

*Kathryn Ross*

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September 26, 2018

Jeff S. Jordan, Esquire  
Federal Election Commission  
Office of Complaints, Examination & Legal Administration  
Attn: Karen Ross, Paralegal  
1050 First Street, NE  
Washington, D.C. 20463

**RE: MUR 7489**

Dear Attorney Jordan:

As you are aware, we represent the Diehl for U.S. Senate Committee (hereinafter referred to as the "Committee"). Kindly accept this letter in response to Complaints filed with the Federal Elections Commission against the Committee alleging violations of the Federal Election Campaign Act of 1971, as amended (hereafter referred to as the "Act").

The Complaints were filed by Regina Bellinger. Ms. Bellinger was a large financial contributor to one of Geoff Diehl's primary opponents, Beth Lindstrom. Mr. Diehl defeated Mrs. Lindstrom in the Massachusetts Republican Primary Election held on September 4, 2018. These Complaints were lodged by one of Mrs. Lindstrom's supporters only two (2) weeks prior to the Massachusetts State Primary.

The Complaint dated August 20, 2018 alleges that the Committee violated the Act by neglecting to include the requisite disclaimer on the Recreational Vehicle (hereinafter referred to as the "RV"), that the candidate utilizes to travel throughout Massachusetts while campaigning. In addition the Complaint dated August 20, 2018 alleges the Committee neglected to include the requisite disclaimer on a flyer contained in a campaign mailing sent in . . . "March/April 2018". The Complaint dated August 27, 2018 alleges the Committee violated the Act by neglecting to include the requisite disclaimer on its lawn signs.

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It is presumed that the Complaints allege violations of 52 U.S.C. §30120 and 11 C.F.R. §110.11; however, it is deficient in that it does not specifically state what Sections of the Act or Code of Federal Regulations Ms. Bellinger contends the Committee violated.

Federal law requires that all public communications made by a political committee must include a disclaimer stating the communication has been paid for by the authorized political committee 52 U.S.C. §30120(a)(1); 11 C.F.R. §110.11 (a)(1) and (b)(1). Disclaimers "must be presented in a clear and conspicuous manner, to give the reader"... "adequate notice of the identity of the person or political committee that paid for"... "the communication". A disclaimer is not clear and conspicuous if it is difficult to read"... "or if the placement is easily overlooked" 11 C.F.R. §110.11(c)(1). The disclaimer must be of sufficient type and size to be clearly readable by the recipient of the communication. A disclaimer in twelve point type size satisfies the size requirement of this paragraph (c)(2)(i) when it is used for signs, posters, flyers, newspapers, magazines, or other printed material that measure no more than twenty-four (24) inches by thirty-six inches 11 C.F.R. 110.11 (c)(2)(i); *See* 52 U.S.C. §30120 (c)(1). The disclaimer must be evident in a printed box and contain a reasonable degree of color contrast between the communications background and the printed statement 11 C.F.R. §110.11 (c)(2)(i-ii). A disclaimer satisfies the color contrast requirement if the degree of color between the background and text of the disclaimer are no less than the degree of contrast in color between the background and the largest text used in the communication. 11 C.F.R. 110.11 (c)(2)(iii); 52 U.S.C §30120 (c)(3).

The Committee acknowledges that the RV and lawn signs initially purchased did not contain the disclaimer. The Committee states that this oversight was an inadvertent and unintentional mistake. As soon as the Committee became aware of the mistake on the lawn signs it immediately purchased stickers at least six (6) inches in length with a minimum, of fourteen (14) point type containing the disclaimer "Paid for by Diehl for U.S. Senate". The stickers are a white box with black lettering. These stickers were affixed to over One Thousand (1,000) lawn signs in its possession which had not yet been distributed. The lawn signs that have since been printed contain the same disclaimer; however, the print is white with a minimum of twelve (12) point type and located in a box with a red background. The color contrast of the disclaimer pre-printed on signs recently printed as well as that contained on the stickers is no less significant than the largest letters in white written on the blue background of each sign. Photographs of a lawn sign containing the sticker and the preprinted disclaimer are attached hereto as Exhibit "A". As soon as the Committee became aware the RV did not contain the requisite disclaimer it immediately had a disclaimer affixed to the front drivers' side door. The disclaimer is clear and conspicuous, and of sufficient size and color contrast to give the public adequate notice that it was paid for by the Committee. This disclaimer reads "Paid for by Diehl for U.S. Senate", and is readily visible. It is contained in a box, and the color contrast is white type on red background. Its color contrast is no less significant than the largest letters in white

1004766444001

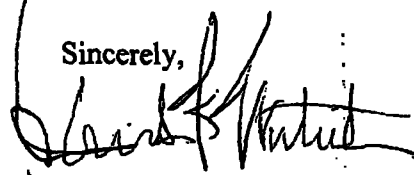
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written on the blue background of the RV. A photograph of the RV containing the disclaimer is attached hereto as Exhibit "B".

With respect to the allegations that the Committee failed to include the requisite disclaimer on a flyer contained in a mailing sent in ... "March/April 018" ... this allegation is utterly false and seriously misleading. The alleged flyer contained in the Complaint dated August 20, 2018 refers to a picture of the RV with inter alia, the phrase "GAS UP THE RV". This alleged flyer contained in the Complaint dated August 20, 2018 is attached hereto as Exhibit "C". This misleading evidence was not published by the Committee as a flyer. The photograph of the RV, including the above-referenced phrase, was included in a fundraising e-mail dated November 28, 2017. The photograph appears on the second page of that fundraising e-mail. Apparently, the photograph was superimposed on paper to appear as a flyer which the Complainant included in the Complaint. This flyer was clearly fabricated. The fundraising e-mail contains four (4) pages. The last page of the e-mail contains the disclaimer, in a box outlined in black, which reads "Paid for by Diehl for U.S. Senate". The e-mail dated November 28, 2017 is attached hereto as Exhibit "D". The disclaimer does not have to appear on the first page of any communication provided it appears within the communication 11 C.F.R. §110.11 (c)(2)(iv). The fundraising e-mail dated November 25, 2017 clearly meets this criteria as well as all other applicable criteria contained in 52 U.S.C. §30120 and 11 C.F.R. 110.11.

The Affidavit of Holly J. Robichaud, the Committee's Chief Political Strategist and General Manager, in support hereof is included herewith. Please do not hesitate to contact me with any questions regarding the above.

Sincerely,



Daniel K. Webster

DKW:lrs  
Enclosures  
cc: Diehl for U.S. Senate

EXHIBIT "A"

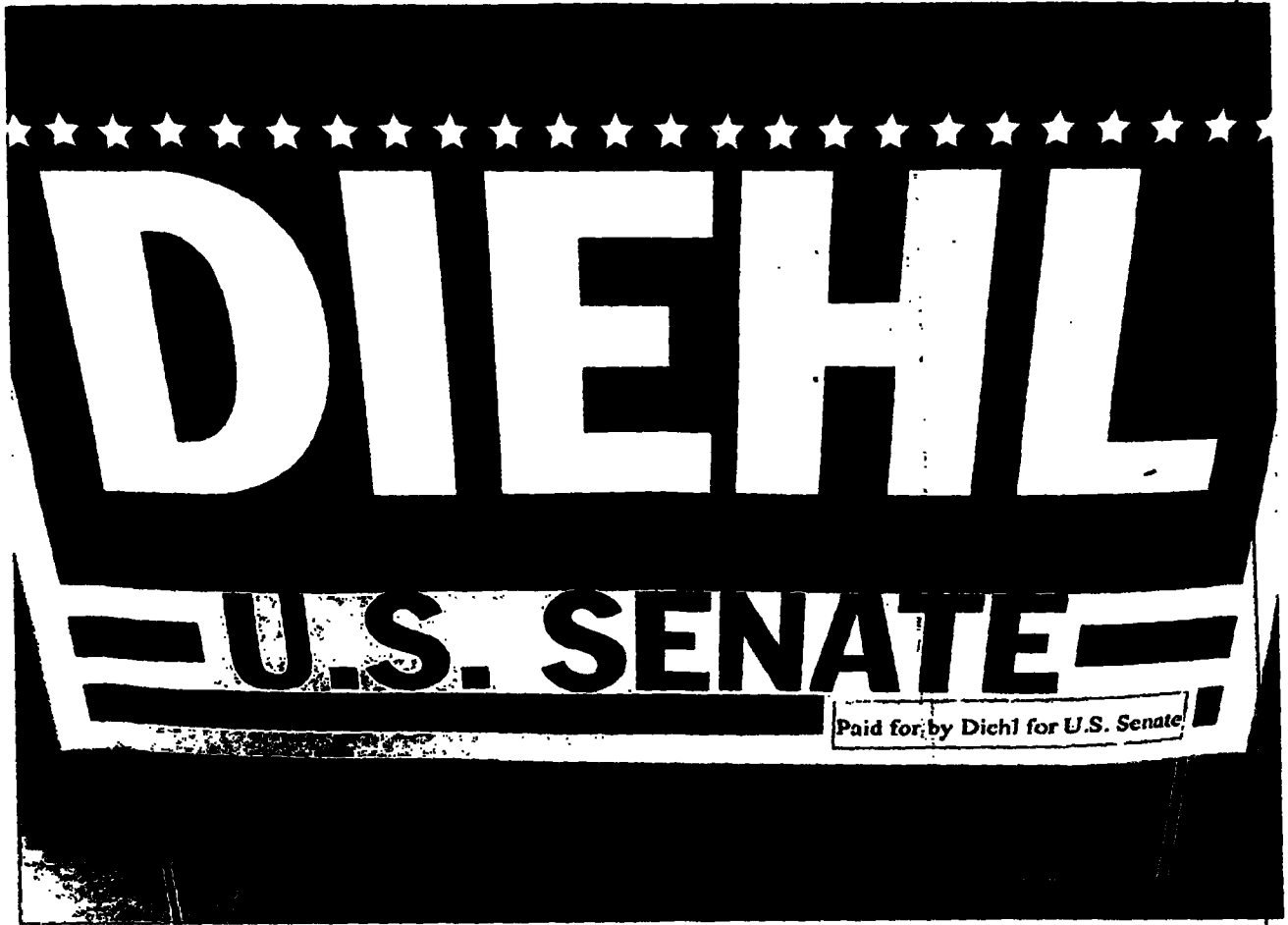
CONFIDENTIAL

Lawn sign

John OConnell

Thu 9/27/2018 1:27 PM

To: Holly Robichaud



Ge: Outlook for iOS

1004440001

U.S. SENATE

PRINTED BY THE SENATE

DEPT. OF JUSTICE





Fw: RVPic

Holly Robichaud

Tue 9/25, 2018 12:39 PM

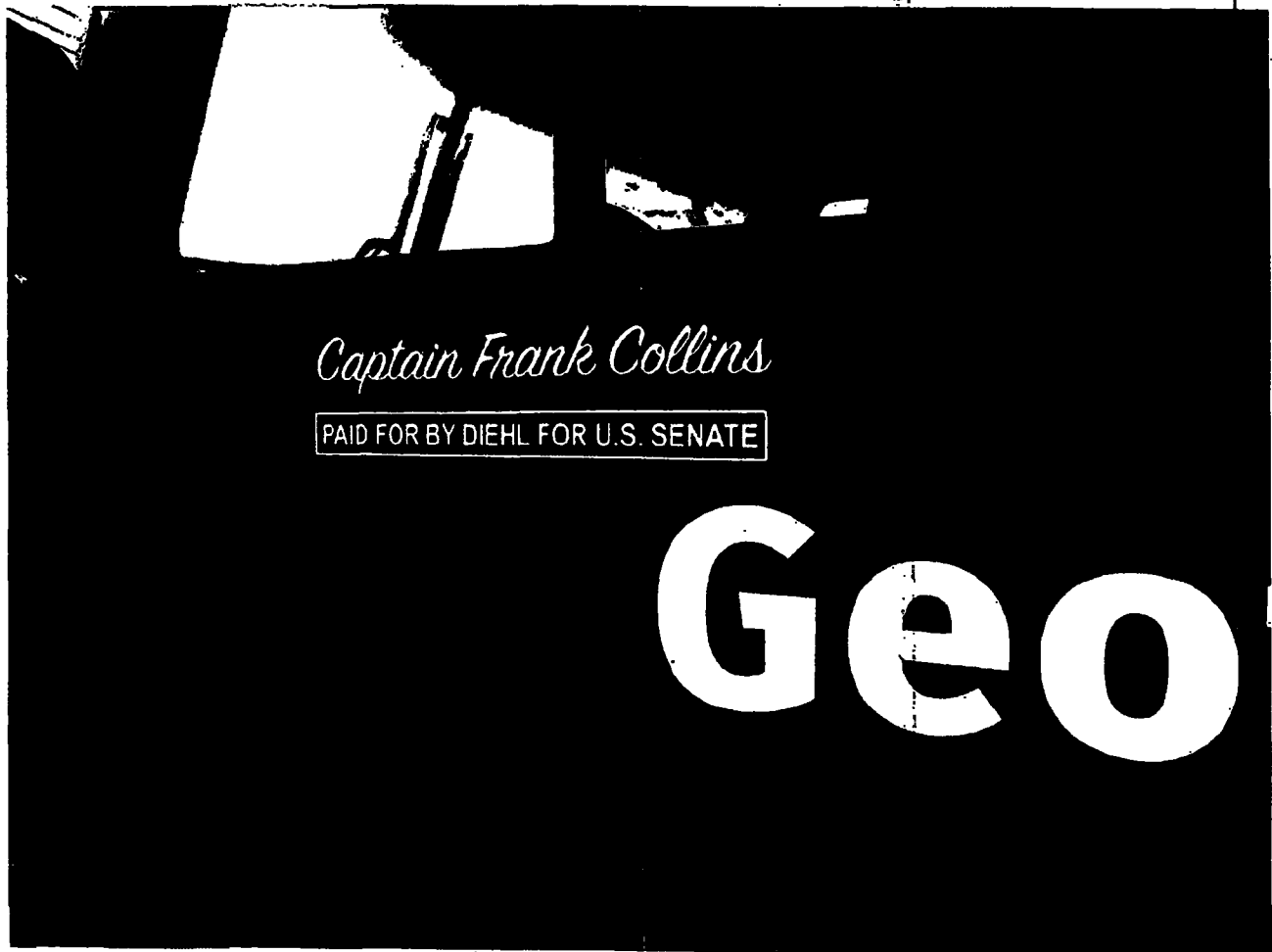
To: Daniel Webster <dkw@websterlaw.org>

From: John OConnell

Sent: Tuesday, September 25, 2018 12:36 PM

To:

Subject: RVPic



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EXHIBIT "C"

1-0714000442001

**GAS UP THE RV!**

**DIEHL**

THE REAL DIEHL

Geoff Saved Taxpayers \$2 Billion!

C. J. ...

**Chip in \$35  
or more**

EXHIBIT "D"

10047161001

FW: Our biggest announcement!

Maggie Paulin <mpaulin@campaignsolutions.com>

Mon 9/3/2018 9:52 AM

To: Holly Robichaud

Cc: Mike Alm <malm@campaignsolutions.com>; David Purkert <dpurkert@campaignsolutions.com>;

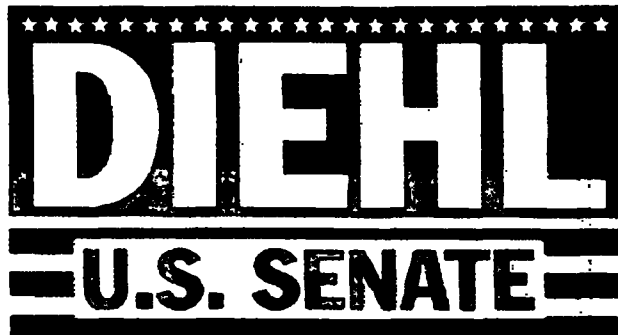
From: Geoff Diehl <info@supportgeoffdiehl.com>

Reply-To: "info@supportgeoffdiehl.com" <info@supportgeoffdiehl.com>

Date: Tuesday, November 28, 2017 at 12:04 PM

To: Maggie Paulin <mpaulin@campaignsolutions.com>

Subject: Our biggest announcement!



Margaret – Today I am making literally our biggest announcement for this U.S. Senate race!

We are launching Diehl on Wheels.

Our plan is to travel the state to get out our message of lowering the tax burden, securing our borders, growing jobs, and putting Massachusetts first! I know it is a winning message, but I need your help to make sure it's heard.

Margaret, will you help us gas up the RV?

16047406194

You know how critical it is to defeat Senator Warren. Margaret, won't you please be part of our team today by donating \$1,000, \$500, \$250, \$100, \$50 or \$35?



**GAS UP  
THE RV!**

**Chip in \$5 or more**

Your donation will not be used to pay for our expenses, but it will also help us run a local media campaign to get our articles and fliers.

Now is the time to strike! We cannot wait 6 months, one month or one week. The time to get to work is now! Getting her out of the Senate is going to be a lot of work, but I know it can be done. Won't you please help me today by sending a generous donation?

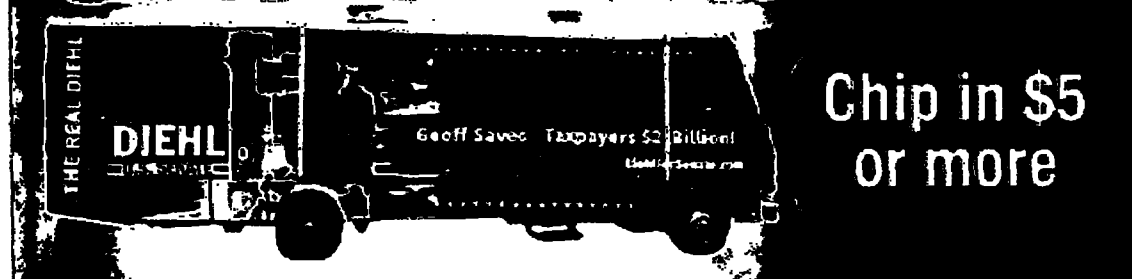
Your support would be truly appreciated.

Sincerely,

Geoff Diehl  
Candidate for U.S. Senate

160444667615

# GAS UP THE RV!



Elizabeth Warren has spent her time in the Senate selling books, building her national profile to run for President and being the chief obstructionist in Washington.

**We need a Senator who will listen to the people.**

When Beacon Hill linked the gas tax to inflation, I listened. Working with the grassroots, we repealed automatic gas tax hikes saving taxpayers \$2 billion.

When the insiders tried to bring the Olympics to Boston, I listened. Once again with grassroots support, we initiated the effort to protect taxpayers from having to billions of dollars for the Olympics.

Senator Warren has failed to listen to us over and over again! She called building the wall to secure our borders "stupid." She supports socialized medicine. She called repealing Obamacare "blood money." She has never voted in favor of hard working taxpayers. She wants to give the IRS more power over us. I could go on, but you and I know this record all too well.

**Warren must be defeated!**

The best way to defeat the Democrat machine is to talk directly with voters. That's why I launched the RV.

**P.S. It is time to Diehl Her Out of the Senate. Please chip in \$100, \$50 or \$35 to be part of our team to help launch "Diehl on Wheels" today!**

**DONATE TODAY >>**

Paid for by Diehl for U.S. Senate.

This message was intended for: [mpaulin@campdiehloffice.org](mailto:mpaulin@campdiehloffice.org)

You were added to the system July 20, 2017.

For more information [click here](#). [Update your preferences](#)

[Unsubscribe](#) | [Unsubscribe via email](#)

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BEFORE THE  
FEDERAL ELECTIONS COMMISSION

Regina Bellinger

Needham, MA 02492

Complainant,

v.

Diehl for U.S. Senate

Susan L. Scholl, Treasurer

Respondent

AFFIDAVIT OF HOLLY J. ROBICHAUD

I, Holly J. Robichaud, do under oath depose and say that:

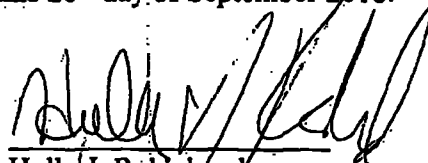
1. I am the Director and Chief Political Consultant for the Diehl for U.S. Senate Committee (hereafter referred to as the Committee"). My primary responsibilities include, but are not limited to being the Committee's chief political strategist and the general manager of the Committee.
2. In late August and early September of 2018, I became aware that Regina Bellinger filed Complaints with the Federal Elections Commission alleging violations of the Federal Election Campaign Act (hereafter referred to as the "Act"). The Complaints included allegations that certain lawn signs, the Recreational Vehicle (hereafter referred to as the "RV") utilized by the candidate while campaigning and an alleged flyer contained in a campaign mailing did not contain a disclaimer required by the Act.
3. Upon reviewing the lawn signs and the RV I realized the disclaimer was not present. This inadvertence did in no way occur recklessly, willfully or intentionally, but was rather a mistake resulting from confusion between state and federal law. As soon as I realized the mistakes I immediately purchased stickers containing the disclaimer "Diehl for U.S. Senate and caused them to be affixed to lawn signs that had not yet been distributed. Since that time all additional lawn signs that have been printed have included the appropriate disclaimer required by the Act. The lettering on the white sticker is black and of twelve (12) point type. The lettering on the recently printed signs is white and located in a red box outlined in white, and is fourteen (14) point. The contrast in colors included in the disclaimer is of no less significance than the largest lettering contained on all of the relevant communications. I also immediately had the disclaimer printed on the drivers' side door of the RV in lettering clearly visible to the public. The lettering is white and written in a red box outlined in white.

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4. On November 28, 2017, I caused a fundraising email to be transmitted electronically in order to raise money for the Committee. This fundraising e-mail consisted of four (4) pages. The second page of the fundraising e-mail contained a photograph of the RV which included the phrase "GAS UP THE RV". Contrary to allegations raised by the Complainant this photograph was not contained in a separate flyer included in a fundraising mailing sent in March or April of 2018. The fundraising email sent on November 28, 2017 did include the appropriated disclaimer which reads "Paid for by Diehl for U.S. Senate". This disclaimer was located on page four (4) of that email.
5. The facts as stated herein are based on my personal knowledge.

Signed under the pains and penalties of perjury this 26<sup>th</sup> day of September 2018.

  
Holly J. Robichaud

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