

OFFICE OF  
GENERAL COUNSEL

**BEFORE THE  
FEDERAL ELECTION COMMISSION**

APR 15 PM 1:36

Helene Manas

[REDACTED]  
Merrick, N.Y. 11566

Complainant,

v.

**MUR #** 8242

Anthony D'Esposito  
PO Box 188  
Island Park, NY 11558

D'Esposito for New York and Claudia  
Armendinger, Treasurer  
PO Box 188  
Island Park, NY 11558

Citizens for D'Esposito  
PO Box 188  
Island Park, NY 11558

Respondents.

**COMPLAINT**

This complaint is filed under 52 U.S.C. § 30109(a)(1) against U.S. House of Representative Anthony D'Esposito, D'Esposito for New York and Claudia Armendinger in her official capacity as treasurer (the "Federal Committee"), and Citizens for D'Esposito (the "State Committee"), collectively the "Respondents," for violating the Federal Election Campaign Act of 1971, as amended (the "Act") and Federal Election Commission (the "FEC" or "Commission") regulations. Even though Rep. D'Esposito was not on the ballot as a state candidate in the 2022 election cycle, it appears that he used his State Committee to subsidize expenses of his Federal Committee for his 2022 election and is continuing to do the same for his

2024 election notwithstanding the fact that he is an incumbent federal officeholder who is not running for any state office.

Publicly available reports show that after declaring his candidacy for the U.S. House of Representatives in March 2022, the State Committee made disbursements for office rent, ads, cell phones, and campaign literature. And, since the November 2022 general election, Rep. D’Esposito has continued making disbursements from the State Committee. According to public disclosure reports, the State Committee has paid for cable, electricity, office supplies, rent, meals, and subscriptions despite the fact that Rep. D’Esposito is not a state candidate or officeholder. Further, by spending funds from the State Committee, Rep. D’Esposito seems to be violating the Act’s prohibition on a federal candidate or officeholder raising or spending money raised outside the federal contribution limits or source restrictions (the Act’s “soft money prohibition”).

If the Federal Election Commission (“FEC” or “Commission”), “upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of the Act . . . the Commission shall make an investigation of such alleged violation.”<sup>1</sup> The Commission should find reason to believe and immediately open an investigation to determine whether, and to what extent, Respondents have used and are continuing to use funds from the State Committee on Rep. D’Esposito’s federal reelection campaigns and whether Respondents are violating the soft money prohibition.

### FACTS

Anthony D’Esposito was elected to the U.S. House of Representatives for New York’s 4th Congressional District in the November 2022 general election. Prior to his election to the

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<sup>1</sup> 52 U.S.C. § 30109(a)(2); *see also* 11 C.F.R. § 111.4(a).

U.S. House of Representatives, he was a member of the Hempstead, New York Town Council, serving in that role from 2016 to his election to the U.S. House of Representatives in November 2022.<sup>2</sup> Rep. D’Esposito was not on the ballot as a state or local candidate in the 2022 election cycle. He declared his federal candidacy in March 2022.<sup>3</sup>

After he became a federal candidate, in reports filed by the State Committee with the New York State Board of Election, the State Committee disclosed making disbursements for expenses that appeared related to his 2022 federal campaign. Based on public information, it appears that in a complaint filed with the Commission, End Citizens United (“ECU”) identified approximately \$23,247.90 in payments during the 2022 election cycle made by the State Committee for things like rent, print and online ads, cell phones, volunteer expenses, and mail services in Washington, DC.<sup>4</sup> In addition, the State Committee spent \$97,000 on a golf fundraiser shortly after Rep. D’Esposito announced his federal candidacy, which ECU’s complaint identifies as another expense that was likely made in connection with his 2022 federal campaign.<sup>5</sup>

However, even after the November 2022 general election, the State Committee has continued its troubling pattern of making disbursements that may be for federal campaign activity. In February 2023, for instance, the State Committee reported a \$209.55 disbursement to a gift shop in Washington, DC for “supplies” and a \$624.28 disbursement for “cable.”<sup>6</sup> The State

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<sup>2</sup> See Brandon Duffy, *Clavin Wins Race for Hempstead Supervisor as GOP Holds Town Board Majority*, Island Now (Jan. 27, 2022), <https://theislandnow.com/clavin-wins-race-for-hempstead-supervisor-as-gop-holds-town-board-majority/>.

<sup>3</sup> See Statement of Candidacy (Mar. 17, 2022), <https://docquery.fec.gov/pdf/623/202203179493978623/202203179493978623.pdf>.

<sup>4</sup> See ECU Complaint at 5, <https://endcitizensunited.org/wp-content/uploads/2023/04/20230411-DESPOSITO.pdf> (last visited July 31, 2023).

<sup>5</sup> See *id.*

<sup>6</sup> See Citizens for D’Esposito, 2023 July Periodic Itemized Original State/Local Report (July 17, 2023), <https://publicreporting.elections.ny.gov/CandidateCommitteeDisclosure/CandidateCommitteeDisclosure> (“July Periodic Report”).

Committee also made several disbursements, all after the November 2022 general election, for subscriptions, software, electricity bill, and office rent, as reflected in the chart below.<sup>7</sup>

Transaction Date	Recipient Name	City, State	Purpose Code	Explanation	Amount
11/10/22	Zoom Video Communications	San Jose, CA	Office	[Blank]	\$14.99
11/16/22	Cook Report	Arlington, VA	Office	[Blank]	\$35
12/5/22	Haaretz Daily Newspaper	Tel Aviv,	Office	[Blank]	\$14
12/19/22	Cook Report	Arlington, VA	Office	[Blank]	\$35
1/4/23	Haaretz Daily Newspaper	Tel Aviv,	Office	[Blank]	\$14
1/18/23	Cook Report	Arlington, VA	Office	[Blank]	\$35
2/6/23	Haaretz Daily Newspaper	Tel Aviv, ISRAEL	Office	[Blank]	\$14
2/17/23	PSEG	Hewlett, NY	Office	[Blank]	\$965.71
2/21/23	Cook Report	Arlington, VA	Office	[Blank]	\$35
3/20/23	Cook Report	Arlington, VA	Office	[Blank]	\$35
4/18/23	Cook Report	Arlington, VA	Office	[Blank]	\$35
4/20/23	Powweb	Burlington, MA	Office	[Blank]	\$295.85
4/24/23	Microsoft Store	Redmond, WA	Office	[Blank]	\$76.02
5/18/23	Cook Report	Arlington, VA	Office	[Blank]	\$35
6/7/23	Daily Wire	Nashville, TN	Office	[Blank]	\$240
6/20/23	Cook Report	Arlington, VA	Office	[Blank]	\$35
<b>Office Total</b>					<b>\$1,914.57</b>
12/12/22	IP, Lido, Point Lookout Rep Committee	Island Park, NY	Office Rent	[Blank]	\$1,250
<b>Office Rent Total</b>					<b>\$1,250</b>

A review of the Federal Committee's disclosure reports from this same time period (i.e., November 2022 through June 2023) does not show any disbursements to Zoom, Cook Report, Haaretz Daily Newspaper, PSEG,<sup>8</sup> Powweb, or Microsoft Store.<sup>9</sup>

<sup>7</sup> See *id.*; Citizens for D'Esposito, 2023 January Periodic Itemized Original State/Local Report (Jan. 13, 2023), <https://publicreporting.elections.ny.gov/CandidateCommitteeDisclosure/CandidateCommitteeDisclosure> ("January Periodic Report").

<sup>8</sup> PSEG appears to be an electrical company that is headquartered in Newark, New Jersey and serves the Long Island area. See PSEG, Company Information, <https://corporate.pseg.com/aboutpseg/companyinformation/thepsegfamilyofcompanies> (last visited Aug. 1, 2023).

<sup>9</sup> D'Esposito for New York, Amended 2022 Year-End Report, July 20, 2023, <https://docquery.fec.gov/pdf/078/202307209583977078/202307209583977078.pdf#navpanes=0>; Amended April 2023 Quarterly Report (July 20, 2023), <https://docquery.fec.gov/pdf/127/202307209583977127/202307209583977127.pdf#navpanes=0>; Amended July

In addition, the State Committee has spent \$685 on food, beverage, and meeting expenses at Starbucks in Island Park, New York, since the November 2022 general election.<sup>10</sup> These expenses are reflected in the chart below.

<b>11/8/22 – 7/17/23: D’Esposito State Campaign Committee Expenditures – Meals</b>					
<b>Transaction Date</b>	<b>Recipient Name</b>	<b>City, State</b>	<b>Purpose Code</b>	<b>Explanation</b>	<b>Amount</b>
12/21/22	Starbucks	Island Park, NY	Meals	[Blank]	\$50
1/27/23	Starbucks	Island Park, NY	Meals	Food and Beverage	\$100
2/14/23	Starbucks	Island Park, NY	Meeting	[Blank]	\$50
3/6/23	Starbucks	Island Park, NY	Meals	Food and Beverage	\$25
4/25/23	Starbucks	Island Park, NY	Meals	Food and Beverage	\$150
5/30/23	Starbucks	Island Park, NY	Meals	Food and Beverage	\$50
6/26/23	Starbucks	Island Park, NY	Meals	Food and Beverage	\$185
7/11/23	Starbucks	Island Park, NY	Meals	Food and Beverage	\$75
<b>Meals &amp; Meeting Total</b>					<b>\$685</b>

### LEGAL DISCUSSION

At the time the State Committee made each of the above disbursements, Rep. D’Esposito was not a candidate for any state or local office. To the contrary, when the State Committee made each of these disbursements, Rep. D’Esposito was a federal officeholder who was exclusively running for reelection to Congress.

The Act’s soft money prohibition prohibits federal candidates, their agents, and entities established, financed, maintained, or controlled by federal candidates from soliciting, receiving, directing, transferring, or spending funds in connection with any federal or non-federal elections, unless the funds are in amounts and from sources permitted by the Act.<sup>11</sup> The Commission has concluded that the state committee of a federal candidate is established, financed, maintained, or controlled by a federal candidate within the meaning of the Act.<sup>12</sup>

2023 Quarterly Report (July 20, 2023),

<https://docquery.fec.gov/pdf/480/202307209583977480/202307209583977480.pdf#navpanes=0>.

<sup>10</sup> See January and July 2023 State Periodic Reports.

<sup>11</sup> 52 U.S.C. § 30125(e)(1)(A)-(B); 11 C.F.R. §§ 300.61-.62.

<sup>12</sup> Advisory Op. 2007-26 (Schock) at 4; Advisory Op. 2006-38 (Casey State Committee) at 4.

Commission regulations also explicitly prohibit “[t]ransfers 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.”<sup>13</sup> This prohibition on transferring funds applies broadly and includes payment for services to the federal committee.<sup>14</sup> In its Explanation and Justification for the regulation, the Commission explained that this prohibition was intended to prevent a federal committee’s indirect use of soft money.<sup>15</sup> The law provides a narrow exemption from the soft money prohibition for “dual candidates”—i.e., candidates who concurrently run for federal and state offices.<sup>16</sup> Under this exception, dual candidates are permitted to raise and spend non-federal funds solely in connection with their own state or local candidacy.

#### **A. Disbursements from the State Committee**

There is reason to believe that Rep. D’Esposito may have violated the Act’s ban on spending soft money. It is indisputable that the State Committee is an entity that is controlled or maintained by Rep. D’Esposito. As explained above, federal candidates are prohibited from receiving and spending soft money in connection with federal and non-federal elections. As alleged in the complaint filed by ECU, Rep. D’Esposito appeared to have violated this prohibition when his State Committee accepted \$44,410 contributions in April and May of 2022 while he was a federal candidate, and no longer a state candidate.<sup>17</sup>

Rep. D’Esposito may have also violated the prohibition on spending soft money. As noted above, the State Committee has made \$23,140.73 in disbursements after the November

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<sup>13</sup> 11 C.F.R. § 110.3(d).

<sup>14</sup> *See, e.g.*, MUR 6276 (Paton for Senate); MUR 5646 (Cohen for New Hampshire); MUR 5426 (Dale Schultz for Congress).

<sup>15</sup> *See* Transfers of Funds from State to Federal Campaigns, 58 Fed. Reg. 3,474, 3,474-3,475 (Jan. 8, 1993).

<sup>16</sup> 52 U.S.C. § 30125(e)(2).

<sup>17</sup> *See* ECU Complaint at 6-7, Ex. D.

2022 election. The law provides a very narrow exception for a federal candidate to use funds in a state committee while running for federal office. That exception does not apply here because Rep. D'Esposito was not a state candidate when the State Committee made these disbursements. Accordingly, there is reason to believe that Respondents may have violated the Act's prohibition on spending soft money in connection with federal and nonfederal elections.

**B. Receipt of Impermissible In-Kind Contributions**

There also appears to be reason to believe that the State Committee made impermissible in-kind contributions to D'Esposito's federal reelection campaign. As detailed in ECU's complaint, the State Committee paid for advertising, rent, cell phones, volunteer expenses during Rep. D'Esposito's 2022 federal campaign, and even made disbursements totaling nearly \$100,000 in connection with a fundraiser touting his candidacy in 2022.<sup>18</sup>

The State Committee's spending did not cease after the November 2022 general election. Rather, the State Committee appears to be paying expenses in connection with Rep. D'Esposito's 2024 reelection campaign. Since launching his reelection campaign on November 16, 2022,<sup>19</sup> the State Committee has made over \$20,000 in disbursements that have included payments for utility bills, subscriptions, supplies, office rent, and food and beverage. Further, as noted above, disclosure reports indicate that the Federal and State Committees may be using the same office space, *yet only the State Committee has reported payments for essential services* such as electricity and cable, as well as other office-related software and newspaper subscriptions. Because Rep. D'Esposito was neither campaigning for, nor was he seeking ballot access for, any state or local office at the time of these disbursements, the only logical explanation for these

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<sup>18</sup> See ECU Complaint at 5.

<sup>19</sup> Anthony D'Esposito, Amended Statement of Candidacy (November 16, 2022), <https://docquery.fec.gov/pdf/184/202211169546803184/202211169546803184.pdf>.

payments is that they were made in connection with Rep. D'Esposito's 2024 reelection campaign. There is no reason that the State Committee would need to make these expenses if Rep. D'Esposito was not a state or local candidate.

In total, more than \$100,000 in soft money funds may have been used to fund both Rep. D'Esposito's federal election and reelection campaign activities. If true, this would amount to a serious campaign finance violation, completely undermining the prohibition on a federal committee's indirect use of soft money to fund federal campaign activities.<sup>20</sup> Accordingly, the Commission should immediately commence an investigation to determine whether these payments were impermissible in-kind contributions to Rep. D'Esposito's federal campaign and determine the scope of these potential violations.<sup>21</sup>

#### **REQUESTED ACTION**

As demonstrated above, Respondents appear to have violated the Act and Commission regulations by accepting impermissible in-kind contributions from the State Committee to the Federal Committee and by spending soft money funds. As such, we respectfully request that the Commission immediately investigate these violations, fine Respondents the maximum amount permitted by law, require the Federal Committee to disgorge the unlawful funds it received from the State Committee, and enjoin Respondents from further violations of the law.

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<sup>20</sup> See *Transfers of Funds from State to Federal Campaigns*, 58 Fed. Reg. 3,474, 3,474-3,475 (Jan. 8, 1993).

<sup>21</sup> See 11 C.F.R. § 110.3(d).

Sincerely,

Helene Manas

*Helene Manas*



Merrick, N.Y. 11566

SUBSCRIBED AND SWORN to before me this 4<sup>th</sup> day of April 2024

*Onome Eyubeh*

Notary Public

My Commission Expires: 12/30/27

