



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Neil Reiff
Sandler Reiff
1025 Vermont Ave NW, Suite 300
Washington, DC 20005

JUN - 1 2017

RE: MUR 6934

Dear Mr. Reiff:

On April 23, 2015, the Federal Election Commission notified your clients Annette Taddeo and her campaign committee, Annette Taddeo for Congress and Ralph Patino in his official capacity as treasurer, (collectively, "the Respondents") of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended. Upon further review of the allegations contained in the complaint and responses received, the Commission, on May 25, 2017, found that there is no reason to believe the Respondents violated the Act. 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 Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information.

If you have any questions, please contact Derek H. Ross, the attorney assigned to this matter, at (202) 694-1579.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn Y. Tran", with a long horizontal flourish extending to the right.

Lynn Y. Tran
Assistant General Counsel

Enclosure:
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Taddeo for Congress and Ralph Patino in his MUR 6934
official capacity as treasurer
Annette Taddeo
Charlie Crist for Governor 2014 and Stanford B.
Horwitz in his official capacity as treasurer
Charlie Crist

I. INTRODUCTION

The Complaint stems from multiple e-mails sent by former Florida Governor and current Representative Charlie Crist from the account "info@charliecrist.com" announcing and then endorsing Annette Taddeo's candidacy for Florida's Twenty-Sixth Congressional District in the 2016 election cycle. The Complaint alleges the Charlie Crist for Governor 2014 committee ("the Crist Committee") made and Taddeo for Congress ("the Taddeo Committee") accepted and did not report contributions in the form of e-mails sent by the Crist Committee, in violation of the Federal Election Campaign Act of 1971, as amended (the "Act"). The Complaint also alleges that the e-mails failed to contain the requisite disclaimers. Based on the available information, the Commission finds no reason to believe that Respondents violated the Act.

II. FACTUAL BACKGROUND

Following Charlie Crist and Annette Taddeo's unsuccessful 2014 bid to become Florida's Governor and Lieutenant-Governor, respectively, Taddeo entered the 2016 race for Florida's Twenty-Sixth Congressional District. On or about April 6, 2015, prior to Taddeo's Statement of Candidacy, the account "info@charliecrist.com" sent an e-mail announcing Taddeo's bid for Congress.¹ Taddeo signed the e-mail, which contained the statement "PAID FOR AND

¹ Compl. at 1 (Apr. 17, 2015). Taddeo filed her statement of candidacy with the Commission on April 9, 2015. See FEC Form 2, Annette Taddeo.

1 APPROVED BY CHARLIE CRIST.”² The Complaint alleges that the next day, Crist sent a
2 second e-mail endorsing Taddeo that contained the same language.³ The Complaint alleges that
3 the e-mail was sent to “contacts from Charlie Crist’s campaign list,” and that the account used to
4 send the e-mail is owned and operated by the Crist Committee.⁴ Based on the above
5 information, the Complaint alleges that the Crist Committee made improper contributions to the
6 Taddeo Committee with nonfederal funds, the Taddeo Committee did not report the
7 contributions, and that the e-mails lacked the required disclaimer.

8 The Crist Committee counters that the e-mail account never belonged to the Crist
9 Committee.⁵ It states that Crist registered the domain “charliecrist.com” in 2004 and renewed it
10 in 2014.⁶ Moreover, it argues that Crist has run for various state and federal offices during that
11 time, and “one cannot assume” that the list was created in 2014 by the Crist Committee and not
12 his other campaigns.⁷

13 Both Committees argue that Crist, not the Crist Committee, owned the e-mail account in
14 question when the e-mails were sent.⁸ They explain that under Florida law, a committee has 90
15 days following the elimination or withdrawal of a candidate to dispose of the funds in the
16 campaign account, but that campaign assets such as e-mail addresses and lists are not subject to
17 this “liquidation rule,” and instead become the candidate’s property after the committee

² Compl. at 4.

³ *Id.* at 1, 5.

⁴ *Id.* at 1.

⁵ Horwitz Resp. at 2.

⁶ *Id.*

⁷ *Id.*

⁸ Horwitz Resp. at 1-2; Taddeo Resp. at 1. Crist was notified in his personal capacity, but he did not respond.

1 terminates.⁹ They conclude that because the Crist Committee terminated two months before the
2 e-mails, the Crist Committee did not make a contribution because it had ceased to exist, and,
3 assuming the Crist Committee ever owned the account and list, they had reverted back to Crist
4 under Florida law by the time of the e-mails.

5 Respondents also argue that Crist's internet activity is excepted from the definition of
6 "contribution" under the Act, so the Taddeo Committee was not obligated to report the e-mails as
7 contributions. Finally, they contend that these particular e-mails are not public communications,
8 and thus did not require disclaimers.¹⁰

9 **III. LEGAL ANALYSIS**

10 Any funds solicited, received, or spent by a candidate for federal office in connection
11 with a federal election must be "subject to the limitations, prohibitions, and reporting
12 requirements of [the] Act."¹¹ The Act defines a contribution as "any gift, subscription, loan,
13 advance, or deposit of money or anything of value made by any person for the purpose of
14 influencing any election for Federal office."¹² All political committees must file periodic reports
15 with the Commission that disclose contributions received during the reporting period.¹³ A
16 contribution, however, does not include an individual's uncompensated services related to
17 Internet activity, whether acting independently or in coordination with a candidate, such as
18 "[s]ending or forwarding electronic messages."¹⁴

⁹ Horwitz Resp. at 1-2; Taddeo Resp. at 1; *see* F.S.A. § 106.141.

¹⁰ Taddeo Resp. at 2; Horwitz Resp. at 2.

¹¹ 52 U.S.C. § 30125(e)(1)(A); 11 C.F.R. § 300.61.

¹² 52 U.S.C. § 30101(8)(A)(i); 11 C.F.R. § 100.51.

¹³ 52 U.S.C. § 30104(b)(2); 11 C.F.R. § 104.3(a)(2).

¹⁴ 11 C.F.R. § 100.94.

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1 The Act and Commission regulations require certain types of communications to contain
2 disclaimers that include specific types of identifying information.¹⁵ The required information
3 includes the identity of who paid for the communication, whether it was authorized by a
4 candidate's political committee, and if not authorized by a candidate's committee, the contact
5 information of the person who paid for the communication.¹⁶ The disclaimer requirement
6 covers, among other things, public communications, "electronic mail of more than 500
7 substantially similar communications when sent by a political committee," and "all
8 electioneering communications by any person."¹⁷ A "public communication" does not include
9 "communications over the Internet, except for the communications placed for a fee on another
10 person's Web site."¹⁸ An electioneering communication is a "broadcast, cable, or satellite
11 communication that," among other things, "[r]efers to a clearly identified candidate for Federal
12 office" and is "distributed within 60 days before a general election ... or within 30 days before a
13 primary election" for the office the identified candidate is seeking.¹⁹ The disclaimer
14 requirement, however, does not apply to e-mails sent by individuals.²⁰

15 Under Florida law, a candidate who is eliminated or elected to office has 90 days to
16 "dispose of the funds on deposit in his or her campaign account and file a report reflecting the
17 disposition of all remaining funds."²¹ One option for disposing of surplus funds is to give the

¹⁵ See 52 U.S.C. § 30120; *see also* 11 C.F.R. § 110.11.

¹⁶ 52 U.S.C. § 30120(a)(1)-(3); 11 C.F.R. § 110.11(b)(1)-(3).

¹⁷ 11 C.F.R. § 110.11(a).

¹⁸ *Id.* at § 100.26.

¹⁹ *Id.* at § 100.29(a).

²⁰ See Explanation and Justification for Final Rules on Internet Communications, 71 Fed. Reg. 18589, 18596-97 (Apr. 12, 2006).

²¹ Fla. Stat. § 106.141(1).

1 funds to the state.²² The Florida Elections Commission has determined that this disposition of
2 funds requirement does not apply to a campaign's non-monetary assets.²³ Accordingly, after the
3 termination of his or her campaign, a candidate may keep items purchased with campaign funds
4 that have residual value.²⁴

5 The Crist Committee argues that it never owned the account, and that one cannot assume
6 the list used was the Committee's and not one created by one of Crist's past campaigns.
7 However, even if the Committee did own the account and list during the campaign, it appears
8 that at the time the e-mails were sent, Crist owned them, not the Crist Committee.²⁵ The Florida
9 Elections Commission's records reveal that on February 1, 2015, two months before the e-mails
10 were sent, the Crist Committee issued a check for \$35,006.79 to the State of Florida with the
11 memo line "excess funds."²⁶ Further, the Crist Committee's treasurer maintains that the
12 Committee filed a termination report with the state on February 2, 2015.²⁷ Although the exact
13 date the e-mail and list became Crist's property is unclear, it appears that the list reverted to Crist
14 by the time the e-mails were sent on or about April 6, 2015.

²² *Id.* at § 106.141(4)(a)(4)(a).

²³ Florida Div. Election Op. DE 05-01 (Irvine) ("Items purchased by a candidate with campaign funds for use during the campaign which still have a residual value are not subject to the surplus funds disposition requirements contained in section 106.141, Florida Statutes.").

²⁴ *Id.* ("[T]he statute contains no language that would require the liquidation of and/or disposition of *any other assets* of the campaign.") (emphasis added).

²⁵ The e-mails were sent before Crist became a candidate for federal office. Crist filed his statement of candidacy for Florida's Thirteenth Congressional District on December 14, 2015. See FEC Form 2, Charlie Joseph Crist. Although at the time the e-mails were sent, the domain charliecrist.com belonged to Crist personally, it appears to have since been converted for use by his House campaign committee.

²⁶ FLORIDA CAMPAIGN DOCUMENTS SEARCH, <http://dos.elections.myflorida.com/campaign-docs/?account=61166> (last visited Jan. 4, 2017). The Crist Committee also issued a check to the State of Florida on May 22, 2015, for \$23,066.79. *Id.*

²⁷ See Horwitz Resp. at 1..

1 In addition, there is no information supporting the conclusion that Crist acted on behalf of
2 the Crist Committee when he sent the e-mails. In his response, the Crist Committee's treasurer
3 stated that he did not make or authorize any expenditures on behalf of the campaign to send the
4 e-mails.²⁸ This statement is bolstered by the disclaimer on the e-mails: "PAID FOR AND
5 APPROVED BY CHARLIE CRIST." Based on the available information, it appears that Crist
6 sent the e-mail as an individual using assets he personally owned—the e-mail address and list.
7 Thus, Crist's actions constituted uncompensated Internet activity by an individual, which is not a
8 contribution under the Act. Similarly, because the Crist Committee did not own the list or
9 account, it did not make an improper contribution to the Taddeo Committee, and the Taddeo
10 Committee did not violate the Act by failing to report the contributions or by receiving any non-
11 federal funds.

12 Further, because Crist sent the e-mails in his personal capacity and not on behalf of the
13 Crist Committee or any other political committee, and because e-mails do not meet the definition
14 of either a "public communication" or "electioneering communication," the disclaimer
15 requirement would not apply to his communications.²⁹ Accordingly, the Commission finds there
16 is no reason to believe that Respondents violated the Act.

²⁸ *Id.*

²⁹ 11 C.F.R. § 110.11(a); *supra* note 21. Even so, the e-mails contained disclaimers saying the Crist paid for and approved them.