

BEFORE THE  
FEDERAL ELECTION COMMITTEE

Regina Ballinger

Needham, MA 02492

Complainant,

v.

Geoff Diehl

Diehl for U.S. Senate  
Susan L. Scholl, Treasurer

Respondent.

MUR # 7489  
Supplement

OFFICE OF  
GENERAL COUNSEL

2018 AUG 30 AM 11:28

COMPLAINT

Complainant files this complaint against Geoff Diehl and Diehl for U.S. Senate (“Respondents”) requesting that the Federal Election Commission (the “Commission”) investigate violations of the Federal Election Campaign Act (“the Act”). As described below, Respondents have had in use for the duration of their campaign an RV (“vehicle”) with the likeness and slogans of the Respondent that does not display the proper disclaimer notice as required by the FECA.

A. FACTUAL ALLEGATIONS

Geoff Diehl is a candidate for the United States Senate from the State of Massachusetts. He is a candidate in the primary election, to be held on September 4, 2018. Diehl for U.S. Senate is his principal campaign committee.

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In November of 2017, Diehl for U.S. Senate launched a campaign bus tour across Massachusetts, "Diehl on Wheels". The campaign was announced and his campaign's RV was unveiled during a late-morning news conference in Braintree, MA. At that news conference, "the Republican said he intends to use the RV to promote his campaign and vision for Massachusetts while traveling the state between now and the November 2018 election." (Quote from article by Shannon Young of MassLive.) Diehl added "that if elected in 2018 he plans to continue using the RV to travel the state and meet with voters."

The RV is in public view at parades, rallies, and other campaign related events and serves as the primary mode of transportation for the candidate, Geoff Diehl, while he travels throughout the Commonwealth of Massachusetts. When not in use the RV is parked in full view of the public road outside of the campaign offices in Braintree, Massachusetts (as shown in photos).

In addition, in a mailing sent in March/April 2018 to Massachusetts Republican Convention Delegates, a flyer was included that asked people to "Chip in \$35 or more" to "Gas up the RV!" The attached "Gas up the RV!" flyer has a photograph of the bus - neither the flyer nor the photograph in the flyer displays the required disclaimer language.

Attached you will find several photographs of the "Diehl Mobile" that will clearly show the required disclaimer notice is not depicted anywhere on the vehicle.

## B. LEGAL ANALYSIS

The Act provides that certain communications must include disclaimers. A "disclaimer" notice is defined as a statement placed on a public communication that identifies the person(s) who paid for the communication and, where applicable, the person(s) who authorized the communication.

As defined in FEC regulations, the term "public communication" includes: broadcast, cable or satellite transmission; newspaper; magazine; outdoor advertising facility (e.g. billboard); mass mailing; telephone banks; any other general public political advertising.

The actual wording of the disclaimer depends on the type of communication. On a public communication that is authorized and paid for by a candidate or his/her campaign committee, the disclaimer notice must identify who paid for the message. The disclaimer notice must be "clear and conspicuous" on the committee's communications, solicitations and materials. The notice will not be considered to be "clear and conspicuous" if: it is difficult to read or hear, or the notification is placed where it can be easily overlooked.

On printed materials, the disclaimer notice must appear within a printed box set apart from the other contents in the communication. The print must be of a sufficient type-size to be clearly readable by the recipient of the communication, and the print must have a reasonable degree of color contrast between the background and the printed statement. In the case of single-sided documents and billboards, the disclaimer must appear on the front.

#### C. REQUESTED ACTION

For the reasons described above, we respectfully urge the Commission to investigate whether Respondents have violated the Act by not displaying the appropriate disclaimer language prominently on the side of their campaign vehicle. We further request that Respondents be enjoined from further usage of the vehicle for the duration of the campaign and be fined the maximum amount permitted by law.

Sincerely,

*Regina Ballinger*

SUBSCRIBED AND SWORN to before me this 28 day of August, 2018.

Notary Public

*J. P. Twiss II*

My Commission Expires:

*2/10/23*



*Norfolk County* *[Signature]*

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