



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Vincent Messina, Esq.
Sinnreich, Kosakoff & Messina, LLP
267 Carleton Avenue
Suite 301
Central Islip, New York 11722

APR 11 2017

RE: MUR 6985
Friends of Senft
Islip Town Conservative Executive
Committee
Suffolk Conservative Chairman's
Club

Dear Mr. Messina:

On November 24, 2015, the Federal Election Commission notified your clients, Friends of Senft, Islip Town Conservative Executive Committee, and Suffolk Conservative Chairman's Club, of a complaint alleging violation of certain sections of the Federal Election Campaign Act of 1971, as amended.

On March 23, 2017, the Commission found, on the basis of the information in the complaint and information provided by you, that there is no reason to believe that Friends of Senft, Islip Town Conservative Executive Committee, and Suffolk Conservative Chairman's Club violated the Act. Accordingly, the Commission closed the file in this matter as it pertains to your clients. The Factual and Legal Analyses, which more fully explain the Commission's findings, are enclosed for your information.

The Commission reminds you that the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A) remain in effect, and that this matter is still open with respect to other respondents. The Commission will notify you when the entire file has been closed.

Vincent Messina, Esq.
MUR 6985
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If you have any questions, please contact Elena Paoli, the attorney assigned to this matter,
at (202) 694-1548 or epaoli@fec.gov.

Sincerely,



Mark Allen
Assistant General Counsel

Enclosure
Factual and Legal Analyses

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1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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6 **RESPONDENT:** Friends of Senft

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8 **I. INTRODUCTION**

9
10 This matter was generated by a complaint filed with the Federal Election Commission
11 alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by
12 Friends of Senft.

13 **II. FACTUAL AND LEGAL ANALYSIS**

14 In 2013, Lee Zeldin was a state senator in Suffolk County, New York. On October 7,
15 2013, Zeldin announced that he would seek the U.S. House seat in New York's First
16 Congressional District in 2014. The Commission received Zeldin's Statement of Candidacy on
17 October 21, 2013.

18 The State Committee remained active while Zeldin completed his state senate term and
19 campaigned for the U.S. House.¹ New York State allows state candidates to receive
20 contributions that would be impermissible under the Act; for example, a corporation can
21 contribute \$5,000 to a candidate per year.² During the 2012 and 2014 election cycles, the
22 contribution limit for a state senate candidate was \$6,500 for the primary election and \$10,300

¹ The State Committee terminated on April 28, 2016. See New York State Board of Elections campaign finance disclosure website (http://www.elections.ny.gov:8080/plsql_browser/getfiler2_loaddates). It does not appear that Zeldin ever sought to be a candidate for the state senate seat in 2014.

² See N.Y. ELEC. LAW § 14-116(2) (McKinney 2016).

1 for the general election.³ Zeldin's State Committee accepted such contributions.⁴ In addition,
2 political committees in New York cannot terminate if funds remain in their accounts.⁵ Under
3 New York law, state officeholders who wish to terminate their committees may spend down their
4 accounts through donations to other political committees.⁶

5 The Complaint identifies a dozen instances after Zeldin announced his federal candidacy
6 when the State Committee made a contribution to a state or local political organization that was
7 preceded or followed by a contribution to the Federal Committee by that same organization.⁷
8 The Complaint alleges that the Federal Committee received \$16,651 of these reciprocal
9 contributions as part of a scheme to impermissibly transfer State Committee funds to the Federal
10 Committee.⁸

11 The Commission has considered arrangements to transfer a state committee's funds into a
12 federal committee's account through intermediaries. In MUR 5278, candidate Gingrey admitted
13 in a state proceeding to having arranged "reciprocal contributions" for the purpose of funneling
14 state funds into his federal account.⁹ Similarly, in an advisory opinion, the Commission found

³ See *id.* § 14-114(b); N.Y. COMP. CODES R. & REGS. tit. 9, § 6214.0 (2016). A candidate's family members have a separate, higher limit. See N.Y. ELEC. LAW § 14-114(b).

⁴ See, e.g., State Committee 2014 January Periodic Report, Schedules A and B.

⁵ See N.Y. Comp. Codes R. & Regs. tit. 9, § 6200.2(b) (2016).

⁶ See New York State Board of Elections Campaign Finance Handbook at 46 (2014).

⁷ See Compl. at 6-7 and Attachs. A, B.

⁸ Compl. at 3.

⁹ Factual & Legal Analysis at 3-4, MUR 5278 (Gingrey). Gingrey acknowledged four reciprocal transfers, three of which involved the same amount of money on the same day or a few days apart. The fourth involved contributions of \$1,000 and \$500 about five months apart. See *id.* The Commission entered into a conciliation agreement with the Gingrey Committee for this violation and others, and the Committee paid a \$1,800 civil penalty.

1 impermissible the requestor's plan to use surplus state funds to make indirect transfers to the
2 requestor's federal committee.¹⁰

3 In contrast, Friends of Senft denies that such indirect transfers occurred, and a review of
4 the available information reveals that most of the alleged reciprocal contributions do not match
5 up closely in amounts or time.¹¹ For example, in the first transaction identified in the Complaint,
6 the State Committee contributed \$500 to the Committee to Elect a Republican Majority
7 ("CERM") on October 25, 2013, and CERM contributed \$1,000 to the Federal Committee on
8 March 20, 2014, about five months later.¹² Similarly, the second such identified transaction
9 involves a \$100 transfer from the State Committee to the Smithtown Women's Republican Club
10 in early December 2013 and a \$500 contribution from that group to the Federal Committee over
11 seven months later.¹³ The closest alleged reciprocal contribution appears to involve Islip Town
12 Conservative Executive Committee ("ITCEC"). On January 25, 2014, the State Committee
13 contributed \$1,000 to ITCEC, and on March 19, 2014, ITCEC contributed the same amount to
14 the Federal Committee.

15 Friends of Senft, for its part, received a \$5,000 contribution from the State Committee on
16 March 31, 2014, and made a \$1,000 contribution to the Federal Committee on April 1, 2014.
17 Friends of Senft asserts that it was not directed to make a contribution to the Federal Committee
18 and that it did not serve as an intermediary between the State and Federal Committees. It also

¹⁰ Advisory Op. 1996-33 (Colantuono) (Requester sought to contribute surplus state funds to fellow state legislators who would then make "roughly equivalent" contributions to Colantuono's federal committee).

¹¹ In fact, the Commission has information indicating that two respondents received no donations from the State Committee.

¹² See Compl. at 6.

¹³ *Id.*

1 argues that another Senft committee made the contribution to the Federal Committee than the
2 one receiving the contribution from the State Committee.

3 Thus, although the State Committee donated funds to state and local political
4 organizations that contributed to the Federal Committee, there is not a sufficient factual nexus
5 between the transactions to conclude that the State Committee was impermissibly funneling its
6 funds to the Federal Committee.

7 Thus, there is no reason to believe that Friends of Senft violated the Act.

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1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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6 **RESPONDENT:** Islip Town Conservative Executive Committee

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10 This matter was generated by a complaint filed with the Federal Election Commission
11 alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by
12 Islip Town Conservative Executive Committee.

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14 In 2013, Lee Zeldin was a state senator in Suffolk County, New York. On October 7,
15 2013, Zeldin announced that he would seek the U.S. House seat in New York's First
16 Congressional District in 2014. The Commission received Zeldin's Statement of Candidacy on
17 October 21, 2013.

18 The State Committee remained active while Zeldin completed his state senate term and
19 campaigned for the U.S. House.¹ New York State allows state candidates to receive
20 contributions that would be impermissible under the Act; for example, a corporation can
21 contribute \$5,000 to a candidate per year.² During the 2012 and 2014 election cycles, the
22 contribution limit for a state senate candidate was \$6,500 for the primary election and \$10,300

¹ The State Committee terminated on April 28, 2016. See New York State Board of Elections campaign finance disclosure website (http://www.elections.ny.gov:8080/plsql_browser/getfiler2_loaddates). It does not appear that Zeldin ever sought to be a candidate for the state senate seat in 2014.

² See N.Y. ELEC. LAW § 14-116(2) (McKinney 2016).

1 for the general election.³ Zeldin's State Committee accepted such contributions.⁴ In addition,
2 political committees in New York cannot terminate if funds remain in their accounts.⁵ Under
3 New York law, state officeholders who wish to terminate their committees may spend down their
4 accounts through donations to other political committees.⁶

5 The Complaint identifies a dozen instances after Zeldin announced his federal candidacy
6 when the State Committee made a contribution to a state or local political organization that was
7 preceded or followed by a contribution to the Federal Committee by that same organization.⁷
8 The Complaint alleges that the Federal Committee received \$16,651 of these reciprocal
9 contributions as part of a scheme to impermissibly transfer State Committee funds to the Federal
10 Committee.⁸

11 The Commission has considered arrangements to transfer a state committee's funds into a
12 federal committee's account through intermediaries. In MUR 5278, candidate Gingrey admitted
13 in a state proceeding to having arranged "reciprocal contributions" for the purpose of funneling
14 state funds into his federal account.⁹ Similarly, in an advisory opinion, the Commission found

³ See *id.* § 14-114(b); N.Y. COMP. CODES R. & REGS. tit. 9, § 6214.0 (2016). A candidate's family members have a separate, higher-limit. See N.Y. ELEC. LAW § 14-114(b).

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1 impermissible the requestor's plan to use surplus state funds to make indirect transfers to the
2 requestor's federal committee.¹⁰

3 In contrast, Islip Town Conservative Executive Committee ("ITCEC") denies that such
4 indirect transfers occurred, and a review of the available information reveals that most of the
5 alleged reciprocal contributions do not match up closely in amounts or time.¹¹ For example, in
6 the first transaction identified in the Complaint, the State Committee contributed \$500 to the
7 Committee to Elect a Republican Majority ("CERM") on October 25, 2013, and CERM
8 contributed \$1,000 to the Federal Committee on March 20, 2014, about five months later.¹²
9 Similarly, the second such identified transaction involves a \$100 transfer from the State
10 Committee to the Smithtown Women's Republican Club in early December 2013 and a \$500
11 contribution from that group to the Federal Committee over seven months later.¹³ The closest
12 alleged reciprocal contribution appears to involve ITCEC. On January 25, 2014, the State
13 Committee contributed \$1,000 to ITCEC, and on March 19, 2014, ITCEC contributed the same
14 amount to the Federal Committee. ITCEC's treasurer, however, denied in a sworn affidavit that
15 the committee served as an intermediary between the State and Federal committees.

16 Thus, although the State Committee donated funds to state and local political
17 organizations that contributed to the Federal Committee, there is not a sufficient factual nexus
18 between the transactions to conclude that the State Committee was impermissibly funneling its
19 funds to the Federal Committee.

¹⁰ Advisory Op. 1996-33 (Colantuono) (Requester sought to contribute surplus state funds to fellow state legislators who would then make "roughly equivalent" contributions to Colantuono's federal committee).

¹¹ In fact, the Commission has information indicating that two respondents received no donations from the State Committee.

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¹³ *Id.*

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- 1 Thus, there is no reason to believe that Islip Town Conservative Executive Committee
- 2 violated the Act.

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1 impermissible the requestor's plan to use surplus state funds to make indirect transfers to the
2 requestor's federal committee.¹⁰

3 In contrast, Suffolk Conservative Chairman's Club ("SCCC") denies that such indirect
4 transfers occurred, and a review of the available information reveals that most of the alleged
5 reciprocal contributions do not match up closely in amounts or time.¹¹ For example, in the first
6 transaction identified in the Complaint, the State Committee contributed \$500 to the Committee
7 to Elect a Republican Majority ("CERM") on October 25, 2013, and CERM contributed \$1,000
8 to the Federal Committee on March 20, 2014, about five months later.¹² Similarly, the second
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12 appears to involve Islip Town Conservative Executive Committee ("ITCEC"). On January 25,
13 2014, the State Committee contributed \$1,000 to ITCEC, and on March 19, 2014, ITCEC
14 contributed the same amount to the Federal Committee.

15 SCCC, for its part, received the following contributions from the State Committee:

- 16 • October 21, 2013 -- \$1,000
- 17 • December 9, 2013 -- \$1,000
- 18 • October 28, 2014 -- \$1,000

¹⁰ Advisory Op. 1996-33 (Colantuono) (Requester sought to contribute surplus state funds to fellow state legislators who would then make "roughly equivalent" contributions to Colantuono's federal committee).

¹¹ In fact, the Commission has information indicating that two respondents received no donations from the State Committee.

¹² See Compl. at 6.

¹³ *Id.*

1 **SCCC made a \$1,000 contribution to the Federal Committee on June 18, 2014. SCCC asserts**
2 **that it was not directed to contribute to the Federal Committee and that it did not serve as an**
3 **intermediary between the State and Federal Committees.**

4 **Thus, although the State Committee donated funds to state and local political**
5 **organizations that contributed to the Federal Committee, there is not a sufficient factual nexus**
6 **between the transactions to conclude that the State Committee was impermissibly funneling its**
7 **funds to the Federal Committee.**

8 **Thus, there is no reason to believe that Suffolk Conservative Chairman's Club violated**
9 **the Act.**

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