

**SANDLER REIFF**


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May 2, 2018

Mr. Jeff S. Jordan  
Assistant General Counsel  
Office of Complaints Examination  
and Legal Administration  
Federal Election Commission  
1050 First Street, N.E.  
Washington, D.C. 20463

Digitally signed  
by Kathryn Ross  
Date: 2018.05.02  
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Re: MUR 7347

Dear Mr. Jordan:

The undersigned serves as counsel to Congressman Conor Lamb, Conor Lamb for Congress, and Marco Attisano, in his official capacity as Treasurer (the "Committee"). This letter responds on behalf of the Committee to the Commission's notification that it received a complaint (the "Complaint") alleging that the Committee violated the Federal Election Campaign Act (the "Act") and Federal Election Commission (the "Commission") regulations.

This matter was initiated by a sworn complaint filed by Petra A. Mangini, Esq., in her apparent capacity as counsel to Committee to Defend the President (collectively referred to as "Complainants"). The Committee to Defend the President ("CDP") is a federal political committee with an independent expenditure only account, commonly known as a Carey PAC. The treasurer of the CDP is Dan Backer. Mr. Backer is the owner of a law firm known as Political.Law. Ms. Mangini appears to be a member of Mr. Backer's law firm. In February of 2018, CDP reported spending over \$50,000 in online advertisements on behalf of Rick Saccone, Congressman Lamb's opponent in the special election in which Congressman Lamb was elected to represent the 18<sup>th</sup> Congressional District of Pennsylvania on March 13, 2018.

In this matter, the Complainants falsely allege that an email disseminated by a federal political committee, End Citizens United ("ECU"), violated federal campaign finance law in several respects. Only two of those allegations touch upon Congressman Lamb or the Committee. First, the Complainants falsely allege that Congressman Lamb and the Committee violated the law by making an unlimited ask for contributions to ECU and the Committee. Complaint at p.5. The Complainants later contradict themselves by acknowledging that contributions made to Congressman Lamb and the Committee through ActBlue, a federal political committee, were limited to \$7,700, the combined contribution limit to ECU and the Committee. Second, the Complainants falsely claim that Congressman Lamb violated federal law because he solicited contributions in excess of \$2,700. Complaint at p. 8. This is a clear misrepresentation of federal law.

were permissible under federal law. See Statement of Senator John McCain, 144 Cong. Record at S. 2139-2140.

- 2) In promulgating sections 300.61 and 300.62, the Commission clearly explain that this provision was designed to merely require that solicitations to other federal committees be subjected to the limits and prohibitions of federal law: "...the legislative history indicates that [52 U.S.C. § 30125(e)(1)] is intended to prohibit Federal officeholders and candidates from soliciting any funds for these committees [the Commission was referring to federal leadership PACs] that do not comply with FECA's source and amount limitation. [citation omitted]. Consequently, the NPRM stated that Federal candidates and officeholders and their leadership and candidate PACs must not solicit, receive, direct, transfer, or spend funds for such a PAC's Federal or non-federal account unless the funds complied with the Act's source and limitations requirements. Explanation and Justification, *Prohibited and Excessive Contributions; Non-Federal Funds or Soft Money; Final Rule*, 67 Fed. Reg. 49064 (July 29, 2002) 49064, 49107.
- 3) Commission regulations explicitly **permit** a federal candidate to solicit contributions to any committee if the solicitation of funds complies with the prohibitions and limitations of federal law. 11 C.F.R. § 300.64(c)(2).
- 4) The Commission has restated this explanation on several occasions, most notably, in an opinion to Mr. Backer himself. Thus, in Advisory Opinion 2011-21, the Commission restricted the solicitation of contributions to a leadership PAC that wished to solicit unlimited contributions for independent expenditures to the limitations and prohibitions of federal law. By way of an additional example, the Commission, in Advisory Opinion 2011-12, permitted a federal candidate or officeholder to solicit funds up to \$5,000 from permissible sources to an independent expenditure only committee. Numerous other opinions properly explain the application of this provision including Advisory Opinions 2003-5, 2003-12, 2003-15, 2003-20, 2003-32, 2003-36, 2003-37, 2004-14, 2004-25, 2004-33, 2005-10, 2005-12, 2006-11, 2006-24, 2007-1, 2007-5, 2007-5, 2007-26, 2007-28, 2009-26, 2010-7, 2010-28, 2013-3 and 2015-9.

### CONCLUSION

It strains credulity that both Mr. Backer and Ms. Mangini, who are both purported to be experts in federal campaign law, merely misinterpreted the application of federal law in this matter. These licensed attorneys abused the administrative law system and filed a complaint, under oath, that clearly misrepresented facts and law. ECU's email from Congressman Lamb was a clearly permissible solicitation of solely federally permissible funds. Neither Congressman Lamb nor the Committee violated any provision of law in connection with ECU's email solicitation.

### FALSE ALLEGATION OF FACTS

On March 9, 2017, Congressman Lamb did, in fact, solicit contributions to ECU and the Committee. Prospective donors were directed to a landing page operated by ActBlue, a federal political committee that specializes in acting as an intermediary for contributions to federal candidates and committees. Upon arriving at a landing page, donors were invited to make a contribution to both or either ECU and/or the Committee. It is our understanding ActBlue's landing page is fully compliant with all FEC requirements for online fundraising.

Complainant acknowledges that ActBlue's fundraising page clearly limited contributions to \$7,700, the combined contribution limit to the Committee for the special general election and ECU's federal account. Complainant goes on to allege that a donor could designate any amount to either participant. Complaint at p.7. However, it is our understanding that such an allocation would not be possible and ActBlue's website is designed to reject any attempt to allocate any amounts in excess of the applicable contribution limit to the participants. Therefore, had Complainants tried to make an actual contribution, they would have discovered that such an allocation was simply not possible.

### FALSE ALLEGATION OF LAW

In addition to the false allegation of facts described above, the Complainants blatantly and falsely misrepresent applicable federal law. Specifically, Complainants allege that Congressman Lamb violated 52 U.S.C. § 30116(a)(1)(A) (formerly 2 U.S.C. § 441i(e)) by soliciting contributions over \$2,700. Of course, this is a clear misrepresentation of this provision. Section 30116(e) was part of the Bipartisan Campaign Reform Act of 2002. This provision was designed to ensure that, when any federal candidate or officeholder solicited funds in connection with federal or state elections, that such funds were permissible under federal law. Nowhere in this section, nor ever in the history of this provision, has Congress, any Court, or even the Commission represented that this provision prohibited federal candidates and officeholders from soliciting federally permissible funds for federal committees other than a candidate's or officeholder's own authorized committee. In this matter, Complainants, whose Treasurer and counsel are both licensed attorneys who purport to be experts in campaign finance law, did just that. In section 35 of its complaint, Complainants state: "Lamb and his campaign committee solicited contributions in excess of \$2,700. WHEREFORE, Respondents violated 52 U.S.C. § 30125(e)(1)(A) and 11 C.F.R. § 300.61." Complaint at p.8. Of course, Complainants were well aware that the solicitation in this matter was for two federal political committees and was within each federal committee's federal contribution limit.

To be sure, there is no case, Commission interpretation, or other material to back up the Complainant's interpretation of section 30125(e). Of course, there are numerous documents that clearly explain the application of this provision. Just to name a few:

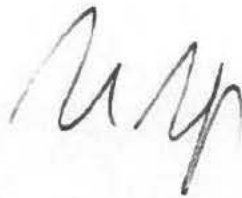
- 1) Senator McCain clearly described the application of this provision as one that would stop the solicitation of prohibited funds and that the purpose of the provision was to limit solicitations for other candidates or committees to sources and amounts that

Complainants were no disinterested party or some type of government watchdog. They were a political organization who spent a significant sum to influence the election. In their ongoing effort to influence the election, they fabricated a false claim that Congressman Lamb violated federal law on the eve of the election by purposefully misrepresenting a provision of federal law that has been in place for over fifteen years and obvious in its application. To be sure, it was an election that was decided by only a few hundred votes. As part of their scheme, Complainants were shopping a copy of their complaint to media outlets within the congressional district. Attached, please find an email sent by Ms. Mangini to Colin Deppen, a reporter for The Incline. The email was sent to Mr. Deppen on Sunday March 11<sup>th</sup>, two days before the primary. Mr. Deppen forwarded this email to the Campaign seeking comment. Ms. Mangini's statement for the purported story seeks to personally attack Congressman Lamb's character in connection with their false allegations. The email is attached as Exhibit A. At least one local media outlet reported on the false complaint on the day prior to the election. See Exhibit B.

Attempts to falsely influence American elections are no laughing matter. They are not just some tactic in the game of electoral politics. They are a dangerous affront to democracy and fair elections. The Commission should immediately dismiss this complaint and take any necessary actions against attorney complainants for filing a blatantly false, sworn complaint with a federal government agency in a desperate attempt to influence a razor thin election.

If you have any questions regarding this Response, my daytime number is (202) 479-1111. My email address is [reiff@sandlerreiff.com](mailto:reiff@sandlerreiff.com).

Sincerely,



Neil P. Reiff  
Congressman Conor Lamb, Conor Lamb for  
Congress and Marco Attisano, in his official  
capacity as Treasurer.

# EXHIBIT A

**EXHIBIT A**

Hi Colin,

The Committee to Defend the President—America's leading pro-Trump super PAC—has filed a complaint with the Federal Election Commission, after catching Democratic candidate Conor Lamb violate campaign finance laws. Lamb improperly signed multiple emails for the liberal super PAC End Citizens United, also named in the complaint, that unlawfully directed recipients to other fundraising pages soliciting excessive contributions. This scheme appears to violate the Federal Election Campaign Act's anti-coordination provisions, limitations on contributions to candidates, solicitations of such contributions, and disclaimer requirements.

You can read the complaint [here](#).

The Committee is supporting Republican candidate Rick Saccone in the PA-18 election. It launched a [\\$50,000 pro-Saccone digital campaign](#) last month.

Below is a statement from Petra Mangini, the campaign finance attorney who counsels the Committee (and a PA-18 native):

**"Despite touting his experience as a former Assistant United States Attorney to win votes, Conor Lamb's dedication to law and order apparently ends when the law poses an obstacle to campaign fundraising. Ditto for his dedication to getting 'big money' out of politics, the same money he continues to court while calling the kettle black. Lamb's desperate bid to bolster his failing campaign through a last-minute fundraising appeal not only violates federal campaign finance law, but also reminds Pennsylvanians that he is the wrong man for the job."**

# EXHIBIT B

# **Penn. Dem. Accused of Violating Finance Law on Eve of Vital Election for Dems**

**By Randy DeSoto**  
**March 12, 2018 at 11:11am**

A pro-Trump super PAC has filed a Federal Election Commission complaint against Pennsylvania U.S. House candidate Democrat Conor Lamb, alleging unlawful coordination between outside groups and his campaign.

Lamb is facing Republican Rick Saccone in a highly contested special election for the seat in the 18th congressional district near Pittsburgh.

According to the complaint filed Monday by the Committee to Defend the President, Lamb unlawfully signed multiple emails for the liberal super PAC End Citizens United, which directed recipients to fundraising pages soliciting contributions that were not for his campaign committee.

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The scheme appears to violate FEC anti-coordination provisions between PACs and political campaigns, as well as election cycle limitations on contributions candidates can receive and disclaimer requirements.



FEC rules provide that federal candidates can receive \$2,700 for each primary election and general election cycle in 2018.

The agency also requires candidates to clearly disclose these limitations in a disclaimer accompanying any solicitation for contributions.

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“Despite touting his experience as a former Assistant United States Attorney to win votes, Conor Lamb’s dedication to law and order apparently ends when the law poses an obstacle to campaign fundraising,” Committee to Defend the President attorney Peter Mangini stated.

“Lamb’s desperate bid to bolster his flailing campaign through a last-minute fundraising appeal not only violates federal campaign finance law, but also reminds Pennsylvanians that he is the wrong man for the job,” he added.

Do you think Republican Rick Saccone will win the special election?

Yes  No

 Continue with Facebook

-- or --

SUBMIT

Completing this poll entitles you to The Western Journal news updates free of charge. You may opt out at anytime. You also agree to our Privacy Policy and Terms of Use.

Real Clear Politics and Cook Political Report have both rated the race a toss-up.

Lamb significantly outraised Saccone in campaign contributions from January 1 to to February 21 of this year, hauling in \$3.3 million compared to Saccone's \$703,000, Politico reported.

The Democrat has also outspent the GOP contender during the time period: \$2.9 million to \$600,000.

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However, outside Republican groups — including the Committee to Defend the President and the Republican National Committee — have come to Saccone's aid. America First Action spent \$1.1 million and the Republican National Committee spent \$1 million.

Meanwhile, Lamb has been the beneficiary of \$1.1 million from outside spending.

President Donald Trump traveled to southwest Pennsylvania on Saturday night to participate in a campaign style rally for Saccone.

“Rick is going to vote for us all the time,” Trump stated, adding that Lamb — while selling himself as a moderate — cannot be trusted to support the president’s agenda.

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“(Lamb) is trying to act like a Republican,” the president said, “He won’t give me one vote.”

“Here’s the problem: As soon as he gets in, he’s not going to vote for us,” Trump emphasized. “He’s going to vote the party line.”

“The task for everyone here tonight is to make sure that this great American comeback continues. Full speed ahead,” said Trump, urging all to get out and vote Saccone on Tuesday.

What do you think? Scroll down to comment below.

**Tags: Congress, Democrats, Donald Trump, Fundraising, House of Representatives, Pennsylvania, Republicans**

**By: Randy DeSoto on March 12, 2018 at 11:11am**