



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

MAY - 4 2011

John S. Miles, Esq.  
William J. Olson, P.C.  
370 Maple Avenue West, Suite 4  
Vienna, Virginia 22180-5615

RE: MUR 6270  
Campaign for Liberty and  
John Tate, its president

Dear Mr. Miles:

On April 15, 2010, the Federal Election Commission notified your clients, Campaign for Liberty and John Tate, its president, 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 your clients at that time. On April 26, 2011, the Commission found, on the basis of the information in the complaint, and information provided by your clients, that there is no reason to believe Campaign for Liberty and John Tate, its president, violated 2 U.S.C. § 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,

Mark Allen  
Assistant General Counsel

Enclosure

Factual and Legal Analysis for Campaign for  
Liberty and John Tate, its president

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1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 **MUR 6270**

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5 **RESPONDENTS:** Campaign for Liberty and John Tate, its president

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7 **I. GENERATION OF MATTER**

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

10 **II. FACTUAL AND LEGAL ANALYSIS**

11 The complaint alleges that an email sent by the Rand Paul for U.S. Senate Committee  
12 (“Rand Paul Committee”), signed by its campaign manager, David Adams, to Campaign for  
13 Liberty contributors or members, lacked the required disclaimer. *See* Complaint Exhibit J. The  
14 Rand Paul Committee’s response states that “to the extent that any emails were sent with  
15 insufficient disclaimer language, such shortcomings were inadvertent and the campaign has since  
16 implemented precautions and retained legal counsel to ensure they will not recur.” Rand Paul  
17 Committee response at 8.

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

1           An "electioneering communication" is defined as a broadcast, cable or satellite  
2       communication that refers to a clearly identified federal candidate and is distributed to the  
3       relevant electorate 30 days before the primary election or 60 days before the general election.

4       2 U.S.C. § 434(f)(3); 11 C.F.R. § 100.29. "Public communication" is defined as a  
5       communication by means of any broadcast, cable, or satellite communication, newspaper,  
6       magazine, outdoor advertising facility, mass mailing or telephone bank to the general public, or  
7       any other form of general public political advertising, but excludes communications over the  
8       Internet, except for communications placed for a fee on another person's Web site. 11 C.F.R.  
9       § 100.26.

10           The Adams email, bannered at the top "Rand Paul, U.S. Senate 2010," and signed by  
11       Adams as campaign manager of the Rand Paul Committee, requests that supporters join a rally to  
12       counter a March 2, 2010 protest held by U.S. Senate candidate Daniel Mongiardo.  
13       *See* Complaint Exhibit J. At the bottom of the first page, printed in another font and apparently  
14       transposed onto the email, is the statement, "You are receiving this e-mail because you  
15       contriouted are a Campaign For Liberty member" (*sic*). *See id.* The statement is followed by the  
16       mailing address and copyright of the "Rand Paul for U.S. Senate Exploratory Committee,"  
17       indicating that this portion of the email was copied from an earlier email. The second page of  
18       the document appears to be from the Campaign for Liberty website. While it appears that the  
19       Rand Paul Committee supplied the content of the email, it is not clear whether the email was sent  
20       to Campaign for Liberty members by Campaign for Liberty or the Rand Paul Committee.  
21       The Commission did not locate any list rental payments by the Rand Paul Committee to  
22       Campaign for Liberty, a 501(c)(4) lobbying organization that is not registered with the

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1 Commission. In its response, Campaign for Liberty states only that “[i]nsofar as this allegation  
2 involves a missing disclaimer, that is a matter to be addressed by Rand Paul for U.S. Senate.”  
3 Campaign for Liberty response at 2. The Rand Paul Committee did not specifically address this  
4 email in its response.

5 If the Campaign for Liberty sent the email, no disclaimer was required, because the  
6 organization is not a political committee, and the emails were neither “electioneering  
7 communications” nor “public communications.” Accordingly, based on the available  
8 information, the Commission finds no reason to believe that Campaign for Liberty and  
9 John Tate, its president, violated 2 U.S.C. § 441d or 11 C.F.R. § 110.11.

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