

May 3, 2018

Chairman Johnny Isakson
Vice Chairman Christopher A. Coons
United States Senate Committee on Ethics
220 Hart Senate Office Building
Washington, DC 20510
Fax: (202) 224-7416

VIA FAX AND POSTAL MAIL

Dear Chairman Isakson and Vice Chairman Coons:

I, Leslie Dougher, respectfully request that the United States Senate Committee on Ethics (“Ethics Committee”) undertake an investigation of Senator Clarence William “Bill” Nelson II to determine whether he violated the Rules of the United States Senate and related standards of conduct during a campaign event in April, 2018. During a political event held on April 3, 2018, Senator Nelson improperly used state and local government funds to pay for political advocacy and fundraising activities. These activities solely and directly benefited and supported his campaign for the United States Senate. Specifically, Senator Nelson, in apparent coordination with the local Democratic Party, promoted an appearance held in a government building for a campaign purpose. As a direct result thereof, Senator Nelson illegally and impermissibly caused United States Government funds and resources to be used in support of his campaign.

Factual Background

Senator Nelson has flaunted the Rules of the U.S. Senate and federal laws by using taxpayer dollars paid to both the federal and Florida governments to support his campaign. On April 3, 2018, Senator Nelson held a campaign event billed as a public “Meet & Greet” in the Board Room for the Board of County Commissioners of Gulf County, Florida. The Board Room is located in a government-owned building in Port St. Joe, Florida. The event was promoted in two distinct ways to different audiences. The Board of County Commissioners promoted the event as a “Meeting with Senator Bill Nelson” to “discuss issues of local importance.”¹ Nevertheless, the Gulf County Democratic Party clearly promoted the event as political in nature, including a photo of Senator Nelson on a backdrop of Democratic Party signs with text asking for “as many Gulf County Democrats as possible to show up” to “show the Senator some

¹ See Exhibit A.

Gulf County Democratic love.”² Given this billing, it is clear that Senator Nelson intended this to be a campaign event and encouraged the local Democratic party to promote it as such.

The event was not intended to be a “public meeting” but rather a campaign event with specific rules unrelated to a properly noticed and held public meeting. At this campaign event, held inside a Florida county government building, a staff person asked an attendee to “not film” the event because he was not a member of the press. The attendee was later told by an officer that only “legitimate press” would be permitted to film and was told that while he could watch, take notes, and document it that way, he could not film the meeting.³

Had this event been a “public meeting” properly noticed under Florida’s Sunshine Laws,⁴ the individual would have clearly been permitted to record the meeting. According to guidance published by the Florida Attorney General, a public board may not prohibit a citizen from videotaping a public meeting through the use of nondisruptive video recording devices.⁵ Clearly, a smartphone camera can in no way be considered a disruptive video recording device. Therefore, this “public meeting” was anything but a properly noticed public meeting, rather it was an illegal campaign event for Senator Nelson held on local government property. There can be no more direct affront to the American system of campaign funding than to exploit taxpayer dollars to support a campaign; yet Senator Nelson appears to have directly engaged in this practice by using official resources to hold a political event in a county government building.

Legal Analysis

Federal statute provides that “[a]ppropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.” 31 U.S.C. § 1301(a). The Senate Ethics Manual echoes this longstanding provision by stating that:

This principle of federal appropriations law has been interpreted in Congress to mean that congressional employees receive publicly funded salaries for performance of official duties and, therefore, campaign or other non-official activities should not take place on Senate time, using Senate equipment or facilities.⁶

Similarly, Senate staff/employees are prohibited from engaging in political or campaign activity while on official Senate employee time. They may, however, engage in such activities on their own, private time outside of Capitol Grounds space. At all times and in all circumstances, Senate staff cannot use official Senate resources to engage in political or campaign activity. The Senate Ethics Manual states:

² See Exhibit B.

³ 4/3/2018: “Bill Nelson Meet & Greet” in Gulf County Commissioners Board Room, YOUTUBE.COM (Apr. 26, 2018) <https://youtu.be/6hft2azpQdY>.

⁴ Fla. Stat. § 286.011, et seq.

⁵ AGO 91-28

⁶ Senate Ethics Manual (2003 ed.) at 139.

Senate employees are compensated from funds of the Treasury for regular performance of official duties. They are not paid to do campaign work. In the words of the United States District Court for the District of Columbia: “It is clear from the record that Congress has recognized the basic principle that government funds should not be spent to help incumbents gain reelection.”⁷

Consequently, it is clear that the law prohibits Senator Nelson from using official government funds to pay for official Senate staff while on official time from acting as staffers for campaign events. Furthermore, Senate staff are prohibited from using official Senate resources such as computers, telephones, and hand-held devices when acting in furtherance of any political event.

Given the foregoing, the Committee may also be interested in Senator Nelson’s handling and response to these current ethics violations accusations to ensure she is not using official staff time to respond. As noted in the Senate Ethics Manual:

Example 2. Senate staffer B works for Senator C and also volunteers on C’s campaign. C’s political opponent levels charges of ethical improprieties against her, which C believes requires an immediate response. B may not spend official work time preparing the campaign’s response. He may use his lunch hour or accrued leave time to do the campaign work during what would normally be his working hours, assuming that his official duties will not thereby be neglected.⁸

The Appearance of Impropriety

In recent years, the Committee has admonished Members for actions that created “at least the appearance of impropriety.”⁹ The actions of Senator Nelson, detailed above, create at a bare minimum, the appearance that Senator Nelson used official staff and U.S. Government resources to create an advantage for his campaign.

Improper Conduct Which May Reflect Upon the Senate

The actions of Senator Nelson, as set forth above, reflect dishonorably upon the U.S. Senate. The Committee has the authority and is duty-bound to sanction Senator Nelson for such conduct. The Senate Code of Official Conduct is “not intended to be a comprehensive code of conduct for Senators,” but instead is “targeted at a limited area of activity” and is “not intended to displace the generally accepted norms of conduct.”¹⁰ As the Senate Ethics Manual explains, “Senate Resolution 338, as amended, gives the Committee the authority to investigate Members who engage in ‘improper conduct which may reflect upon the Senate,’ regardless of whether such conduct violates a specific statute, Senate Rule, or regulation.”¹¹

⁷ *Id.*

⁸ *Id.* at 141.

⁹ *Id.* at 21, 41, 64.

¹⁰ *Id.* at 433.

¹¹ *Id.* at 432.

The current version of the Senate Ethics Manual reflects these sentiments: “[c]omplementing these written standards (i.e. rules and statutes) is a body of unwritten but well-established norms of Senate behavior, violation of which may be deemed ‘improper conduct reflecting upon the Senate.’”¹² Or, as the Committee explained, “[t]he Senate has disciplined its Members for conduct that was unethical or improper, regardless of whether it violated any law or Senate rule or regulation.”¹³

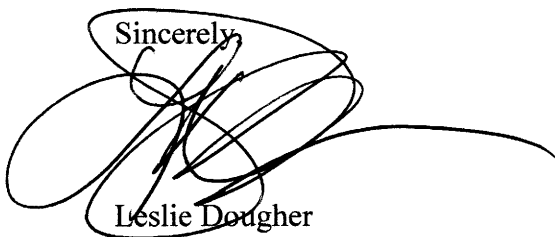
Violation of Other Laws, Such as FECA and False Claims Act

Though outside the jurisdiction of the Committee, Senator Nelson appears to have also violated the Federal Election Campaign Act of 1971 (“FECA”) and the False Claims Act, codified at 31 U.S.C. §§ 3729-30. Members of Congress are subject to regulations on campaign finance pursuant to FECA. Further, as explained in the Senate Ethics Manual, “[s]ince a Member makes a claim to the United States Government for the staffer’s salary, and since such salary is intended as compensation for assisting the Member in his ‘official’ duties, then using that individual for other than the official purposes contemplated might involve a false claim, a false statement, or a fraud upon the government” under the False Claims Act.¹⁴ Further, the official staff of a Senator cannot contribute to their employing member’s campaign. *See* 18 U.S.C. § 603. As such, it is important for those individuals to avoid advancing any funds to the campaign, *including* by way of prepayment of any items to be reimbursed later by the campaign. *See* also 18 U.S.C. § 602.

Conclusion

As detailed above, through his participation in and support for the campaign event held on April 3, 2018, Senator Nelson and his staff violated a myriad of laws, rules, and unwritten established norms of senate behavior including, but not limited to, the Senate Ethics Rules, FECA, and the False Claims Act. I respectfully request that this Committee, as mandated by Committee Rule of Procedure 3(b), conduct an investigation and impose appropriate sanctions.

Sincerely,

A handwritten signature in black ink, appearing to read "Leslie Dougher", with a long horizontal flourish extending to the right.

Leslie Dougher

lesliedougher@gmail.com

¹² *Id.* at 18.

¹³ S. Rep. No. 102-223, at 5 (1991).

¹⁴ Senate Ethics Manual (2003 ed.) at 155-56.

EXHIBIT A

- Calendar
- County Offices
- Our Government
- Meetings
- Gulf County EDC
- TOURISM

Home / **Calendar**



Gulf County Calendar Mtg with Senator Bill Nelson

MTG WITH SENATOR BILL NELSON

EXPORT EVENT

Date and Time April 3 2018 9:00 AM to 10:00 AM

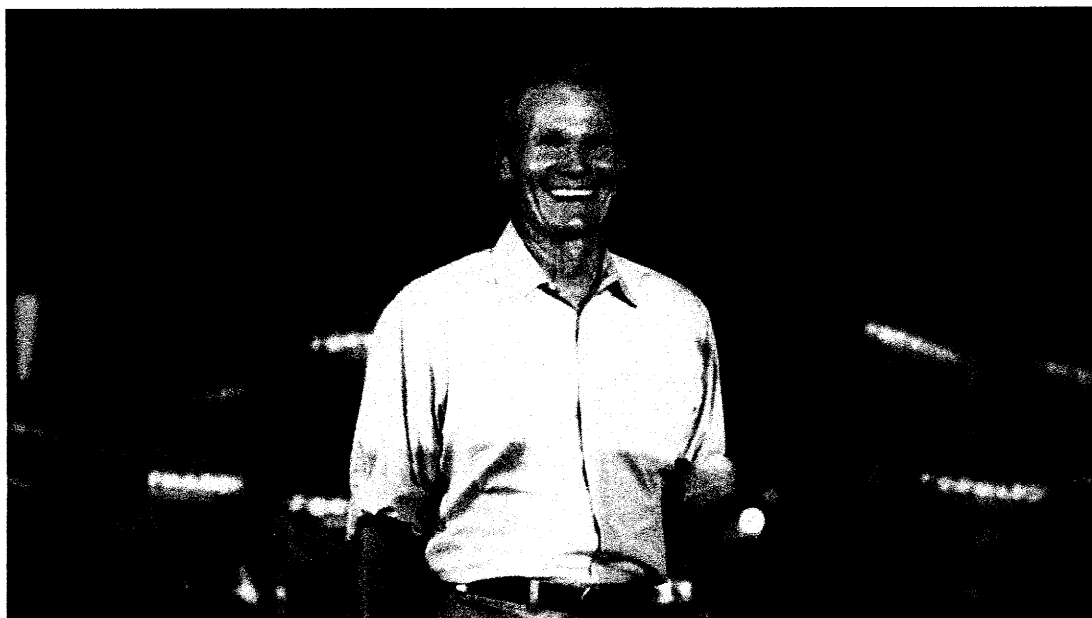
**You are cordially invited to
 meet with Senator Bill Nelson
 Tuesday, April 3, 2018 from
 9:00 AM – 10:00 AM Eastern
 at Gulf County Courthouse.**

**Description Robert M. Moore
 Administration Building, 1000
 Cecil G. Costin Sr. Boulevard,
 Donald H. Butler Board Room
 to discuss issues of local
 importance.**



EXHIBIT B

[View this email in your browser](#)



REMINDER!

Dear fellow Democrats,

You are cordially invited to a Meet & Greet with Senator Bill Nelson.

Tuesday, April 3, 2018

9:00 AM – 10:00 AM Eastern

Gulf County Robert Moore Administration Building

1000 Cecil G. Costin Sr. Boulevard

Gulf County Commissioners Board Room

We would love as many Gulf County Democrats as possible to show up for the meeting. Let's show the Senator some Gulf County Democratic love and support!

This will be a **short** Meet & Greet with a short speech by Senator Nelson, so plan on getting there on time or you may miss him.

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