April 26, 2018

Honorable Johnny Isakson, Chairman
Vice Chairman Christopher A. Coons
Senate Select Committee on Ethics
220 Hart Senate Office Building
Washington, DC 20510

Re: Complaint Regarding Senator Heller's Use of Official Resources, Duplication of Coverage of Senate Proceedings for Political Purpose

Dear Chairman Isakson and Vice Chairman Coons:

We write to submit a sworn complaint against Senator Dean Heller, pursuant to Rule 2 of the Rules of Procedure of the Senate Select Committee on Ethics (the "Committee"), which authorizes any person to file a sworn complaint with the Committee "alleging that any Senator… has violated a law [or] the Senate Code of Office Conduct…in the performance of his or her duty as a Member…or has engaged in improper conduct which may reflect upon the Senate." As is described in more detail below, Senator Heller continues to use official resources and duplications of official Senate proceedings for a political purpose, in direct violation of the Senate Code of Conduct and federal law.[1] Such use also violates the Senate Committee on Rules and Administration standing order on Television and Radio Broadcast of Senate Chamber Proceedings ("Standing Order"), which prohibits using any duplication of an official Senate proceeding for a political campaign purpose.[2] We urge the Committee to investigate these numerous violations and take appropriate remedial action against Senator Heller for his repeated disregard of federal law and Senate rules.

Factual Background

Dean Heller currently serves as a U.S. Senator for the state of Nevada, a position he has held since 2011.[3] As of the date of this letter, Senator Heller's principal campaign committee, Heller for Senate,[4] displays on the homepage of its website a photograph of Senator Heller taken during the September 9, 2014 Senate Committee on Veterans Affairs hearing on "The State of VA Health Care."[5]

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[1] 31 U.S.C. § 1301(a).
[2] S. Res. 444, 99th Cong. (2d Sess. 1986).
[3] Meet Dean Heller, U.S. Senate, *available at* https://www.heller.senate.gov/public/index.cfm/biography.
[4] FEC Statement of Organization, Heller for Senate (filed Apr. 27, 2017).
[5] Dean Heller for U.S. Senate, *available at* https://www.deanheller.com (attached screenshot in Exhibit A) (last accessed Apr. 25, 2018); U.S. Department of Veterans Affairs (veteransaffairs), Flickr (Sept. 9, 2014), *available at* https://www.flickr.com/photos/veteransaffairs/15024911519/in/album-72157647443440876/.

On May 26, 2017, Heller for Senate sent a campaign email linking to the same photograph from the Veterans Affairs hearing.[6] The photo was also featured alongside a campaign survey soliciting feedback from voters on the "most important" issues of 2017.[7]

Legal Analysis

By consistently featuring a photo from an official Senate proceeding on the homepage of his campaign's website, and using that photo in connection with a campaign email and survey to solicit feedback from voters, Senator Heller has violated federal law, the Senate Code of Official Conduct, the Standing Order and the Committee's longstanding interpretation that 31 U.S.C. § 1301(a) makes it "inappropriate to use any official resources to conduct campaign or political activities."[8]

Federal law is very clear that "[a]ppropriations shall be applied only to the objects for which the appropriations were made."[9] The Committee has interpreted this provision to mean that Senate appropriations are intended for "official representational and legislative duties," not political campaign activity.[10] The prohibition applies not only to the use of Senate space, equipment and staff time, but to all official resources and supplies paid for by federal tax dollars.[11]

Additionally, the Standing Order states that "[t]he use of any tape duplication of radio or television coverage of the proceedings of the Senate for political campaign purposes is strictly prohibited."[12] This restriction applies to coverage of any Senate proceeding and prohibits any type of duplication, including those made on social media.

Here, Senator Heller continues to use an official government photo taken during a Senate Committee hearing on his campaign's website for what clearly qualifies as a political campaign purpose.[13] The same photo was used by his campaign to collect information from voters—presumably to inform Senator Heller's campaign platform in the 2018 election.[14] Whether the photo is a still from the official Senate broadcast or one taken by a photographer for the U.S. Department of Veterans Affairs, the photo is an official government resource that may not be used to conduct campaign or political activities.[15] And if the photo came from a still of the official Senate television broadcast, Senator Heller's campaign use of the photo would clearly violate the Standing Order.

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[6] *See* Email from Dean Heller (dean@deanheller.com) (attached screenshot in Exhibit B); Dean Heller for U.S. Senate, *available at* http://support.deanheller.com/2017-issues-survey (attached screenshot in Exhibit C).
[7] *See* Email from Dean Heller (dean@deanheller.com) (attached screenshot in Exhibit B).
[8] S. Select Comm. on Ethics, 108th Cong., 1st Sess., Senate Ethics Manual at 153 (2003 ed.) ("Senate Ethics Manual" herein).
[9] 31 U.S.C. § 1301(a).
[10] Senate Ethics Manual at 140 (noting that Congress has long recognized the distinction between official representational and legislative duties and political activities).
[11] *Id.* at 146 ("The use of federal office space, including congressional office space, official government equipment and supplies paid for from federal tax dollars for purposes of…clearly political campaign activities could involve violations of other federal laws, congressional regulations and standards.").
[12] S. Res. 444, 99th Cong. (2d Sess. 1986).
[13] Exhibit A.
[14] Exhibit C.
[15] Senate Ethics Manual at 153.

Senator Heller's actions and continued violations warrant further investigation by the Committee. Accordingly, we respectfully request that the Committee undertake a preliminary inquiry immediately.

Sincerely,

STATE OF Nevada)

County of Clark)

ERCILIA NOEMY VALDEZ
Notary Public, State of Nevada
No. 05-97291-1
My Appt. Exp. June. 10, 2021

SUBSCRIBED AND SWORN to before me this 26 day of April, 2018.

Notary Public

My Commission Expires:

June 10, 2021

Exhibit A

Dean Heller for U.S. Senate Campaign Website

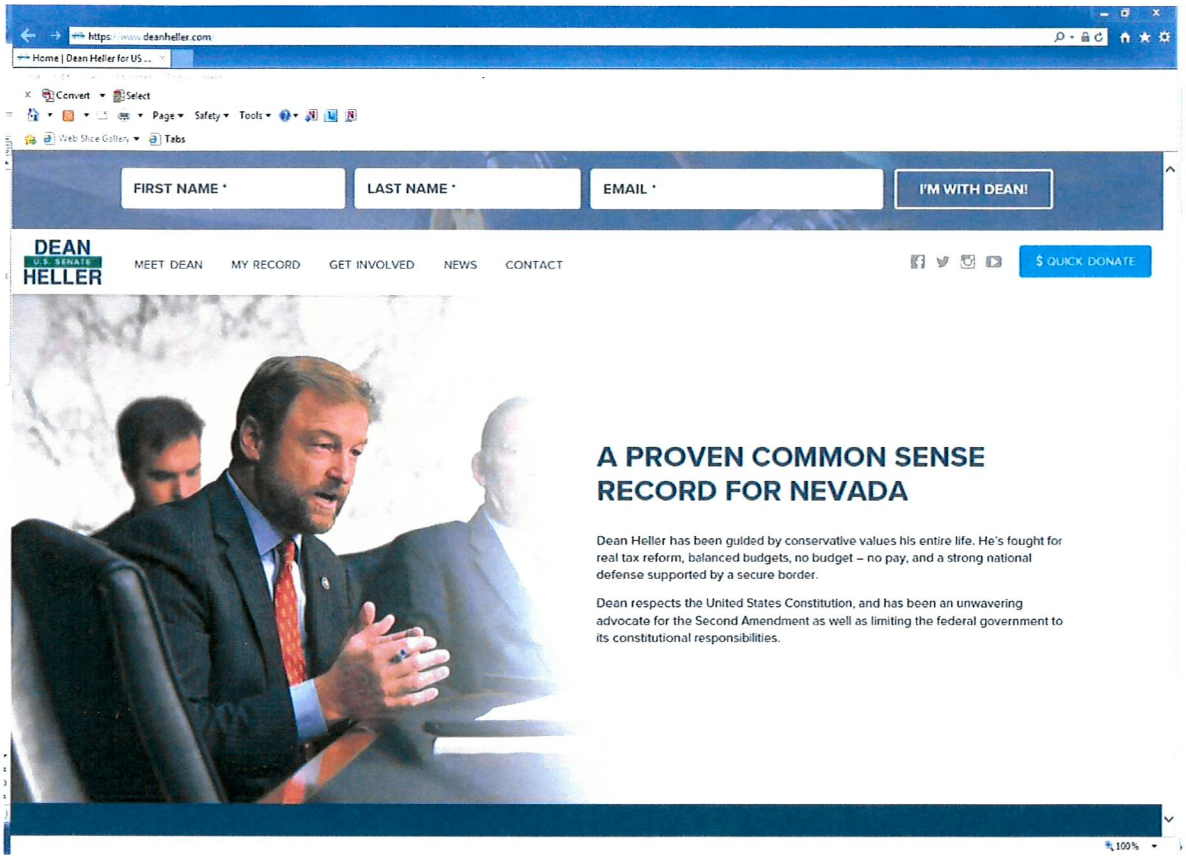


Exhibit B

Heller Campaign Survey Email of May 27, 2017

I know you're busy so I'll be quick.

As your voice in Washington, I need to know which issues you care about most.

Will you take my quick survey and tell me which issues are most important to you right now?

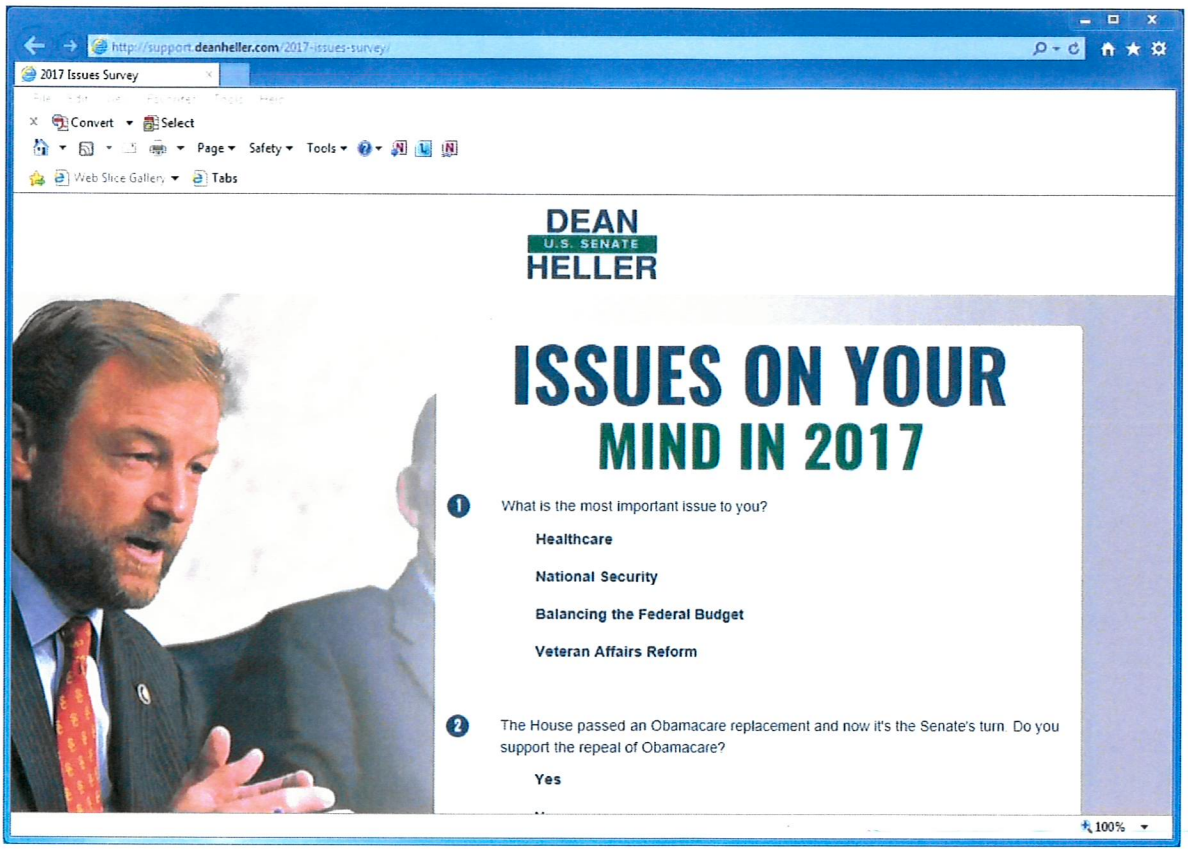
We've chatted about some of these issues in our weekly telephone townhalls, via Facebook Live, by office calls, letters and emails -- but I want to hear from even more of you (and frequently) about the issues you care about the most.

Let me know by taking a quick survey here.

Thanks for taking a minute to share your thoughts, looking forward to reading your input.

- Dean

Paid for by Heller for Senate

Exhibit C

Heller Campaign Issues Survey