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FEDERAL ELECTION COMMISSION

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OFFICE OF GENERAL COUNSEL  
March 26, 2012

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FEC MAIL CENTER

Carol A. Laham  
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claham@wileyrein.com

**BY HAND DELIVERY**

Anthony Herman, Esq.  
General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

Re: MUR 6537

Dear Mr. Herman:

This office represents the Club for Growth PAC ("Club PAC") and its Treasurer, Adam Rozansky, with respect to a March 7, 2012, letter from Mr. Jeff S. Jordan, transmitting a complaint ("Complaint") designated Matter Under Review 6537 by the Federal Election Commission ("FEC" or "Commission"). Executed Designation of Counsel forms are attached hereto at Tab A.

As we show below, the Complaint simply does not allege any facts that constitute a violation by Club PAC. But a series of threshold defects require that the March 7, 2012, letter be withdrawn or that the Complaint be dismissed before that ultimate question is reached.

The March 7, 2012, letter violates explicit and mandatory FEC regulations. *See* 11 C.F.R. §§ 111.4, 111.5. Section 111.4(d)(1) requires an administrative complaint to "clearly identify as a respondent each person or entity who is alleged to have committed a violation," and Section 111.4(d)(3) requires "a clear and concise recitation of the facts which describe a violation" by that person (emphasis added). Section 111.5(a) mandates the FEC review each purported complaint to determine whether it substantially complies with these requirements, and Section 111.5(b) specifies that "no action shall be taken" on a filing failing to comply with these requirements except for notice to the complaining party.

In this case, the purported Complaint does not identify Club PAC as a respondent. It merely makes a few references to the Club for Growth that may, in context, be understood to mean Club PAC. Further, the Complaint in no way implicates Club PAC in any wrongdoing or suggests that Club PAC engaged in any wrongdoing. To the contrary, the Complaint explicitly identifies Jeff Flake for Senate, Inc. as the respondent. The Complaint is titled "RE: Complaint against Jeff Flake for Senate, Inc. (Respondent)." Similarly, the very first line of the Complaint states that its

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purpose is "to request that the Federal Election Commission investigate the Jeff Flake for Senate, Inc. Committee . . . for possible violations of Federal Election laws or Commission Regulations." Nor, as we discuss below, does the Complaint even purport to describe a violation by Club PAC.

Serving a complaint and notice imposes serious burdens, disruptions, and expenses on the receiving entity. The regulations requiring the Commission to ensure a complaint contains an explicit identification of respondents and clear factual allegations of a violation before serving notice protect core First Amendment values. Moreover, the Commission is bound to follow its own regulations. Because the Complaint here fails to meet the Commission's regulations, the March 7, 2012, letter should be withdrawn and the Complaint dismissed as to Club PAC.

The March 7, 2012, letter and attached Complaint also violate Section 111.6 of the Commission's regulations as they relate to Club PAC. As subsection (a) makes clear, the notice and Complaint must provide the respondent "an opportunity to demonstrate that no action should be taken on the basis of a complaint." Obviously, this contemplates a fair opportunity to respond to the clearly described factual violation required by the Commission's rules just discussed. Where, as here, the notice and Complaint fail to provide such clear factual notice, they fail to provide the "opportunity" required by subsection (a).

Furthermore, subsection (b) forbids the Commission from taking action against a respondent without considering its response to the fair opportunity mandated by subsection (a). Because the March 7, 2012, letter and the Complaint fail to clearly describe any factual violation, Club PAC has not been given a fair opportunity for response. Thus, the Commission also is precluded from proceeding against Club PAC by subsection (b).

Finally, no part of the Complaint or the materials attached to it alleges a violation on the part of Club PAC with respect to the Federal Election Campaign Act, as amended. The Complaint only discusses the Flake campaign's handling of funds properly transmitted to it by Club PAC pursuant to 11 C.F.R. § 110.6. But there is no allegation that these facts constitute a violation by Club PAC, nor do they.<sup>1</sup>

<sup>1</sup> Attached hereto at Tab B is a sample provided to us by Club PAC of what it regularly and timely sends the Flake campaign with regard to earmarked member contributions (credit card



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For each of these reasons, the Commission should withdraw the March 7, 2012, letter and dismiss or otherwise take no further action on the Complaint with respect to Club PAC. If the Commission decides to reach the merits of this Complaint, it should find no reason to believe a violation occurred on the part of Club PAC.

Sincerely,

A handwritten signature in cursive script that reads "Carol A. Laham".

Carol A. Laham

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(Continued . . .)

numbers are redacted). As can be seen, this process fulfills the PAC's requirements under section 110.6 of the Commission's regulations.



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Washington, DC 20463

STATEMENT OF DESIGNATION OF COUNSEL  
Please use *one* form for each Respondent/Entity/Treasurer  
FAX (202) 219-3923

MUR # 6537

NAME OF COUNSEL: Carol A. Laham

FIRM: Wiley Rein LLP

ADDRESS: 1776 K Street, NW

Washington, DC 20006

TELEPHONE- OFFICE (202 ) 719-7301

FAX (202 ) 719-7049

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.

3/20/12  
Date

[Signature]  
Respondent/Agent-Signature

TREASURER  
Title (Treasurer/Candidate/Owner)

NAMED RESPONDENT: Adam Rozansky, Treasurer, Club for Growth PAC

MAILING ADDRESS: 2001 L Street, NW, Suite 600  
(Please Print)

Washington, DC 20036

TELEPHONE- HOME ( ) \_\_\_\_\_

BUSINESS ( 202 ) 955-5500

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

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