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OFFICE OF GENERAL
COUNSEL

JERRY H. GOLDFEDER
DIRECT DIAL 212-806-5857
FAX 212-806-6006
CELL 917-680-3132

Federal Election Commission
Office of General Counsel
999 E Street, NW
Washington DC 20463

REQUEST FOR ADVISORY OPINION

Honorable Commissioners:

This firm represents Rory Lancman, a member of the New York City Council, and his political committee Lancman for Congress (the "Federal Committee"). I write to request an Advisory Opinion with respect to whether the Federal Committee may accept a transfer of funds – *wholly raised in compliance with federal law* – from an already-existing campaign committee registered with the New York City Campaign Finance. The purpose of the transfer is limited to retiring past debt and closing the Federal Committee. The salient facts follow.

In 2012, as a sitting New York State Assemblyman, Lancman ran unsuccessfully for the Democratic nomination for the United States Congress, from New York's 6th congressional district, and established the subject Federal Committee in furtherance of his campaign. In 2013, Lancman ran and won the public office of Member of the City Council of the City of New York, and last year established Lancman 2017 in support of his candidacy for re-election or other New York City office in 2017. Pursuant to the New York City Campaign Finance Law, Lancman 2017 has raised funds solely from individuals, registered political committees (provided said committees' contributions to Lancman 2017 derived solely from individuals) and union treasury funds. Lancman 2017 has filed (and continues to file) regular disclosure statements with the New York City Campaign Finance Board, and pursuant to normal procedure, the Board verifies that the source of his campaign funds are pursuant to the law as stated.

In the meantime, Lancman's Federal Committee has remained inactive since 2012. It has not been terminated because it has a balance of -\$238,090, constituting its outstanding debt liabilities. In order to pay this debt and close the committee, the Federal Committee wishes to accept a transfer of funds from Lancman 2017, referred to

hereinafter as the “New York Committee” (the “Proposed Transfer”), which is permitted by state and city law.

For the reasons set forth below, I believe that various Advisory Opinions (*see, e.g.*, Advisory Opinions 1985-2 and 2002-8), along with the Explanation and Justification of 11 CFR 110.3(d) (*see* 55 Fed. Reg. 5, 3474 (Jan. 8, 1993)), support the Federal Committee’s request to accept funds from the New York Committee.

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Under 11 CFR 110.3(d) (the “Regulation”):

“Transfers of funds or assets from a candidate's campaign committee or account for a nonfederal election to his or her principal campaign committee or other authorized committee for a federal election are prohibited. However, at the option of the nonfederal committee, the nonfederal committee may refund contributions, and may coordinate arrangements with the candidate's principal campaign committee or other authorized committee for a solicitation by such committee(s) to the same contributors. The full cost of this solicitation shall be paid by the Federal committee.”

Before the Regulation was issued in 1993, the FEC permitted federal committees to accept funds from state committees, including for the purpose of debt retirement. *See, e.g.*, Advisory Opinion 1985-2. The Regulation was issued due to concerns that federal committees were circumventing federal campaign finance regulation by receiving transfers from state committees subject to less restrictive state laws. *See generally* 55 Fed. Reg. 5, 3474 (Jan. 8, 1993). Its purpose was thus to “prevent the indirect use of impermissible funds in Federal elections.” *Id.* at 3475.

Since 1993, the FEC has approved limited transfers from state committees to federal committees when such transfers do not implicate the purpose of the Regulation. For example, a transfer from a state committee does not threaten to inject “soft money” into federal elections when those funds were raised in compliance with federal law, and thus does not violate the Regulation. In Advisory Opinion 2002-8, the FEC permitted David Vitter to re-transfer funds from his state committee into his federal committee because those funds had originally been raised by the federal committee pursuant to federal law. This transfer therefore was “not the type of situation to which the regulations 11 CFR 110.3(d) were intended to apply.”

The same is true of the Proposed Transfer here. The New York Committee wishes to transfer monies it has raised for 2017 exclusively from individuals. Care would also be taken to ensure that the sources of the transferred funds do not result in what might be

construed as an excessive contribution by an individual to the Federal Committee. A transfer of funds from the New York Committee to the Federal Committee, therefore, would not introduce impermissible funds into the Federal Committee.

Such funds from the New York Committee would, therefore, be entirely consistent and fully compliant with funds that could have been raised pursuant to the requirements of federal election law.

The 2012 congressional election is obviously long over, and Lancman intends to close the committee upon retiring its debt. Accordingly, Lancman wishes simply to transfer funds from the New York Committee to the Federal Committee to retire its debt and close the Federal Committee altogether—and not to use such funds in a future federal election. As such, the Proposed Transfer does not jeopardize the integrity of federal elections.

For these reasons, I believe that the Proposed Transfer does not implicate the anti-circumvention purpose of the Regulation, and is therefore a permissible receipt of funds.

Question Presented

1. May the Federal Committee properly accept a transfer of funds from the New York Committee solely for the purpose of debt retirement in order to close the Federal Committee, given that such transferred funds were raised by the New York Committee in full compliance with federal law and whose transference would not inject into the Federal Committee any funds that were not consistent with or non-compliant with federal election law?

We look forward to confirmation that our client may proceed accordingly. If you have any questions about this Request or the underlying facts, please do not hesitate to call.

Very truly yours,



Jerry H. Goldfeder