



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAY - 4 2011

www.RandPaulGraphs.com
c/o Mr. Brandon Yates
1445 Ridge Avenue
Philadelphia, PA 19130

RE: MUR 6270

Dear Mr. Yates:

On April 15, 2010, the Federal Election Commission notified www.RandPaulGraphs.com of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was forwarded to you at that time. On April 26, 2011, the Commission found, on the basis of the information in the complaint, that there is no reason to believe www.RandPaulGraphs.com violated 2 U.S.C. §§ 441a(a) or 441d or 11 C.F.R. § 110.11. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's finding, is enclosed for your information.

If you have any questions, please contact April J. Sands, the attorney assigned to this matter at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script that reads "Mark Allen".

Mark Allen
Assistant General Counsel

Enclosure

Factual and Legal Analysis for www.RandPaulGraphs.com

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FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS****MUR 6270****RESPONDENT:** **www.RandPaulGraphs.com****I. GENERATION OF MATTER**

This matter was generated by a complaint filed with the Federal Election Commission by Johnathan C. Gay. *See* 2 U.S.C. § 437g(a)(1).

II. FACTUAL AND LEGAL ANALYSIS

The website www.RandPaulGraphs.com tracks various statistics regarding Rand Paul's campaign, including its receipt of contributions, and provides a link for interested persons to donate to the campaign. The complaint alleges that the content of www.RandPaulGraphs.com is coordinated with the Rand Paul Committee. Complaint at 4 and Exhibit F. In response, the Rand Paul Committee states that the website is owned and operated by "a spontaneous grassroots supporter acting on his own accord." The Rand Paul Committee further states that this individual is not a staff member of the Rand Paul Committee, or a formal campaign volunteer, and that the website is not affiliated with the Rand Paul campaign. Rand Paul Committee response at 6. The Commission received no response from www.RandPaulGraphs.com.

Commission regulations set forth a three-prong test to define when a communication is coordinated. A communication is coordinated with a candidate or candidate committee when: (1) the communication is paid for by a person other than that candidate, authorized committee or agent thereof; (2) the communication satisfies at least one of the four "content" standards

1 described in 11 C.F.R. § 109.21(c); and (3) the communication satisfies at least one of the six
2 “conduct” standards described in 11 C.F.R. § 109.21(d).¹ 11 C.F.R. § 109.21(a).

3 The content prong of the coordinated communications test includes: (1) an
4 “electioneering communication” defined at 11 C.F.R. § 100.29; (2) a “public communication” as
5 defined at 11 C.F.R. § 100.26 that disseminates campaign materials prepared by a candidate;
6 (3) a “public communication” that expressly advocates the election or defeat of a clearly
7 identified federal candidate; and (4) a “public communication” that refers to a clearly identified
8 candidate, is distributed 90 days or fewer before an election and is directed to a targeted
9 audience. 11 C.F.R. § 109.21(c).

10 An “electioneering communication” is defined as a broadcast, cable or satellite
11 communication that refers to a clearly identified federal candidate and is distributed to the
12 relevant electorate 30 days before the primary election or 60 days before the general election.
13 2 U.S.C. § 434(f)(3); 11 C.F.R. § 100.29. “Public communication” is defined as a
14 communication by means of any broadcast, cable, or satellite communication, newspaper,
15 magazine, outdoor advertising facility, mass mailing or telephone bank to the general public, or
16 any other form of general public political advertising, but excludes communications over the
17 Internet, except for communications placed for a fee on another person’s Web site. 11 C.F.R.
18 § 100.26.

19 It appears that the content displayed on the www.RandPaulGraphs.com website fails to
20 meet the content prong of the test for coordinated communications because it is neither an

¹ The activity in this matter occurred before the December 1, 2010 effective date of the Commission’s recent revisions to the coordination regulations. See Final Rules and Explanation and Justification, Coordinated Communications, 75 Fed. Reg. 55947 (September 15, 2010).

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1 "electioneering communication" nor a "public communication;" the Commission has no
2 information indicating that the website's content was placed for a fee on another person's
3 website. *See* 11 C.F.R. §§ 109.21(c)(1)-(4) and 100.26. In addition, 11 C.F.R. § 100.94 provides
4 that volunteer internet activities by an individual or group of individuals, "acting independently
5 or in coordination with any candidate, authorized committee, or political party committee" is not
6 a contribution by that individual or group of individuals. *See also* Explanation and Justification,
7 71 Fed. Reg. 18589 (April 12, 2006). Accordingly, the Commission finds no reason to believe
8 that www.RandPaulGraphs.com made an excessive contribution in violation of 2 U.S.C.
9 § 441a(a).

10 The complaint also alleges that the www.RandPaulGraphs.com website included certain
11 communications that required disclaimers.² *See* Complaint at Exhibit J. It appears that the
12 website's communications are exempt from disclaimer requirements because they are not
13 "electioneering communications" or "public communications" under 11 C.F.R. § 100.26, and the
14 Commission has no information suggesting that any of them were placed for a fee on another
15 person's website. *See* 11 C.F.R. § 110.11(a). Therefore, the Commission finds no reason to
16 believe that www.RandPaulGraphs.com violated 2 U.S.C. § 441d or 11 C.F.R. § 110.11.

² The following types of communications require a "disclaimer" statement identifying the person paying for the communication: 1) Any public communication made by a political committee; 2) Electronic mail of more than 500 substantially similar communications when sent by a political committee; 3) A political committee web site available to the general public; or 4) Any public communication made by any person that contains express advocacy, solicits a contribution or qualifies as an "electioneering communication" under 11 C.F.R. § 100.29.