

LEGAL NOTICE & RETRACTION DEMAND

Date: July 10, 2025
From: David Hopkins, Publisher
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Outline

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I. Introduction

This Notice is directed to any person who has made, published, or shared false and defamatory allegations regarding the communication practices of **Focus on Big Canoe (FOBC)** or its publisher, **David Hopkins**.

It has come to my attention that a specific individual, **Liz Scherer** — formerly known for her contributions as a volunteer within Big Canoe—has recently, and inexplicably, engaged in disseminating **false and damaging accusations**, alleging that FOBC (or I) have violated the **CAN-SPAM Act** in the distribution of email communications.

These claims are not only **factually incorrect**, but also **legally irresponsible**. If uncorrected, they may result in civil liability for defamation and related harms.

II. Legal Report & Basis for FOBC's Position

The following legal summary, with references to federal statute and FTC guidance, is provided to assist violators, or potential violators, in understanding why their accusations are **meritless** under federal law.

Summary:

FOBC is a **self-funded news publication** that:

- Contains **no advertisements**
- Does **not solicit donations**
- Has **no paid subscriptions or products**
- Sends emails **solely to distribute editorial content and news links**

As such, FOBC communications **do not meet the legal definition of “commercial electronic mail messages”** under the **CAN-SPAM Act** (15 U.S.C. § 7701 et seq.).

Legal Framework:

15 U.S.C. § 7702(2)(A) defines a "commercial electronic mail message" as any email whose *primary purpose* is the commercial advertisement or promotion of a commercial product or service.

Further clarification from the **FTC** (16 CFR Part 316 – Final Rule, 2008) states:

“The primary purpose of an email is commercial if:

- (1) It advertises or promotes a commercial product or service; **AND**
- (2) That commercial content is more prominent than other content in the message.”




FOBC emails contain **purely editorial, informational content**, and do **not promote or advertise** any goods, services, or monetized content.

FTC Example:

In *In re: United States v. Jumpstart Technologies, LLC*, the FTC explained that **even linking to a website is not commercial** unless the linked content itself promotes commercial activity (ads, sales, subscriptions, etc.).

Because FOBC articles are **strictly non-commercial** and not monetized, any link to a news article within an email is likewise non-commercial under the law.

FOBC Newsletter is Not Commercial Because:

-  No product/service is being offered or sold
-  No monetization mechanism (ads, subs, donations)
-  No solicitation of any kind

Conclusion:

FOBC email newsletter does not fall under the definition of a "commercial electronic mail message" under the CAN-SPAM Act if it contains only editorial content and no commercial intent or monetization.

Additional Comments From the FOBC Publisher:

- FOBC does voluntarily include an **unsubscribe option**, even though **not required** by law.
- To FOBC's knowledge, the unsubscribe link functions properly.
- Allegations to the contrary are unsupported, inaccurate, and harmful.

III. Notice of Intent to Pursue Violators

FOBC intends to pursue, identify, and document all individuals who have filed or encouraged the filing of **false complaints** with the **Federal Trade Commission (FTC)** alleging FOBC violated the CAN-SPAM Act. (*continued...*)

In support of this, FOBC will submit **Freedom of Information Act (FOIA) requests** to uncover the identities of such individuals.

Furthermore, FOBC and/or David Hopkins reserves all legal rights to:

- Initiate litigation under Georgia's defamation laws (O.C.G.A. § 51-5-1 et seq.)
 - Seek civil damages for harm to reputation, business interests, and emotional distress
 - Report knowingly false federal complaints for potential **criminal prosecution** under **18 U.S.C. § 1001**, which prohibits submitting false or misleading statements to a federal agency.
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IV. Formal Retraction Demand

Pursuant to Georgia law and in accordance with the principles of fair notice, I hereby **formally demand** that:

Any individual or group who has made or shared accusations alleging that FOBC or I have violated the CAN-SPAM Act must:

1. **Immediately issue a full retraction** in every forum where such allegations were published or promoted, including but not limited to websites, email messages, and social media posts.
2. **Clearly state** in such retractions that the original allegations were false and unfounded.
3. **Cease and desist** from encouraging others to file complaints based on these false claims.

This demand is made in good faith to **mitigate further harm** and to give offending parties an opportunity to correct the record before legal action is pursued. Your compliance may be considered in determining the extent of damages sought, should litigation become necessary.

Respectfully submitted,

David Hopkins

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NOTE: This Legal Notice may be publicly posted as documentation of FOBC's formal demand for correction and retraction.