



# FACT

FOUNDATION FOR  
ACCOUNTABILITY  
AND CIVIC TRUST

September 5, 2019

Omar Ashmawy  
Chief Counsel  
Office of Congressional Ethics  
U.S. House of Representatives  
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Washington, DC 20024  
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Dear Mr. Ashmawy,

The Foundation for Accountability and Civic Trust (FACT) is a nonprofit organization dedicated to promoting accountability, ethics, and transparency in government and civic arenas. We request that the Office of Congressional Ethics (“OCE”) investigate Representative Richard Neal for improperly using taxpayer-funded resources for political purposes in violation of House ethics rules.

Representative Neal “used his government-funded official Facebook page to run campaign advertisements...”<sup>1</sup> The Congressional page ran ads before the 2018 primary, which stated, “Commit to vote on September 4<sup>th</sup> for Richard Neal” and included the disclaimer, “Paid for by Richard E Neal for Congress Committee.”<sup>2</sup> Neal’s ads violated foundational ethics rules that forbid members of Congress from using official taxpayer-funded resources for political purposes.<sup>3</sup> Specifically, a Member’s official website and social media accounts are prohibited from including any personal, political, or campaign information.<sup>4</sup>

This is a straightforward violation. Not only is this an abuse of taxpayer-funded resources, but the use of an official government communication to advocate for the reelection of an incumbent is forbidden. Although a campaign spokesperson later explained a campaign vendor was mistakenly given the information for the official Congressional page and the campaign ultimately paid the cost for running the political ads on a government social media page, this does not address the ethics violation. It does not matter that Neal’s campaign stated it ultimately paid the cost for running the ads—the taxpayers pay for the official page and an official government communication endorsed a candidate. Moreover, the Committee should also

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<sup>1</sup> Paul V. Fontelo, *Richard Neal Facebook Page Mixes Campaign, Congressional Business*, Roll Call, Aug. 26, 2019 (attached as Exhibit A).

<sup>2</sup> *Id.*

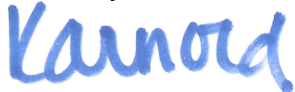
<sup>3</sup> House Ethics Manual, at 123. This ethics rule enforces federal law. 31 U.S.C. sec. 1301(a) (“appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law”). Additionally, several other ethical considerations also are embodied in the rule, for instance: “The laws and rules referenced in this section reflect ‘the basic principle that government funds should not be spent to help incumbents gain reelection.’” House Ethics Manual, at 123 (citing *Common Cause v. Bolger*, 574 F. Supp. 672, 683 (D.D.C. 1982), *aff’d*, 461 U.S. 911 (1983)).

<sup>4</sup> Comm. on House Admin., U.S. House of Reps., Member’s Congressional Handbook, at 34.

investigate whether Neal's campaign did provide the vendor with the information for the official page and if there was any improper overlap between campaign staff and taxpayer-funded staff. Any violation of the ethics rules implicated in this case need to be penalized, otherwise Members will either carelessly or intentionally continue this behavior. Therefore, we urge the Committee to immediately investigate and impose required penalties.

To the best of my knowledge and ability, all evidence submitted was not obtained in violation of any law, rule, or regulation. Further, I am aware that the False Statements Act, 18 U.S.C. § 1001, applies to information submitted to the Office of Congressional Ethics.

Sincerely,



Kendra Arnold  
Executive Director, Foundation for Accountability & Civic Trust

## Exhibit A

# Richard Neal Facebook page mixes campaign, congressional business



**Updated August 28, 2:22 p.m.** | House Ways and Means Chairman [Richard E. Neal](#) used his government-funded official Facebook page to air campaign advertisements, Facebook Ad Library shows, potentially running afoul of House Ethics rules that prohibit campaign business on House official resources.

In Neal's official Facebook page disclaimer, up to \$100 were spent on the ads in 2018 paid for by "[Richard Neal](#) for Congress Committee, Treasurer Michael F. Hall," suggesting Neal's campaign funds paid for the ad to air through the House office's Facebook page.

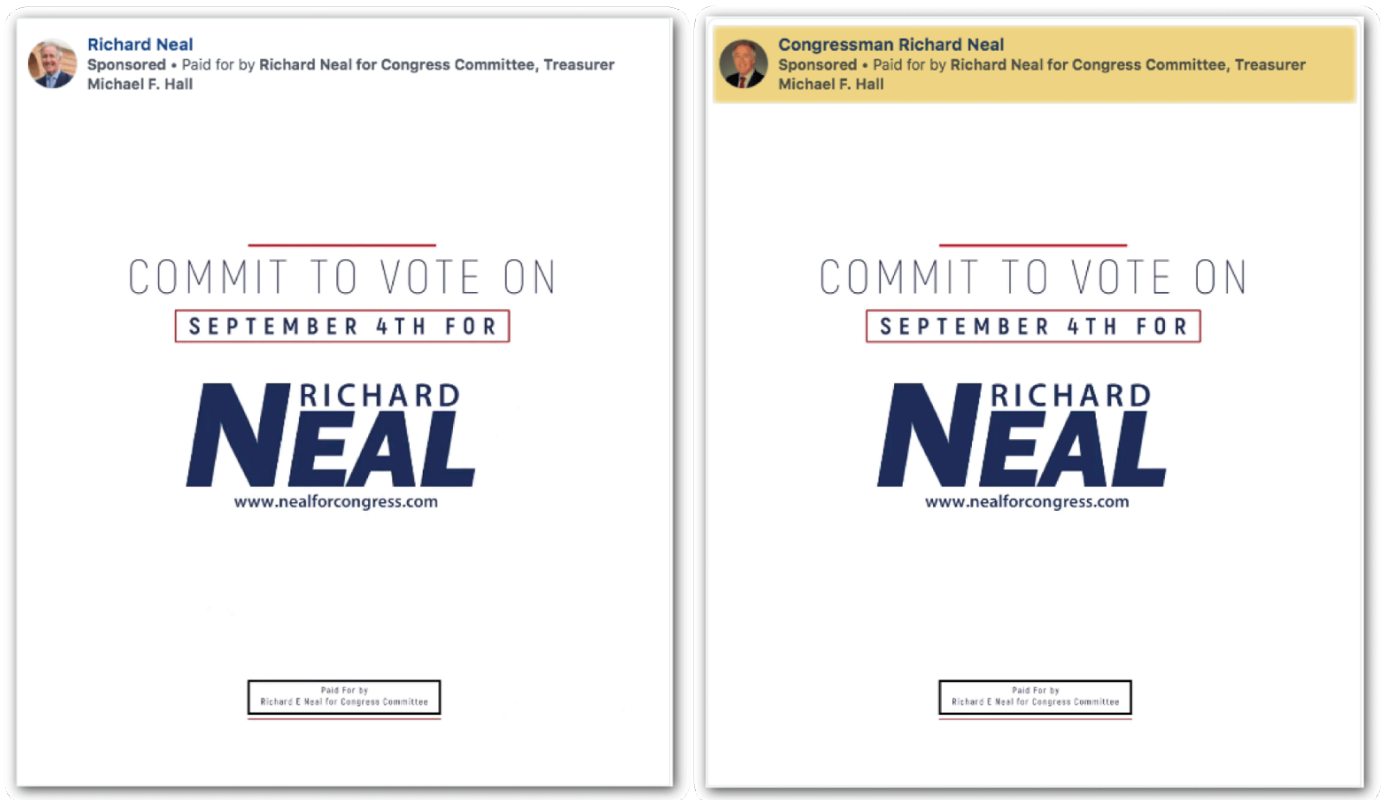
House official resources, including social media, also run under the purview of the House Administration Committee. Their rules say that member-controlled content on social media accounts is subject to the same requirements as member websites. In both cases, it forbids any campaign use. The rules also explicitly state that campaign funds may not pay for a member's official expenses, which are used to maintain and operate a members' official resources.

Both ads are roughly 30 seconds in length and display written text stating: "Commit to vote on September 4th for [Richard Neal](#)" at the video's end with the note, "Paid for by Richard E Neal for Congress Committee."

Official guidance from the House Ethics Committee generally bars members from using their office or official House resources for purposes of "the drafting of campaign speeches, statements, press releases or literature." However, there is little mention of rules regarding social media sites and their sponsored content.

Neal's official Facebook account ran the two ads for 13 days, Aug. 10, 2018 to Aug. 23, 2018, two weeks prior to Massachusetts' Sept 4th primary. Both are identical to ads from the Massachusetts Democrat's campaign Facebook that ran from Aug. 21, 2018 to Sept. 4, 2018. According to House franking rules, a member is prohibited from sending out unsolicited mass communications, including advertisements, within 90 days of any election.

Based on Facebook Ad Library metrics, one ad was seen between 1,000-5,000 times, including possible multiple viewings, while the other made less than 1,000 impressions. Ninety-seven percent of viewership of both ads were in Neal's home state of Massachusetts.



Side by side comparison of ads on Neal's campaign Facebook page, left, and congressional member Facebook page, right. (CQ Roll Call compilation)

Peter Panos, a spokesperson for Neal's campaign, said a third-party vendor was mistakenly given access to the congressman's member page.

"The campaign sought to place a Facebook ad through the campaign's Facebook page, but its digital media vendor was mistakenly given access to the official Facebook page instead. When the vendor placed the ad on the night of Friday, August 10, it thought it placed the ad through the campaign page, not knowing it had placed the ad through the official page. No public resources were otherwise used to create, produce or distribute the ad; it was simply placed through the wrong page. Campaign staff was made aware of the mistake on the morning of Saturday, August 11, and alerted the vendor, who immediately pulled the ad, and whose access to the official page was cut off. The vendor then correctly placed the ad through the campaign page. The ad was live through the official page for 12 hours and

14 minutes, from 11:07 p.m. EDT Friday night until 11:21 a.m. EDT Saturday morning. The total cost for placement during that time was \$54.91, which the campaign paid, and which the House office did not pay. The campaign has since reviewed its practices to ensure that similar errors do not recur," Panos said in a statement.

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