



May 1, 2024

VIA E-MAIL TO CELA@FEC.GOV

Federal Election Commission
Office of Complaints Examination
and Legal Administration
1050 First Street, NE
Washington, DC 20463

Attn: Christal Dennis, Paralegal

MUR 8228: Response of Marcus Molinaro, Marc for US Inc. and Lisa Lisker in her official capacity as Treasurer, and Molinaro for Dutchess

To Whom It May Concern:

On behalf of U.S. Representative Marcus Molinaro, Marc for US Inc. and Lisa Lisker in her official capacity as Treasurer, and Molinaro for Dutchess (the "Respondents"), I submit this response to the complaint in MUR 8228.

The complaint in this MUR regurgitates the same allegations and legal theory as MUR 8129, which the Commission already has considered and dismissed. Specifically, the complaint alleges that Mr. Molinaro used nonfederal funds from a state campaign committee, Molinaro for Dutchess, to pay expenses associated with his candidacy for Congress, resulting in excessive and impermissible in-kind contributions from the state committee to his federal committee, Marc for US.

The complaint offers no evidence for this claim, however. Instead, the complaint postulates that that "the only logical explanation" for Molinaro for Dutchess' continued disbursements during his federal candidacy "is that they were made in connection with Rep. Molinaro's 2022 and 2024 campaigns."

The fact of the matter is that in 2022—the time period at issue in this MUR—Mr. Molinaro was both the incumbent Dutchess County Executive and a candidate for re-election to that office. Molinaro for Dutchess was his state campaign committee. At the same time, Mr. Molinaro also



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was a candidate for Congress—first, in a Special General Election held in August 2022, and then again in the November 2022 General Election.

Mr. Molinaro's federal and state committees operated independently of each other. The team of staff and key vendors who ran the federal committee, Marc for US, did not have or exercise any authority over or have other involvement in the use of Molinaro for Dutchess funds, and neither committee operated subject to the control or request of the other. Exhibit A, Declaration of Nick Joseph, at ¶ 2. Molinaro for Dutchess made each of the disbursements referenced in the complaint in connection with Mr. Molinaro's role as state candidate and officeholder, and did not make any expenditures in connection with his federal candidacy. None of Molinaro for Dutchess' disbursements constituted federal election activity, solicited money, gathered information about voters or expressly advocated the election or defeat of any federal candidate. All communications Molinaro for Dutchess disseminated during this timeframe went to Mr. Molinaro's Dutchess County constituents and contained only nonfederal content. Exhibit A, Declaration of Nick Joseph, at ¶ 4.

At bottom, each disbursement the complaint cites as an in-kind contribution from Molinaro for Dutchess to Marc for US was, in fact, a legitimate and verifiable use of Molinaro for Dutchess' funds for purposes related to either Mr. Molinaro's holding of the public office of Dutchess County Executive, or to Molinaro for Dutchess' own ongoing operations and administrative costs, or to Molinaro for Dutchess' winding down expenses—all as permitted under both New York and federal law. Exhibit A, Declaration of Nick Joseph, at ¶ 3. Moreover, in the time since the Commission resolved MUR 8129, Molinaro for Dutchess has closed its bank account and terminated its New York State Board of Elections registration. Exhibit A, Declaration of Nick Joseph, at ¶ 5.

For these reasons, and for the reasons stated in Respondents' response to MUR 8129, there is no merit to this complaint. It offers no evidence to support its claims, just its own supposition that "the only logical explanation" for Molinaro for Dutchess' continued disbursements after Mr. Molinaro commenced his federal candidacy was to defray the costs of that candidacy. The information provided in this response, and in the response to MUR 8129, conclusively demonstrates that the complaint's supposition is wrong. And, in any event, the Commission does not "launch investigations into Americans' political activities based on speculation or official curiosity, or shift the burden to respondents to prove their innocence." MUR 6747 (Santorum), Statement of Reasons of Vice Chair Caroline Hunter and Commissioners Lee Goodman & Matthew Petersen, at p. 2 (Feb. 15, 2017).

Conclusion

For all these reasons, I respectfully request the Commission to dismiss the complaint and close the file in this MUR.

Sincerely,

Kate Teasdale

EXHIBIT A**DECLARATION OF NICK JOSEPH**

Pursuant to 28 U.S.C. § 1746, Nick Joseph states as follows:

1. At the time of the events at issue in Federal Election Commission Matter Under Review 8228, I served as the Treasurer of Molinaro for Dutchess, which was Mr. Molinaro's state candidate committee in connection with his campaign for re-election as the County Executive for Dutchess County, New York.
2. Mr. Molinaro's federal and state campaign committees operated independently of each other. In particular, the team of staff and key vendors who ran Marc for US Inc. did not have or exercise any authority over or have other involvement in the use of Molinaro for Dutchess' funds.
3. All of the disbursements referenced in MUR 8228 were made in connection with Mr. Molinaro's role as state candidate and officeholder, and for costs to wind down the state committee.
4. None of the disbursements referenced in MUR 8228 were made in connection with Mr. Molinaro's candidacy for election to federal office. The expenditures did not constitute federal election activity, and did not solicit money, gather information about potential voters or expressly advocate the election or defeat of Mr. Molinaro or any federal candidate. All communications distributed by Molinaro for Dutchess during this timeframe were directed toward Dutchess County constituents, and contained nonfederal content.
5. As of April 4, 2024, the Molinaro for Dutchess bank account has been closed and the committee has been terminated with the New York State Board of Elections.
6. I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 29, 2024.

NICK JOSEPH

