

# CLARK HILL

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MUR 6416

From: Tyrrell, James E. III

Direct Tel. Line:

(202) 772-0915

No. of Pages including Cover Sheet: 6

Message: Attached please find a response from Scott Rigell for Congress, David Rippy, as Treasurer, to the complaint filed in MUR 6416.

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November 23, 2010

Jeff S. Jordan, Esq.  
Supervisory Attorney  
Complaints Examination &  
Legal Administration  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

Re: MUR 6416

Dear Mr. Jordan:

This responds to the complaint filed by Jennifer Koch, Campaign Manager for Friends of Glenn Nye, against Scott Rigell for Congress, and David Rippy, in his official capacity as Treasurer (collectively, "Rigell"). Enclosed please find an executed Designation of Counsel form. The alleged violation in this complaint does not warrant the use of Commission resources and the complaint should be promptly dismissed.

The complaint<sup>1</sup> takes issue with one television advertisement produced by the Rigell campaign, asserting the ad did not contain the required "stand by your ad" provisions in 2 U.S.C. § 441d. Specifically, the complaint claims that the ad "contains no audio or video statement in which Rigell says that he approved the message."

The advertisement as produced by Rigell included all the necessary "stand by your ad" requirements and all related disclaimers. Apparently, due to the fault of the cable system upon which this ad ran, the first few seconds of the ad were omitted—precisely the portion of the ad where Scott Rigell appears and states that he approved the message. Enclosed is a press release issued by WVEC 13 in Hampton Roads, VA, the station at fault, which was posted on its website. The press release explains how a "technical error" caused the ad to "not air on WVEC as it was provided to us by the Rigell campaign." It goes on to state: "[s]pecifically, the visual

<sup>1</sup> As is typical of Democrat complaints in the days leading up to an election, Glenn Nye's campaign manager's complaint was accompanied by a fanfare of media attention spread throughout the political blogs and Twitter immediately upon its filing. See Washington Post Political Blog Network from October 24, 2010 (enclosed). Such action demonstrates that this is not a serious complaint, but instead is designed to simply grab a quick headline.

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November 23, 2010

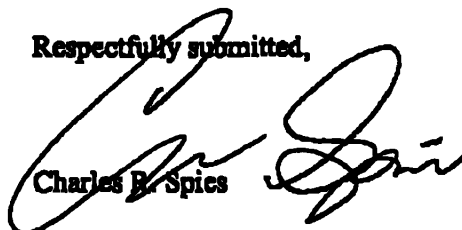
Page 2

and audio disclaimer that appeared at the beginning of the spot which stated, 'I'm Scott Rigell and I approve this message' was inadvertently omitted...[w]e regret the error."

Because Rigell's ad met all the "stand by your ad" requirements, and any disclaimer omission was due to technical errors by the television station, the complaint is without merit and ought to be dismissed. Additionally, the Commission has historically exercised its prosecutorial discretion and dismissed matters such as this—technical issues such as disclaimers where there has been at least substantial compliance.<sup>2</sup>

Thank you for your attention to this matter.

Respectfully submitted,



Charles B. Spies

Counsel to Scott Rigell for Congress,  
and David Rippey, in his official capacity as  
Treasurer

Enc.

<sup>2</sup> In MUR 5775R, the Commission dismissed a complaint brought against then-Congresswoman Deborah Pryce for a television disclaimer omission that resulted entirely from vendor error. The facts pertinent to this current complaint against Rigell are virtually identical to those in MUR 5775R, and accordingly, the complaint should be dismissed.

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## Glenn Nye's Attacks Rigell Without Verification, Backfires

Bearing Drift 8:28 PM ET, 10/24/2010

There was a slight hiccup today on the leftosphere, when Democrats alleged that Scott Rigell had violated Federal Election Commission law by leaving off the disclosure of the Scott Rigell email approval site.

Glenn Nye's campaign jumped into the mix, commenting a video, a retrieved screenshot and post on their campaign website about Scott Rigell's alleged violation of election law.

@GlennNye: Scott Rigell breaks federal election law in his recent recent misleading attack ad. And Clinton voters deserve better.

Victor Paige blew up their attack in a little over an hour by making a phone call.

update: Just confirmed that the @ScottRigell ad problem was that of the TV station & not the campaign.

So let's understand this. There are dozens of paid staffers on each campaign. Nye's people recorded the ad, drew up a press release, had it approved, drew up a FEC complaint, had it approved, had it notarized and authorized by the campaign manager, released it to the public domain, put out a blast on Twitter...and not bothered to call the television station that aired the ad?

Incompetence? Or just plain laziness?

While most focus in this scenario is to either cut the ad, or an NRCC-backed, professionally managed campaign target to launch a sleight of **EMILY** campaign ad warheads to this last disaster?

More.

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Bearing Drift



has been providing an online conservative voice in Virginia politics since 2004. The name derives relative motion of one - without backfire, you need to move to the right to avoid a collision. Visit Site

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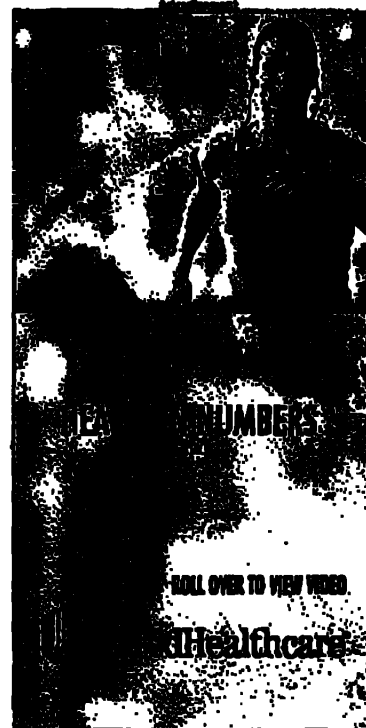
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## Political ad correction

13NEWS / WVEC.com

Recommend

Because of a technical error that occurred during recording for broadcast, a recent Scott Rigell for Congress campaign ad did not air on WVEC as it was provided to us by the Rigell campaign. Specifically, the visual and audio disclaimer that appeared at the beginning of the spot which stated, "I'm Scott Rigell and I approve this message" was inadvertently omitted. Once the issue was identified, the problem was corrected and the Rigell ad subsequently was broadcast on WVEC in its entirety. We regret the error.

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## BEFORE THE FEDERAL ELECTION COMMISSION STATEMENT OF DESIGNATION OF COUNSEL

MUR # 0416

Name of Counsel: Charles R. Spies  
Clark Hill PLC  
1250 Eye Street, NW Suite 250  
Washington, DC 20005

Telephone: (202) 572-8683  
Fax: (202) 572-8683

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

11/19/10		Treasurer
Date	Respondent/Client Signature	Title
Respondent/Client:	Rigell for Congress and David Lee Rippey, Sr., Treasurer 915 First Colonial Road Suite #100 Virginia Beach, VA 23454	

Telephone - Home:

Business: (757) 457-8480

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.