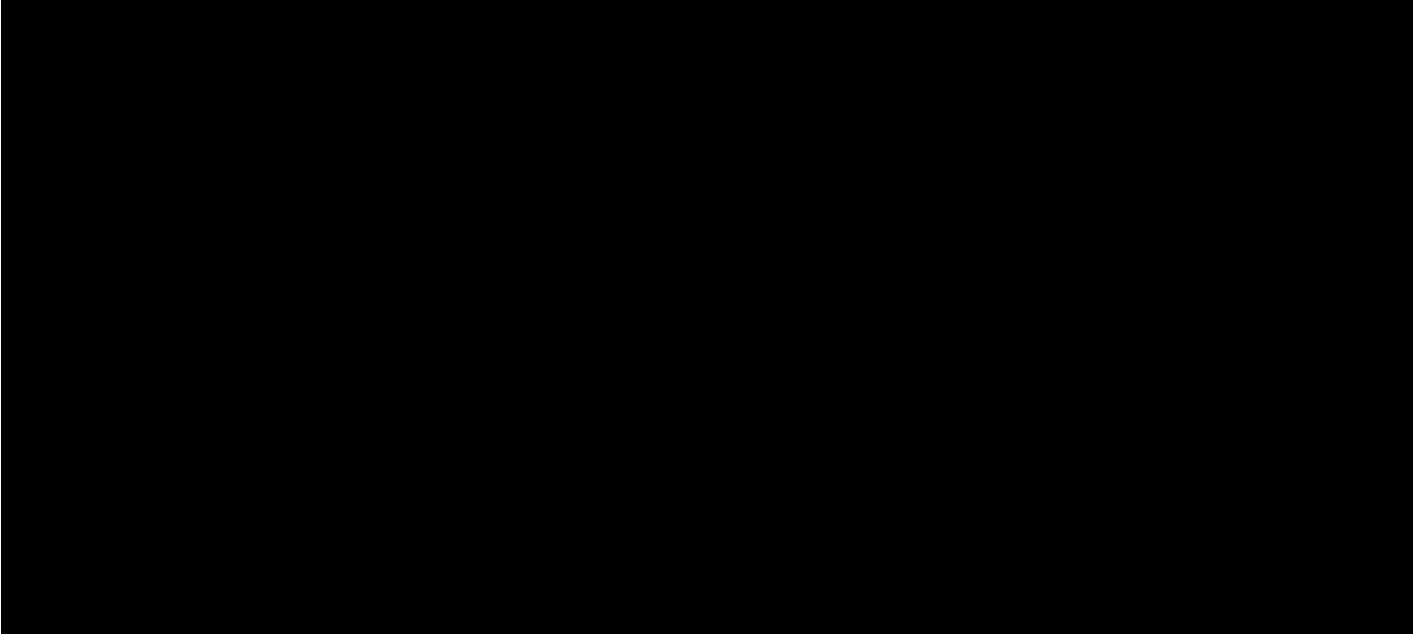
[REDACTED] the Commission is authorized to report apparent violations of the law outside of its civil jurisdiction to appropriate law enforcement authorities pursuant to 52 U.S.C. § 30107(a)(9). Phillips's theft of committee funds appears to be prima facie evidence of embezzlement under Nevada's crimes against property statute at N.R.S. Title 15, Chapter 205.<sup>58</sup> We conclude that the magnitude of Phillips's admitted thefts, his efforts to conceal the thefts, and the fact that over \$126,000 of the theft lies outside the Commission's jurisdiction over Phillips, warrant informing the appropriate law enforcement authorities.<sup>59</sup> Therefore, we recommend that the Commission

<sup>58</sup> As noted, In Compliance and the committees have not notified law enforcement authorities of Phillips's embezzlements, although the Commission encourages such notifications in its *Sua Sponte* and Embezzlement Safe Harbor Policies.

<sup>59</sup> See note 52. In addition, the Commission's standard notification letter to Phillips notifying him of the MUR 7615 Complaint informed him that the Commission could report information regarding violations of law not within its jurisdiction to other law enforcement authorities. Notification Letter n. 1, MUR 7615 (June 5, 2019).

1 report the thefts to the Department of Justice and the Nevada Attorney General pursuant to  
2 52 U.S.C. § 30107(a)(9) for whatever action they may deem appropriate. ■

3 **V. RECOMMENDATIONS**

- 4 1. Assign Pre-MUR 625 concerning Heller for Senate and Chrissie Hastie in her  
5 official capacity as treasurer and HellerHighWater PAC and Chrissie Hastie in her  
6 official capacity as treasurer to the Office of Alternative Dispute Resolution;  
7  
8 2. Find reason to believe that Ryan Phillips knowingly and willfully violated  
9 52 U.S.C. §§ 30102(b)(3) and 30114(b);  
10  
11 3. Enter into conciliation with Ryan Phillips prior to a finding of probable cause to  
12 believe;  
13  
14 4. Approve the attached Factual and Legal Analysis;  
15  
16 5. Report the relevant facts of this matter to the appropriate law enforcement  
17 authorities pursuant to 52 U.S.C. § 30107(a)(9) for whatever action they deem  
18 appropriate;  
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20 6. Approve the attached Conciliation Agreement;  
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22 7. Take no action as to In Compliance, Inc.; and
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8. Approve the appropriate letters.

Lisa J. Stevenson  
Acting General Counsel

Charles Kitcher  
Acting Associate General Counsel  
for Enforcement

05.19.20  
Date

BY: *Stephen Gura*  
Stephen Gura  
Deputy Associate General Counsel  
for Enforcement

*Mark Allen*  
Mark Allen  
Assistant General Counsel

*Christine C. Gallagher*  
Christine C. Gallagher  
Attorney

