

United States Committee on House Administration
Communications Standards Commission
1216 Longworth House Office Building
Washington, D.C. 20515

Re: Blatant Violation of Federal Law by Representative Marc Molinaro (NY-19)

To Whom It May Concern:

Pursuant to 2 U.S.C. § 501(e), this letter serves as a written complaint against Marc Molinaro, who currently serves as the U.S. Representative for New York's 19th Congressional District. Twelve days prior to an election, residents of NY-19 were targeted by a radio advertisement, paid for by taxpayer funds, that served no purpose other than to praise Rep. Molinaro. Not only did Rep. Molinaro re-use the same script and themes found in his campaign's ads, but the radio advertisement also used language that could not be interpreted as anything other than support for his political campaign.

We ask that the Communications Standards Commission (the "Commission") immediately investigate Rep. Molinaro's attempt to illegally bolster his reelection campaign through this blatant abuse of taxpayer funds.

FACTUAL BACKGROUND

Marc Molinaro currently serves as the U.S. Representative for New York's 19th Congressional District. On January 12, 2024, Rep. Molinaro officially announced his intent to pursue re-election by publishing a digital advertisement to his campaign's YouTube page (the "**YouTube Campaign Video**").¹ The YouTube Campaign Video attempted to highlight two themes – Rep. Molinaro's "fight" for his constituents and his "bipartisanship." In relevant part, the script of the YouTube Campaign Video reads:

*"It's about the middle ground, where most of us live... Every day in Washington, **I put politics aside**, and work for everyone, **of every party**, who calls upstate New York home. And that's why I'm running for re-election. To continue **to fight for you**."*

On July 8, Rep. Molinaro's campaign posted another video (the "**Facebook Campaign Video**"), which again used the same themes.²

*"Dysfunction and extreme partisanship in **Albany and Washington** are dragging us down. Two years ago, I promised to do things differently, to put Upstate New York first, and **fight** for our issues. **To expand mental health care, addiction treatment, and support individuals with disabilities**... And yeah, I delivered results. **Thirty-four bills** passed and counting, and the **most bipartisan record** in all of New York."*

During the period of June 13 through July 9, 2024,³ his constituents heard a very similar advertisement on the radio (the "**Advertisement**"). Echoing the themes found in both the YouTube and Facebook Campaign Videos (and restating some parts verbatim), the Advertisement again attempts to highlight Rep.

¹ Marc Molinaro for Congress, *Working for Us*, YouTube (Jan. 12, 2024), www.youtube.com/watch?v=n9kmpkToSXM.

² Marc Molinaro, *34 bills passed and counting - and the most bipartisan record in all of NY*, Facebook (July 8, 2024), <https://www.facebook.com/watch/?v=447818858085272>.

³ Amplify Media, *Big AL Platform* (Accessed July 2, 2024).

Molinaro’s “bipartisanship” and his “fight” for his constituents. In a relevant part, the Advertisement’s script reads:

“Some in Washington and Albany argue to make a point. I’m fighting to make a difference. Hi, this is your Congressman Marc Molinaro. I’ve passed thirty-four bills on issues that matter to us. Like expanding mental health care, addiction treatment, and support for individuals with disabilities. I’m honored to be named the most bipartisan lawmaker in New York...”

However, despite its clear political nature, and being a blatant republishing of campaign materials, the Advertisement was not paid for by Rep. Molinaro’s campaign. Rather, the Advertisement was paid for using taxpayer funds, under the guise that it constituted an official office communication.

ANALYSIS

By using taxpayer funds to disseminate an advertisement for a campaign purpose, Rep. Molinaro abused the privileges associated with his office and violated federal law.

Under 39 U.S.C. 3210(a)(5)(A) and Commission regulations, a communication paid for using official funds may not include content “laudatory and complimentary of [a] Member... on a purely personal or political basis.” Such communications also may not include “campaign content.”⁴ These rules are in place to ensure that incumbent Members are barred from using their taxpayer-funded, official office budget to promote their candidacy.

It is true that this communication incidentally discusses Rep. Molinaro’s legislative activity (albeit in a highly misleading manner).⁵ However, the purpose of the Advertisement is to restate his campaign’s messaging surrounding his “bipartisanship” and his “fighting” for constituents. Indeed, the scripts of the Facebook Campaign Video and the franked Advertisement are near restatements of identical language (i.e., partisanship in “Albany and Washington” versus “Washington and Albany,” and Rep. Molinaro’s purported work to expand “mental health care, addiction treatment, and support individuals with disabilities”). This indicates that when submitting the communication for review, it was improperly certified that the content is not campaign related and that similar language does not appear in any campaign materials.⁶

While Commission staff issued an Advisory Opinion that the radio advertisement contained frankable material on its face on June 7, 2024,⁷ this approval was granted without the context that the communication included language and themes that substantially overlapped with Rep. Molinaro’s campaign messaging. Additional context makes clear that the taxpayer-funded communication improperly includes campaign content and was disseminated on a purely political basis.

However, even without this context, the language of the Advertisement, coupled with the timing of its dissemination, clearly suggests that it is an electioneering communication.

⁴ House Communications Standards Commission, *The House of Representatives Communications Standards Manual* (May 2, 2024), <https://cha.house.gov/communications-standards-manual>.

⁵ Note that while the radio advertisement suggests Rep. Molinaro “passed” 34 bills, this claim is misleading. During the 118th United States Congress, Rep. Molinaro has sponsored or co-sponsored only one bill that has become law - H.R.1096 (which established a commemorative coin).

⁶ See Advisory Opinion Request Form, “I hereby certify that, to the best of my knowledge, the attached material submitted for review does not contain any logo, masthead design, slogans, photographs, or facsimiles contained in any campaign literature.”

⁷ House Communication Standards Commission, Staff Advisory Opinion, 74539-59 (June 6, 2024), https://frankingfiles.house.gov/AO_29-74539-59.pdf.

First, the Advertisement highlights differences between Rep. Molinaro and other candidates. The communication claims that certain candidates “argue to make a point...,” while claiming that Rep. Molinaro is “fighting to make a difference” and is the “most bipartisan lawmaker.” Note that the Advertisement was not the only franked communication disseminated by Rep. Molinaro that does so – he has also used taxpayer funds to pay for two digital ad buys that similarly compare him to other candidates.⁸ Highlighting the differences between Rep. Molinaro and other candidates in his franked communications is such a successful electoral message that he has implemented the same exact language and themes in his campaign ads. The YouTube and Facebook Campaign Videos are two among many other such advertisements that repeat this same language.

Second, the Advertisement was disseminated from June 13 to July 9, meaning that the advertisement began just twelve days before an election. While the NY-19 Republican Primary was canceled, this time period is an extraordinarily electoral climate. Given the proximity of the election, its electoral language, and the Advertisement’s clear overlap with Rep. Molinaro’s campaign messaging, it is doubtful that voters would perceive it as anything other than an electioneering communication.

CONCLUSION

The evidence makes clear that Rep. Molinaro has a habit of repeatedly taking his campaign ads, slightly re-working their scripts, and then asking taxpayers to pay for their distribution. By disseminating a thinly veiled campaign ad using taxpayer funds, Rep. Molinaro violated federal law and the rules of the Commission, for which he should be sanctioned. I ask that the Commission promptly review this complaint pursuant to its authority under 2 U.S.C. 501(e).

Sincerely,
Phyllis Amenda

AFFIRMATION: *I hereby verify that I have read the above complaint procedures and the contents thereof. I also verify that, to the best of my knowledge, the matters stated in the complaint are true and correct. I understand that the Commission may dismiss the complaint without further inquiry if the complaint does not identify a violation of a specific law, rule, or regulation on a good faith basis, or if the complaint is not accompanied by relevant and material evidence. I understand that my first name, last name, city, and state of residence will be made public upon submission of materials.*

⁸ “July Digital 2” (Advisory Number 74539-62), <https://frankingfiles.house.gov/29-74539-62.png>; “June Digital - Bipartisan” (Advisory Number 74539-56), <https://frankingfiles.house.gov/29-74539-56.png>.