



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

AUG 10 2011

**BY E-MAIL (mlaurenza@akingump.com) and FIRST CLASS MAIL**

Melissa L. Laurenza, Esq.  
Akin Gump Strauss Hauer & Feld LLP  
1333 New Hampshire Ave, NW  
Washington, DC 20036

RE: MURs 6289, 6362  
Picayune Rancheria of the  
Chukchansi Indians/Chukchansi  
Tribal Government

Dear Ms. Laurenza:

On May 17, 2010, and September 1, 2010, the Federal Election Commission notified your client, Picayune Rancheria of the Chukchansi Indians/Chukchansi Tribal Government of two complaints alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). On August 2, 2011, the Commission merged MUR 6289 into MUR 6362 and found on the basis of the information in the complaint, and information provided by you, that there is no reason to believe your client violated any provisions of the Act or Commission regulations in connection with the allegations in these matters. Accordingly, the Commission closed its file in this matter.

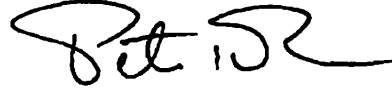
Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's no reason to believe finding, is enclosed for your information.

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Melissa L. Laurenza, Esq.  
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If you have any questions, please contact Dominique Dillenseger, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Pet Bl", with a stylized flourish extending to the right.

Peter G. Blumberg  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis

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1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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5 **RESPONDENT: Picayune Rancheria of the Chukchansi Indians/  
6 Chukchansi Tribal Government**

**MUR: 6362**

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8 **I. INTRODUCTION**

9 This matter was generated by two complaints filed with the Federal Election  
10 Commission, one by Sean Fox, and another by Tal Cloud and Mike Der Manouel, Jr.,  
11 respectively, which were designated as MURs 6289 and 6362 See 2 U.S.C. § 437g(a)(1).

12 The complaints alleged that radio and television advertisements for a May 28, 2010,  
13 benefit concert for the Remembering the Brave Foundation ("RB") featured Jeff Denham, a  
14 California State Senator and a candidate in the primary election for the 19<sup>th</sup> Congressional  
15 District in California, and were disseminated within 30 days of the California Congressional  
16 primary election on June 8, 2010. These ads were allegedly financed from funds Denham  
17 transferred from Jeff Denham for State Senate ("State Committee") to RB. The concert was held  
18 at the Chukchansi Gold Resort & Casino, which is owned and operated by the Picayune  
19 Rancheria of the Chukchansi Indians/the Chukchansi Tribal Government)("Tribe").

20 In MUR 6289, the complaint alleged that the advertisements promoting the benefit  
21 concert were coordinated electioneering communications, which were paid for by the Tribe,  
22 resulting in undisclosed contributions from the Tribe to Denham for Congress ("Federal  
23 Committee"). In MUR 6362, the complaint alleged that the same communications were  
24 coordinated with the Denham campaign and involved the Tribe and others. This complaint also  
25 alleged that the Tribe failed to disclose coordinated communications and independent  
26 expenditures made in connection with the benefit concert and/or Denham's Federal Committee,  
27 and may have done so to hide the true source of the funding. The Tribe filed a response to the

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1 complaint in MUR 6362, stating that there is no basis for finding that it made coordinated  
2 communications or otherwise violated the provisions of the Federal Election Campaign Act of  
3 1971, as amended (“the Act”).

4 As explained below, the Commission found no reason to believe that the Picayune  
5 Rancheria of the Chukchansi Indians violated any provisions of the Act or Commission  
6 regulations in connection with the allegations in this matter.

7 **II. FACTUAL AND LEGAL ANALYSIS**

8 **A. Factual Background**

9 In 2010, Jeff Denham was both a California State Senator, representing the 12<sup>th</sup> District,  
10 and a candidate for the U.S. House of Representatives for California’s 19<sup>th</sup> Congressional  
11 District. Denham did not run for re-election to the State Senate. Denham won the June 8, 2010,  
12 Republican primary and the November 2, 2010, general election.

13 Eleven days before the June 8 primary, a benefit concert was held at the Chukchansi Gold  
14 Resort & Casino, in Coarsegold, California, which is in the 19<sup>th</sup> Congressional District. The  
15 concert, sponsored by Remembering the Brave Foundation and featuring country and western  
16 music performer Phil Vassar, was advertised on radio, television, and the internet as a benefit  
17 concert to raise donations for Project Gold Star—a program administered by the California  
18 Department of Veteran Affairs to raise private donations to pay the costs of a specialized license  
19 plate program for the families of U.S. military personnel killed while serving on active duty.  
20 Several of the advertisements promoting the concert featured Denham.

21 In its response, the Tribe acknowledged that it provided the venue for and distributed  
22 promotional materials about the concert, but stated that none of its promotional materials referred  
23 to Denham or to any candidate. The Tribe further stated that it made the following in-kind

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1 donations to RB in support of the benefit concert: the use of its casino as the venue for the  
2 concert, a newspaper strip ad with the Fresno Bee, rack cards for distribution, postcards for  
3 distribution to Chukchansi guests, automated phone calls to Chukchansi guests, food vouchers  
4 with the purchase of two tickets to the event, rooms and meals for performers, an email blast,  
5 posters, and casino overhead announcements. *See Tribe's response* at 4-6. In addition, the Tribe  
6 noted that several television and radio stations ran public service announcements promoting the  
7 concert, which were provided without cost to the Tribe. *Id.* Finally, the Tribe asserted that it did  
8 not pay for or distribute any promotional materials that referred to Denham or to any clearly  
9 identified candidate, did not disseminate campaign materials prepared by the candidate, and did  
10 not expressly advocate the election or defeat of a clearly identified candidate. *Id.* at 5. The Tribe  
11 provided copies of its promotional materials, and none of the ads provided refer to Denham or to  
12 any other clearly identified candidate.

13 **B. Coordinated Communications/Independent Expenditures**

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15 The Act subjects contributions and expenditures to certain restrictions, limitations, and  
16 reporting requirements. *See generally* 2 U.S.C. §§ 441a, 434b. Contributions can be monetary  
17 or "in-kind." In-kind contributions include an expenditure made by any person "in cooperation,  
18 consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized  
19 political committees, or their agents," and are subject to the same restrictions and reporting  
20 requirements as other contributions. 2 U.S.C. § 441a(a)(7)(A) and (B)(i); 11 C.F.R.  
21 §§ 100.52(d)(1), 109.21(b). The Commission's regulations at 11 C.F.R. § 109.21 provide that  
22 coordinated communications constitute in-kind contributions from the party paying for such  
23 communications to the candidate, the candidate's authorized committee, or the political party

1 committee which coordinates the communication. A corporation is prohibited from making any  
2 contribution in connection with a Federal election. 2 U.S.C. § 441b(a).

3 A communication is coordinated if it is paid for by someone other than the candidate or  
4 the candidate's authorized committee (or the political party committee, where applicable); it  
5 satisfies one or more content standards; and it satisfies one or more conduct standards. All three  
6 prongs must be met for a communication to be considered coordinated. 11 C.F.R. § 109.21.

7 An independent expenditure is an expenditure for a communication which expressly  
8 advocates the election or defeat of a clearly identified candidate and which is not made in  
9 cooperation, consultation or concert with, or at the request or suggestion of, any candidate,  
10 candidate's committee, party committee or their agents. 11 C.F.R. § 100.16.

11 Based on the Tribe's response and other available information, it does not appear that the  
12 Tribe paid for ads featuring Denham, or that it made undisclosed coordinated communications  
13 and/or independent expenditures in connection with the benefit concert and/or the Denham  
14 campaign, as alleged in the complaints.

15 **C. Conclusion**

16 Accordingly, the Commission found no reason to believe that the Picayune Rancheria of  
17 Chukchansi Indians/Chukchansi Tribal Government violated any provisions of the Act or  
18 Commission regulations in connection with the allegations in this matter.

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