



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**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  
Californians for Fiscally  
Conservative Leadership

Dear Ms. Laurenza:

On September 1, 2010, the Federal Election Commission notified your client, Californians for Fiscally Conservative Leadership, of a complaint designated as MUR 6362, 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.

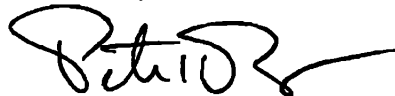
Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 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 "Peter G. Blumberg", with a stylized flourish extending to the right.

Peter G. Blumberg  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis

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**FEDERAL ELECTION COMMISSION**  
**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENT: Californians for Fiscally Conservative Leadership      MUR: 6362**

**I. INTRODUCTION**

This matter was generated by a complaint filed with the Federal Election Commission by Tal Cloud and Mike Der Manouel, Jr. *See* 2 U.S.C. § 437g(a)(1).

The complaint alleged that advertisements for a May 28, 2010, benefit concert for the Remembering the Brave Foundation ("RB") featured Jeff Denham, a California State Senator and a candidate in the primary election for the 19<sup>th</sup> Congressional District in California, and were disseminated within 30 days of the California Congressional primary election on June 8, 2010. These ads were allegedly financed from funds Denham transferred from Jeff Denham for State Senate ("State Committee") to RB. The concert was held at the Chukchansi Gold Resort & Casino. The complaint further alleged that the ads were coordinated with Denham for Congress ("Federal Committee") and that the coordination involved the Californians for Fiscally Conservative Leadership ("CFCL"). Complainants also alleged that CFCL failed to disclose coordinated communications and independent expenditures made in connection with the benefit concert and/or Denham's Federal Committee, and may have done so to hide the true source of the funding.

CFCL filed a response, stating that it was not involved with the concert, did not coordinate with the Denham campaign, and properly reported its independent expenditures to the Commission. CFCL also asserted that it has not otherwise violated the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). CFCL response at 7. As explained

below, the Commission found no reason to believe that CFCL violated any provisions of the Act or Commission regulations in connection with the allegations in this matter.

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Factual Background**

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

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

CFCL filed a response, stating that it is a tax-exempt 527 organization that is registered with the Commission as an independent-expenditure-only committee. CFCL stated that it was formed after the concert and was not involved with it. *See* CFCL Response at 4. CFCL also stated that it made independent expenditures in the form of radio ads in the period before the California primary, but that these expenditures were separate from the benefit concert, were not coordinated with the Denham campaign, and were properly reported to the Commission. *Id.* at 6-7.

**B. Coordinated Communications/Independent Expenditures**

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

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

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

The complaint makes general allegations that CFCL made undisclosed coordinated communications and/or independent expenditures in connection with the concert and/or the Denham Federal Committee. However, the complaint did not provide any information to

1 support these allegations. The complaint does not identify specific communications that it  
2 alleges were coordinated by CFCL, nor any specific unreported independent expenditures CFCL  
3 allegedly made on the Denham Federal Committee's behalf.

4 **C. Conclusion**

5 The complaint did not provide any information suggesting that CFCL made undisclosed  
6 coordinated communications and/or independent expenditures in connection with the concert  
7 and/or the Denham campaign. Accordingly, the Commission found no reason to believe that  
8 Californians for Fiscally Conservative Leadership violated any provisions of the Act or  
9 Commission regulations in connection with the allegations in this matter.