

**BEFORE THE  
FEDERAL ELECTION COMMISSION**

Nevada State Democratic Party  
Sam Lieberman, Chair  
1210 South Valley View Blvd, Suite 114  
Las Vegas, NV 89102,

Complainant,

v.

Sue Lowden  
P.O. Box 531450  
Henderson, NV 89053

Carl Giudici  
3625 Mario Rd.  
Reno, NV 89523,

Respondents.

**COMPLAINT**

Complainant files this complaint under 2 U.S.C. § 437g(a)(1) against Sue Lowden and Carl Giudici requesting that the Federal Election Commission investigate violations of the Federal Election Campaign Act, as described below.

**A. FACTUAL ALLEGATIONS**

Sue Lowden is a candidate to the United States Senate from the state of Nevada. She will be a candidate in the Republican primary, to be held on June 8, 2010.

According to a recent article published by the *Las Vegas Sun*, Lowden has been promoting her campaign by touring the state in a luxury recreational bus, which contains a kitchen, shower, and bed. *Las Vegas Sun*, 5/17/2010 (attached as "Attachment A"). The campaign paid \$6,800 to paint the campaign logo, a picture of Lowden, and other campaign graphics on the vehicle. According to Lowden's attorney, on days when Lowden is not using the

luxury bus to tour the state, "it sits at headquarters as a roadside billboard for the Lowden campaign." *Id.*

According to the *Sun*, the bus was provided to Lowden by Respondent Carl Giudici, a campaign donor. The precise arrangement between Lowden and Giudici is unclear, however. According to a public database of vehicle registrations, Giudici purchased the luxury bus in May 2009. According to the *Sun*, when she was initially asked about the luxury bus, Lowden said that a supporter had donated it to her. According to the Nevada DMV, Lowden is listed as a title-holder, suggesting that Giudici and Lowden are co-owners of the vehicle.

However, in response to inquiries from the *Sun*, the Lowden campaign changed its story. According to Lowden's campaign attorney, the luxury bus is titled to Giudici, and not Lowden. Instead, the attorney stated that the campaign is leasing the luxury bus from Giudici. The campaign provided a redacted lease agreement to the *Sun*, which, though redacted, seems to indicate that the lease is for a period of 10 months.<sup>1</sup> *See* Attachment B. However, Lowden's attorney told the *Sun* that it only paid Giudici for the days that the campaign drives the vehicle, and not the days when it sits at campaign headquarters acting as a "roadside billboard." *Sun*, 5/17/10.

Regardless of how the transaction between Giudici and Lowden was structured, the full value of the transaction has not been reported to the Federal Election Commission. According to Commission records, on November 18, 2009, the Lowden campaign reported receiving in-kind contributions of \$2,200 from Giudici, and \$1,885 from Giudici's wife, for "vehicle rental."<sup>2</sup> Commission records also show a disbursement of \$9,496.86 to a Reno RV dealer for vehicle

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<sup>1</sup> The lease is redacted to read "The term of this Agreement shall be for a period of Ten (10)." The only logical inference is that the term is for 10 months. It was clearly not for 10 days, as the Lowden campaign has continued to use the vehicle well past January 22, 2010.

<sup>2</sup> Both contributions were designated for the 2010 primary election. In addition, on August 24, 2009, Giudici made a \$200 monetary contribution to the Lowden campaign, also designated for the primary.

repairs; according to Lowden's attorney, the campaign planned to pay Giudici in-kind for the rental in part by making "capital improvements" to the vehicle.

These reported payments do not add up to the fair market value of the luxury bus. According to the *Sun*, a luxury bus like the one used by Lowden would cost over \$100,000 to purchase. And according to Lowden's own attorney, a typical rental rate could be \$475 a day (or \$3,325 a week); though, on information and belief, complainant believes that the fair market rental value could be as much as \$4,500 per week.

## **B. LEGAL ANALYSIS**

### **1. Giudici has made, and Lowden has received, an excessive contribution.**

The Federal Election Campaign Act defines limits the amount of money that any person may contribute to Federal candidates and political committees. 2 U.S.C. § 441a(a). It is illegal for any individual to contribute, and for any candidate to receive, contributions to candidates in excess of \$2,400 per election. *Id.* § 441a(a)(1).<sup>3</sup>

The Act defines "contribution" broadly, as including "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(8)(A). Under Commission rules, "the provision of goods or services without charge or at a charge that is less than the usual and normal charge . . . is a contribution." 11 C.F.R. § 100.52(d). The "usual and normal charge" for goods is the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution. *Id.*

Under the facts presented in the *Sun* article and Lowden's FEC reports, it is clear that Giudici made, and Lowden received, an excessive contribution. According to Lowden's own

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<sup>3</sup> The Nevada primary election will be held on June 8, 2010. A candidate committee may not receive an in-kind contribution for any election other than the immediately pending one. *See* 11 C.F.R. §§ 102.9(e), 104.13(a).

attorney, Lowden is currently leasing the vehicle from Giudici, and a "typical" rental rate for a comparable luxury RV would be \$475 per day. Further, a copy of the redacted lease provided by the Lowden campaign to the *Las Vegas Sun*, dated January 12, 2010 indicates that the lease is for a term of ten months. Thus, by Lowden's own admission, the value of the lease is worth at least \$142,500 (\$475 per day x 10 months x 30 days per month) – and, on information and believe, the fair market value to rent the vehicle may even be higher. This value is well in excess of Giudici's \$2,400 contribution limit to Lowden for the primary election.

Furthermore, Giudici and his wife already reported making in-kind contributions to Lowden in the form of vehicle rental in November 2009, two months before the lease was signed. If Lowden was using the vehicle in November 2009 or earlier, the value of the in-kind may be even higher.

Lowden's attorney has offered various shifting explanations for Lowden's treatment of the contribution, but none are convincing. Lowden's attorney told the *Sun* that the Lowden campaign was only paying fair market value for the luxury bus for the days on which they actually drove the vehicle. But this explanation falls flat. First, the campaign stated that on days when the vehicle is not driven, it "sits at headquarters as a roadside billboard for the Lowden campaign." Thus, even when Lowden is not driving the vehicle, her campaign is still getting the benefit of the vehicle. Second, the campaign painted its logo on the vehicle, and keeps it at its headquarters. By every indication, the campaign has complete control over the use of the vehicle. And because the vehicle has the Lowden logo on it, Giudici cannot lease the vehicle to others. To obtain a similar arrangement on the open market, the Lowden campaign would have to pay rent for the entire 10 month period it is using the vehicle, not just for the days it chooses to drive the vehicle.

Lowden's counsel also told the *Sun* that it planned to pay Giudici for the rental in part by making "capital improvements" to the vehicle. So far, the campaign has purported to make "capital improvements" worth \$9,496.86 to the vehicle. However, there is no evidence that this arrangement was bargained for between the two parties. And even if these "capital improvements" are valid bargained-for consideration, they still fall well short of the fair market value of the lease.

Thus, it is clear that Giudici has made, and Lowden has received an excessive contribution.<sup>4</sup>

## **2. Lowden failed to report in-kind contributions.**

The Federal Election Campaign Act ("Act") requires that political committees report all contributions and expenditures to the Commission. 2 U.S.C. § 434. As described above, Lowden received an in-kind contribution from Giudici with a value of at least \$142,500. Yet her FEC reports only disclose a fraction of that transaction. It shows \$4,085 in in-kind contributions for vehicle rental from Giudici and his wife, and a \$9,496.86 disbursement to an RV dealer for repairs. Even if the Lowden campaign can permissibly pay for its lease by making "capital improvements" to the vehicle, the total reported value of the transaction has only been \$13,581.96 – well under the fair market value of the rental. Thus, Lowden has violated the Act by failing to report the full value of the in-kind contributions from Giudici to her campaign.

## **C. REQUESTED ACTION**

For the reasons described above, we respectfully urge the Commission to investigate whether Respondents have violated FECA by making and accepting massive in-kind

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<sup>4</sup> The *Sun* article alleges, and Lowden denies, that Lowden is named on the title to the vehicle. If Giudici purchased the vehicle and then gave half of the ownership interest in the vehicle to Lowden, that too would have been an excessive in-kind contribution to Lowden.

contributions, well in excess of the federal limits. We further request that Respondents be enjoined from further violations and be fined the maximum amount permitted by law.

Sincerely,

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SUBSCRIBED AND SWORN to before me this \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Notary Public

My Commission Expires:

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