



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

AUG 01 2019

Neil P. Reiff, Esq.  
Sandler Reiff Lamb Rosenstein & Birkenstock  
1090 Vermont Avenue NW, Suite 750  
Washington, DC 20005

RE: MUR 7347  
Conor Lamb  
Conor Lamb for Congress and  
Marco Attisano in his official  
capacity as treasurer

Dear Mr. Reiff:

On March 20, 2018, the Federal Election Commission notified your clients, Conor Lamb and Conor Lamb for Congress and Marco Attisano in his official capacity as treasurer ("Committee"), of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On July 23, 2019, the Commission, on the basis of the information in the complaint, and information provided by Lamb and the Committee, dismissed the allegations that Conor Lamb and the Committee violated 52 U.S.C. § 30125(e)(1)(A) and 52 U.S.C. § 30116(f). Accordingly, the Commission closed its file in this matter as it pertains to Conor Lamb and the Committee. The Factual and Legal Analysis, explaining the Commission's findings, is enclosed.

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.

If you have any questions, please contact Delbert K. Rigsby, the attorney assigned to this matter, at (202) 694-1616.

Sincerely,

A handwritten signature in black ink that reads "Mark Allen".

Mark Allen  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis

**FEDERAL ELECTION COMMISSION****FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS:   Conor Lamb  
                  Conor Lamb for Congress and Marco Attisano  
                  in his official capacity as treasurer

MUR 7347

**I. INTRODUCTION**

The Complaint alleges that Conor Lamb, a candidate in a special congressional election in Pennsylvania, and Conor Lamb for Congress and Marco Attisano in his official capacity as treasurer (“Lamb Committee”) solicited and accepted excessive contributions in a fundraising email in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”). For the reasons discussed below, the Commission dismisses the allegations that Respondents violated 52 U.S.C. § 30125(e)(1)(A) and 52 U.S.C. § 30116(f).

**II. FACTUAL BACKGROUND**

Conor Lamb was the Democratic candidate for the United States House of Representatives in Pennsylvania’s special election for the 18th Congressional District held on March 13, 2018. The Lamb Committee is Lamb’s principal campaign committee.<sup>1</sup>

The Complaint contains a copy of an email dated March 9, 2018, that purports to be from Conor Lamb, refers to his special election, and asks for online donations: “My Special Election is virtually tied,” “Republicans are outspending us,” “I still need 9,103 donations before tomorrow’s budget deadline,” “If we fall short, we’ll lose,” “[P]lease rush an online donation now.”<sup>2</sup> The email contains a series of hypertext links to donate amounts ranging from \$5 to \$100

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<sup>1</sup> Lamb Committee Amended Statement of Organization at 2 (Aug. 31, 2018).

<sup>2</sup> Compl. Ex. A. The full “From” line reads “Conor Lamb [<mailto:admin@endcitizensunited.org>][.]” *Id.*

and an unspecified “Other Amount.”<sup>3</sup> The name “*Conor*” appears at the bottom of the message along with a disclaimer stating, “Paid For By End Citizens United PAC ([endcitizensunited.org](http://endcitizensunited.org)) and Not Authorized By Any Candidate or Candidate’s Committee.”<sup>4</sup> End Citizens United (“ECU”) is a multicandidate committee registered with the Commission.<sup>5</sup>

The email also contains a link to a separate donation page titled “End Citizens United,” <http://act.endcitizensunited.org/Elect-Lamb>, and the Complaint includes images of the linked donation page.<sup>6</sup> The donation page states “Rush \$5 or whatever you can afford directly to Conor Lamb’s campaign:” followed by a note, “Your contribution will be divided evenly between Conor Lamb and End Citizens United[.] Click here to allocate amounts differently.” These statements are followed by dollar figures ranging from \$15 to \$1,000 and a fill-in blank amount.<sup>7</sup> A box titled “Contribution rules” states that contributions to ECU “are subject to the contribution limits and prohibitions of federal law. Contributions that exceed \$5,000 in the aggregate in a calendar year will be deposited in End Citizens United’s non-federal account.”<sup>8</sup> The “Contribution rules” do not refer to contributions to the Lamb Committee. Finally, a disclaimer at the bottom of the page reads “Paid for by ActBlue ([actblue.com](http://actblue.com)) and not authorized by any candidate or candidate’s committee.”<sup>9</sup> ActBlue and Erin Hill in her official capacity as

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<sup>3</sup> Compl. Ex. A.

<sup>4</sup> *Id.*

<sup>5</sup> See ECU Amended Statement of Organization at 2 (Jan. 24, 2019).

<sup>6</sup> *Id.*

<sup>7</sup> Compl. Ex. B. See <http://act.endcitizensunited.org/Elect-Lamb>.

<sup>8</sup> Compl. Ex. B.

<sup>9</sup> *Id.*

treasurer (“ActBlue”) is a “hybrid” political committee with a “Carey” non-contribution account<sup>10</sup> that acts as an intermediary for individual contributions made on its website to Democratic candidates and committees.

### III. LEGAL ANALYSIS

Under the soft money provisions of the Act, a candidate, individual holding Federal office, agent of a candidate or an individual holding Federal office, or an entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of one or more candidates or individuals holding office, shall not solicit, receive, direct, transfer, or spend funds in connection with an election for federal office, unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Act.<sup>11</sup> For the 2018 election cycle, a contribution to any candidate or his authorized committee was limited to \$2,700 per election.<sup>12</sup> The limitation on contributions to multicandidate committees, such as ECU, is \$5,000 in a calendar year.<sup>13</sup> No candidate or political committee shall knowingly accept any contribution in violation of the provisions of 52 U.S.C. § 30116.<sup>14</sup>

The Complaint alleges that Conor Lamb and the Lamb Committee solicited and accepted excessive contributions because the webpage connected to Lamb’s solicitation permitted contributions up to a total of \$7,700 – the maximum permissible amount for giving to Lamb and to ECU (\$2,700 and \$5,000, respectively) – more than \$2,700 of which the Complaint alleges

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<sup>10</sup> See ActBlue Miscellaneous Report (Form 99) (Oct. 20, 2011).

<sup>11</sup> 52 U.S.C. § 30125(e)(1)(A).

<sup>12</sup> See 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1).

<sup>13</sup> See 52 U.S.C. § 30116(a)(1)(C).

<sup>14</sup> 52 U.S.C. § 30116(f).

could be allocated to Lamb.<sup>15</sup> The Complaint alleges that the ActBlue website administering the contributions defaults to divide contributions evenly between Lamb and ECU, which would allow an individual contributor to give up to \$3,850 to Lamb.<sup>16</sup> The Complaint also alleges that a contributor could, via manual allocation, give all \$7,700 to Lamb.<sup>17</sup> The Complaint alleges that the ActBlue website does not say what will be done with contributions to Lamb that exceed \$2,700.<sup>18</sup>

The Lamb Committee asserts in response that there is no soft money restriction on federal candidates soliciting funds within the federal contribution limitations, as it asserts was done here, and that it did not accept excessive contributions through this fundraising email.<sup>19</sup> Further, the Lamb Committee asserts that ActBlue's landing page is compliant with the Commission's requirements for online fundraising.<sup>20</sup> The Lamb Committee claims that an allocation resulting in an excessive contribution would not be possible because ActBlue's website is designed to reject any attempt to allocate any amount in excess of the contribution limit.<sup>21</sup> According to the Lamb Committee, had Complainants tried to make an actual contribution, "they would have

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<sup>15</sup> Compl. at 6-7. Neither Lamb's solicitation to "donate every dollar you can" nor the button to specify "other amount" limits the appropriate contributions to permissible amounts. *See id.* at 5-6.

<sup>16</sup> Compl. at 7; *see also id.* at 6 (quoting ActBlue contribution page indicating that contributions will be "evenly divided" between the Committee and ECU).

<sup>17</sup> *Id.* at 7.

<sup>18</sup> *Id.* The website states that contributions to ECU that exceed \$5,000 will be deposited into ECU's nonfederal account. *Id.*, Ex. B.

<sup>19</sup> Lamb Committee Resp. at 2. The Reports Analysis Division has not sent any Requests for Additional Information to the Lamb Committee concerning excessive contributions received between March 9, 2018, the date of Lamb Committee's solicitation, and March 13, 2018, the date of the special election.

<sup>20</sup> Lamb Committee Resp. at 2.

<sup>21</sup> *Id.*

discovered that such an allocation was simply not possible.”<sup>22</sup> Additional information in the Commission’s possession similarly indicates that if an individual attempted to make an excessive contribution to either the Committee or ECU, the system would not process the contribution and would instead notify the individual that the contribution was not processed.

Based on the combination of a solicitation to give “whatever you can afford” and a fill-in blank amount with no information referencing \$2,700 contribution limit, Lamb effectively solicited contributions in excess of that limit. The Lamb Committee, however, denies that the webpage would allow a contribution to Lamb that exceeded the \$2,700 contribution limit, and the available information does not indicate otherwise. Under these circumstances, in which there was no affirmative solicitation of amounts outside the contribution limits, and it appears that it was not possible for a contributor to contribute an amount beyond the limits, the Commission exercises its prosecutorial discretion and dismisses the alleged violations of 52 U.S.C. §§ 30125(e)(1)(A) and 30116(f) by Lamb and the Lamb Committee.<sup>23</sup>

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<sup>22</sup> *Id.*

<sup>23</sup> See MUR 6218 (Ball4NY) (The Commission dismissed the allegations that Ball4NY solicited and accepted excessive contributions, but committee treasurer averred that no excessive contributions were received in connection with the event and there is no information to the contrary); see *Heckler v. Chaney*, 470 U.S. 821 (1985); Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12546 (stating that the Commission will dismiss when the matter does not merit further use of the Commission resources, due to factors such as the vagueness or weakness of the evidence).