



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**CONFIDENTIAL MATERIAL**

June 26, 2023

**VIA EMAIL**

Corey Amundson, Chief  
Public Integrity Section  
Criminal Division  
Department of Justice  
1301 New York Avenue, 10th Floor  
Washington DC 20005  
Corey.Amundson@usdoj.gov

RE: MUR 7615  
Ryan Phillips

Dear Mr. Amundson:

This letter is to notify you that on June 21, 2023, the Federal Election Commission found probable cause to believe that Ryan Phillips knowingly and willfully violated 52 U.S.C. §§ 30114(b) and 30102(b)(3). The Commission also determined to refer such apparent violations to the Department of Justice pursuant to 52 U.S.C. § 30109(a)(5)(C). *See* Memorandum of Understanding Between the Federal Election Commission and the United States Department of Justice Regarding Enforcement of the Federal Campaign Finance Laws (“MOU”) ¶ 6.

MUR 7615 arose from a Complaint alleging that Ryan Phillips, while providing administrative recordkeeping and compliance consulting services as a partner at In Compliance, Inc., to Heller for Senate (the “Heller Committee”) and HellerHighWater PAC (the “PAC”) (collectively, the “Committees”), converted campaign funds to personal use and caused the Committees to file inaccurate reports with the Commission over the course of several months during 2018-2019. In his Response to the Complaint, Phillips admits that he misappropriated funds totaling \$46,226.66 from the Heller Committee and \$139,051.38 from the PAC. The information before the Commission shows that, without the knowledge of the Committees or In Compliance, Inc., Phillips converted \$46,226.66 in Heller Committee funds to personal use by writing checks to himself and making electronic transfers to himself and to pay his personal expenses via electronic disbursements to merchants, utility providers, restaurants, hotels and casinos, and a debt collection agency. Of the stolen leadership PAC funds at issue in the

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commingling violation, Phillips made \$12,204.68 in payments directly to himself through unauthorized electronic funds transfers and checks made payable to himself. The remaining \$126,846.70 in stolen leadership PAC funds were not commingled and were outside of the Commission's jurisdiction.

The knowing and willful violations in this matter are "significant and substantial" and may be described as "aggravated in the intent in which they are committed," in that Phillips's misappropriations were carried out in nearly two hundred individual transactions involving two committees over the course of several months from September 6, 2018 through February 20, 2019. MOU ¶ 13. He circumvented In Compliance's internal controls and disguised his illegal activities by making multiple false entries in In Compliance's and the Committees' accounting and campaign software and then reconciling the Committees' bank statements with the accounting and campaign software to hide his illegal transactions without In Compliance's or the Committees' knowledge. Phillips both disguised his transfers as legitimate campaign expenditures and at other times chose not to disclose the activity. An additional aggravating factor is that the total amount of the knowing and willful violations, \$58,431.34, is significant in monetary amount. One mitigating factor is that Phillips, through In Compliance, subsequently fully refunded the misappropriated funds to the Committees.

Despite having filed a Response admitting to the misappropriations, Phillips subsequently evaded service of the Commission's notices. Neither the Committees nor In Compliance reported Phillips's theft of committee funds to the appropriate law enforcement authorities. The magnitude of Phillips's admitted thefts, his efforts to conceal the thefts, and the fact that \$126,846.70 of the theft lies outside the Commission's jurisdiction over Phillips, warrants referral of this matter to the Department of Justice.

The details of the violations are included in the General Counsel's Brief, which is attached for your review and further investigation.

I offer our assistance to you in this matter and in any manner you deem appropriate. To ensure that the Respondent does not escape liability for his violations in the event the Department of Justice declines to prosecute, the Commission has not closed the matter so that it can pursue appropriate measures pursuant to 52 U.S.C. § 30109(a)(4). It is the Commission's intention to consider civil enforcement no later than 75 days after the date of this referral, or around September 11, 2023. Please advise us of the disposition of this matter in accordance with 52 U.S.C. § 30109(c). Because the statute of limitations begins to run on the earliest activity in September 2023, we would appreciate notification of your intent to pursue this matter at your earliest convenience.

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If you have questions, please contact Charles Kitcher, Associate General Counsel for Enforcement, at (202) 694-1589.

Sincerely,

**Lisa J. Stevenson** /by CK

Lisa J. Stevenson  
Acting General Counsel

cc: Robert Heberle  
Director, Election Crimes Branch  
Robert.Heberle@usdoj.gov

Enclosure  
General Counsel's Brief

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2  
 3 In the Matter of )  
 4 )  
 5 Ryan Phillips ) MUR 7615  
 6 )

7 **GENERAL COUNSEL'S BRIEF**

8 **I. STATEMENT OF THE CASE**

9 This matter arose from a Complaint alleging that Ryan Phillips, while providing  
 10 administrative recordkeeping and compliance consulting services as a partner at In Compliance,  
 11 Inc., to Heller for Senate (the "Heller Committee") and HellerHighWater PAC (the "PAC")  
 12 (collectively, the "Committees"), converted campaign funds to personal use and caused the  
 13 Committees to file inaccurate reports with the Commission over the course of several months  
 14 during 2018-2019.

15 The information before the Commission shows that without the knowledge of the  
 16 Committees or In Compliance, Inc., Phillips used the misappropriated funds to make direct  
 17 payments to himself and to pay his personal expenses by making direct payments to merchants.  
 18 Phillips admits that he misappropriated funds totaling \$46,226.66 from the Heller Committee and  
 19 \$139,051.38 from the PAC.<sup>1</sup> On October 13, 2021, the Commission found reason to believe that  
 20 Phillips knowingly and willfully violated 52 U.S.C. §§ 30114(b) and 30102(b)(3) of the Federal  
 21 Election Campaign Act of 1971, as amended (the "Act"), by converting Heller Committee funds  
 22 to personal use and commingling PAC funds with his own.

23 Based on the record before the Commission, the Office of General Counsel is prepared to  
 24 recommend that the Commission find probable cause to believe that Ryan Phillips knowingly  
 25 and willfully violated 52 U.S.C. §§ 30114(b) and 30102(b)(3).

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<sup>1</sup> See Phillips Resp. at 1 (June 28, 2019) ("I affirm that the violations detailed in the complaint against me are true and accurate and I do not contest these violations. I, of my own volition, misappropriated funds from Heller for Senate and Hellerhighwater for my personal use.").

1    **II.    FACTS**

2           Dean Heller was a 2018 candidate for reelection to the Senate; his principal campaign  
3   committee is Heller for Senate.<sup>2</sup> HellerHighWater PAC is Heller's leadership PAC.<sup>3</sup> Chrissie  
4   Hastie was the treasurer of both Committees during the relevant time.<sup>4</sup> She is also the current  
5   treasurer of both Committees and the owner, President, and CEO of In Compliance, through  
6   which the Committees contracted to receive recordkeeping and reporting services.<sup>5</sup> Ryan  
7   Phillips was a partner at In Compliance at the time of the events in this matter and is a family  
8   relation of Hastie.<sup>6</sup>

9           The Heller Committee and the PAC filed a Complaint with the Commission alleging that  
10   Phillips converted campaign funds to personal use and caused the Committees to file inaccurate  
11   reports with the Commission.<sup>7</sup> In Phillips's response to the Complaint, he admits that, without  
12   the knowledge of anyone at In Compliance or the Committees, he misappropriated the  
13   Committees' funds for his own personal use.<sup>8</sup>

14          During the events in this matter, from September 2018 through February 2019, Phillips  
15   was a partner at In Compliance.<sup>9</sup> Because Phillips was a trusted family member of Hastie's, In  
16   Compliance assigned Phillips the task of handling all of the Heller Committee's and the PAC's  
17   receipts, disbursements, and bank reconciliations.<sup>10</sup> In those roles, he had check-signing

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<sup>2</sup>       Dean Heller, Amended Statement of Candidacy at 1 (Oct. 2, 2018); Heller for Senate, Amended Statement of Organization at 1 (Dec. 9, 2021).

<sup>3</sup>       HellerHighWater PAC, Amended Statement of Organization at 1 (May 31, 2019).

<sup>4</sup>       Factual and Legal Analysis at 1, MUR 7615 (Ryan Phillips) ("F&LA") .

<sup>5</sup>       *Id.*

<sup>6</sup>       *Id.*

<sup>7</sup>       Compl. at 1 (May 20, 2019).

<sup>8</sup>       Resp. at 1.

<sup>9</sup>       F&LA at 1; Compl. at 1.

<sup>10</sup>      F&LA at 2-3.; Compl. at 1.

1 authority and a debit card linked to the Committees' accounts, which bank policies required he  
2 possess to make wire transfers from the Committees' accounts.<sup>11</sup>

3 According to information before the Commission, In Compliance conducted an internal  
4 investigation prompted by its discovery of suspicious transactions while it was performing its  
5 standard annual financial audit, and found that Phillips, without anyone's knowledge, removed  
6 the Heller Committee's and PAC's debit cards from a safe, used them to make disbursements,  
7 and did not return them to the safe, in contravention of In Compliance's policies.<sup>12</sup> The  
8 information before the Commission shows that from September 6, 2018, through February 22,  
9 2019, Phillips used the Committees' debit cards to make electronic funds transfers to himself, a  
10 cash withdrawal, and pay his personal expenses via disbursements to merchants including  
11 retailers such as Walmart, Chevron, Shell, Albertsons, Smith's Food Store, Vons; utility  
12 providers such as Cox Communications and NV Energy; restaurants such as La Bella's Pizzeria;  
13 hotels and casinos such as Funnys, Joanie's, Santa Fe Hotel, Molly's, and Aliante; and IC  
14 Systems, Inc., a debt collection agency.<sup>13</sup>

15 The available information indicates that during this time, Phillips did not follow In  
16 Compliance's verbal policy that checks in excess of \$1,000 be authorized in writing and/or  
17 signed by two individuals, and as a result, he was able to write multiple unauthorized checks  
18 from the Committees' bank accounts to himself in excess of \$1,000.<sup>14</sup> Phillips also diverted  
19 undeposited cash belonging to the PAC to himself.<sup>15</sup>

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<sup>11</sup> F&LA at 2; Compl. at 1.

<sup>12</sup> F&LA at 2-3; Compl. at 2.

<sup>13</sup> F&LA at 1-2; Compl. at 1-2.

<sup>14</sup> F&LA at 1-3; Compl. at 2.

<sup>15</sup> Compl. at 2 (alleging that Phillips misappropriated \$152 in undeposited cash from the PAC).

1 Information before the Commission also shows that in addition to circumventing existing  
2 internal controls, Phillips made multiple false entries in In Compliance's accounting software  
3 and the Committees' campaign software to hide the illegal transactions.<sup>16</sup> Then, Phillips  
4 reconciled the bank statements to data in the accounting software and balanced the accounting  
5 software data to the campaign software data to conceal the illegal transactions.<sup>17</sup> Phillips both  
6 disguised his transfers as legitimate campaign expenditures and at other times chose not to  
7 disclose the activity.<sup>18</sup> The available information further shows that Phillips knowingly prepared  
8 and caused to be prepared false disclosure reports on behalf of the Committees that inaccurately  
9 disclosed payments to third parties or failed to disclose Heller Committee and PAC activity  
10 altogether.<sup>19</sup>

11 According to the available information, at the end of each reporting period, In  
12 Compliance compared the ending cash-on-hand balance in the accounting software with that in  
13 the software used to generate Commission reports, but because of the concealed transactions, the  
14 receipts, disbursements, and cash on hand appeared to match.<sup>20</sup> In Compliance partners did not  
15 review the bank statements or reconciliations on a monthly basis to confirm the activity, in  
16 contravention of the firm's own verbal policy, because they trusted Phillips, who is a family  
17 member of the President and CEO and with whom they had worked closely for years.<sup>21</sup>  
18 Consequently, the illegal transactions were not discovered until In Compliance conducted its  
19 standard annual audit, during which its senior managers identified multiple suspicious

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<sup>16</sup> F&LA at 3; Compl. at 2.

<sup>17</sup> F&LA at 3.

<sup>18</sup> *Id.*; Compl. at 2.

<sup>19</sup> F&LA at 3; Compl. at 2. The Committees amended the affected reports filed with the Commission to disclose the unauthorized disbursement of funds.

<sup>20</sup> F&LA at 3.

<sup>21</sup> *Id.*

1 transactions that did not appear to correspond with the Committees' activities.<sup>22</sup> At this time, In  
2 Compliance notified the Committees of the misappropriated funds.<sup>23</sup> The information before the  
3 Commission shows that In Compliance conducted an internal investigation into all the financial  
4 transactions of the Committees through which it was able to uncover and identify all of the  
5 discrepancies in each of the Committee's accounts and prepared a report.<sup>24</sup> At the time of the  
6 discovery of the misappropriated funds, In Compliance terminated Phillips's employment.<sup>25</sup>

7       Ultimately, Phillips misappropriated \$46,226.66 from the Heller Committee and  
8 \$139,051.38 from the PAC through unauthorized withdrawals, checks, and electronic transfers.<sup>26</sup>  
9 Phillips converted Heller Committee funds to personal use by writing checks to himself, and  
10 making electronic transfers to himself and to pay his personal expenses via electronic  
11 disbursements to merchants, utility providers, restaurants, hotels and casinos, and a debt  
12 collection agency.<sup>27</sup> Of the stolen leadership PAC funds, Phillips made \$12,204.68 in payments  
13 directly to himself through unauthorized electronic funds transfers and checks made payable to  
14 himself.<sup>28</sup>

15       Phillips admits that he misappropriated funds from the Heller Committee and the PAC, as  
16 alleged in the Complaint, and that he used the money for personal expenses.<sup>29</sup> He states that he  
17 has "since admitted to having a gambling problem and admitted to using these funds for my own

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<sup>22</sup> *Id.* at 3-4.

<sup>23</sup> *Id.* at 4; Compl. at 2.

<sup>24</sup> F&LA at 4; Compl. at 2.

<sup>25</sup> F&LA at 4.

<sup>26</sup> *Id.* at 1-2; Compl at 2.

<sup>27</sup> F&LA at 1-2; Compl. at 1-2.

<sup>28</sup> F&LA at 2; Compl. at 2.

<sup>29</sup> Phillips Resp. at 1.



1 personal use.”<sup>30</sup> Phillips maintains no one at the Committee, the PAC, or In Compliance knew at  
2 the time that he had misappropriated the funds.<sup>31</sup>

3 Phillips stated in his response that he “will return all funds [he has] misappropriated from  
4 the Committees via [his] personal funds and the partner compensation [he] will receive as part of  
5 [his] partial ownership buy out from In Compliance.”<sup>32</sup> Phillips, through In Compliance,  
6 subsequently fully refunded the misappropriated funds to the Committees.<sup>33</sup> The Heller  
7 Committee and the PAC each disclosed the receipt of an “indemnification payment” from In  
8 Compliance on October 7, 2019, in the amount of \$46,226.66 and \$139,051.38, respectively.<sup>34</sup>

### 9 **III. LEGAL ANALYSIS**

10 The record before the Commission indicates that Phillips converted \$46,226.66 of Heller  
11 Committee funds to personal use and commingled \$12,204.68 in PAC funds with his own in  
12 violation of the Act.

13 The Act requires that a political committee’s funds “shall be segregated from, and may  
14 not be commingled with, the personal funds of any individual,”<sup>35</sup> and prohibits individuals from  
15 converting contributions to a candidate’s political committee to personal use.<sup>36</sup> A contribution or  
16 donation shall be considered to be converted to personal use if the contribution or amount is used

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<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> F&LA at 4.

<sup>34</sup> *Id.*; see also Heller for Senate, 2019 Year-End Report at 14 (Jan. 31, 2020); HellerHighWater PAC, 2019 Year-End Report at 6 (Jan. 31, 2020).

<sup>35</sup> 52 U.S.C. § 30102(b)(3).

<sup>36</sup> *Id.* § 30114(b)(1).

1 to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the  
2 candidate's election campaign or individual's duties as a holder of federal office.<sup>37</sup>

3 A violation of the Act is knowing and willful when the "actions [were] taken with full  
4 knowledge of all the facts and a recognition that the action is prohibited by law."<sup>38</sup> This does not  
5 require proving knowledge of the specific statute or regulation the respondent allegedly  
6 violated.<sup>39</sup> Rather, it is sufficient to demonstrate that a respondent "acted voluntarily and was  
7 aware that his conduct was unlawful."<sup>40</sup> This awareness may be shown through circumstantial  
8 evidence from which the respondent's unlawful intent reasonably may be inferred.<sup>41</sup> For  
9 example, a person's awareness that an action is prohibited may be inferred from "the [person's]  
10 elaborate scheme for disguising . . . political contributions."<sup>42</sup>

11 Phillips admits to the allegations that he diverted \$46,226.66 in campaign funds from the  
12 Heller Committee and \$139,051 in leadership PAC funds from the PAC, and used those funds to  
13 make direct payments to himself; to pay his personal expenses, including groceries, restaurant  
14 bills, gasoline, and hotel stays; and to make direct payments to his personal utility providers and

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<sup>37</sup> *Id.* § 30114(b)(2).

<sup>38</sup> 122 CONG. REC. H3778 (daily ed. May 3, 1976).

<sup>39</sup> *United States v. Danielczyk*, 917 F. Supp. 2d 573, 578 (E.D. Va. 2013) (quoting *Bryan v. United States*, 524 U.S. 184, 195 & n.23 (1998) (holding that, to establish a violation is willful, the government need show only that the defendant acted with knowledge that the conduct was unlawful, not knowledge of the specific statutory provision violated)).

<sup>40</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>41</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>42</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)).

1 a debt-collection agency.<sup>43</sup> Phillips therefore illegally converted the funds of an authorized  
2 campaign committee to personal use.<sup>44</sup> Further, by diverting \$12,204.68 of the \$139,051 in PAC  
3 funds directly to himself via checks and electronic fund transfers, Phillips impermissibly  
4 commingled the funds of a political committee with his own.<sup>45</sup>

5 Phillips's violations also appear to have been knowing and willful. Specifically, Phillips  
6 made multiple false entries in In Compliance's and the Committees' accounting and campaign  
7 software and then reconciled the Committees' bank statements with the accounting and  
8 campaign software to hide his illegal transactions without In Compliance's or the Committees'  
9 knowledge.<sup>46</sup>

10 Accordingly, there is probable cause to believe that Ryan Phillips knowingly and willfully  
11 violated 52 U.S.C. §§ 30114(b) and 30102(b)(3).

#### 12 **IV. CONCLUSION**

13 For the foregoing reasons, this Office is prepared to recommend that the Commission  
14 find probable cause to believe that Ryan Phillips knowingly and willfully violated

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<sup>43</sup> See Phillips Resp. at 1 (admitting to the allegations detailed in the Complaint).

<sup>44</sup> 52 U.S.C. § 30114(b); see F&LA at 5-7, MUR 7692 (Scott E. Coleman) (finding reason-to-believe that a respondent knowingly and willfully violated 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); F&LA at 9-11, MUR 6761 (Kenneth A. Barfield) (same); F&LA at 3-4, MUR 6980 (Samuel K. Pate, Jr.) (same); F&LA at 6-8, MUR 7225 (Jack Wu) (same).

<sup>45</sup> 52 U.S.C. § 30102(b)(3); see F&LA at 3-5, MUR 6526 (Cora Carper) (finding reason-to-believe that respondent knowingly and willfully violated now 52 U.S.C. § 30102(b)(3) where she deposited cash into personal accounts after cashing committee checks that she had issued to herself without authorization); F&LA at 4, MUR 6980 (Samuel K. Pate, Jr.) (same finding where respondent transferred committee funds to his personal savings accounts); F&LA at 4-5, MUR 7922 (Bryan Williams) (same).

<sup>46</sup> See Phillips Resp. at 1; F&LA at 2-3, 5-6; Compl. at 2.

1 52 U.S.C. 30114(b) by converting Heller Committee funds to personal use and knowingly and  
2 willfully violated 52 U.S.C. § 30102(b)(3) by commingling personal and PAC funds.

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January 6, 2023

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Date

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Lisa J. Stevenson /by CK

Lisa J. Stevenson  
Acting General Counsel

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Charles Kitcher

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