



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

April 3, 2024

BY EMAIL AND CERTIFIED MAIL

Robert Lenhard
Covington & Burling LLP
One CityCenter
850 Tenth Street, NW
Washington, DC 20001-4956
rlenhard@cov.com

RE: MUR 7833
Mark E. Rizik

Dear Mr. Lenhard:

On October 29, 2020, the Federal Election Commission notified your client, Mark E. Rizik, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act").

On February 27, 2024, the Commission found, on the basis of the information in the complaint and your response, that there is no reason to believe Mark E. Rizik violated 52 U.S.C. §§ 30102, 30103, 30104, or 30122 by failing to register Montcalm LLC as a political committee and file required disclosure reports or by making a contribution in the name of another. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Jake Tully, the attorney assigned to this matter, at (202) 694-1404.

Sincerely,

Mark Shonkwiler

Mark Shonkwiler
Assistant General Counsel

Enclosure: Factual and Legal Analysis

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

Respondent: Mark E. Rizik

MUR 7833

I. INTRODUCTION

Mark E. Rizik is the organizer and registered agent of Montcalm LLC (“Montcalm”), a limited liability company formed just 10 days prior to making a \$150,000 contribution to an independent expenditure-only political committee (“IEOPC”), Congressional Leadership Fund and Caleb Crosby in his official capacity as treasurer (“CLF”). The Complaint alleges that an unknown person made this contribution in the name of another through Montcalm, which violated the Federal Election Campaign Act of 1971, as amended (the “Act”).¹ The Complaint also alleges that Rizik violated the Act by failing to register and report Montcalm as a political committee despite its meeting the legal requirements for political committee status.²

For the reasons set forth below, the Commission finds no reason to believe that Mark E. Rizik, Montcalm’s organizer and registered agent, violated 52 U.S.C. § 30122 by making contributions in the name of another and no reason to believe that he violated 52 U.S.C. §§ 30102, 30103, or 30104 by failing to register Montcalm as a political committee and submit the corresponding disclosure reports for political committees.

II. FACTUAL BACKGROUND

Mark E. Rizik is the organizer and registered agent of Montcalm, a limited liability company (“LLC”) formed in Michigan on September 28, 2020.³ Rizik provided a sworn affidavit stating that he organized Montcalm on behalf of a client, Greenville Partners LLC, “to

¹ Compl. ¶¶ 2, 5-6, 14-16, Ex. A (Oct. 23, 2020).

² *Id.* ¶¶ 3, 17-24.

³ Compl., Ex. A (reflecting Montcalm’s articles of organization).

1 be used for various business purposes.”⁴ Rizik’s affidavit states that he was “unaware of any
2 discussion or plans involving the potential use of Montcalm LLC for any federal political
3 contributions.”⁵ The available information does not undercut Rizik’s assertion that he was
4 unaware of how Montcalm would be used prior to its formation. Montcalm has a single natural
5 person member, Hendrik Meijer, and is a disregarded entity for federal tax purposes. Hendrik
6 Meijer is the father of Peter Meijer, who was a candidate in Michigan’s 3rd Congressional
7 District during the relevant period.⁶

8 CLF is a hybrid political committee with a non-contribution account that registered with
9 the Commission on October 24, 2011.⁷ Its current treasurer is Caleb Crosby.⁸ During the events
10 at issue here, it was an independent expenditure-only political committee.⁹ On October 22,
11 2020, CLF reported a \$150,000 contribution as being made by Montcalm.¹⁰ One day later, on
12 October 23, 2020, the Complaint was filed with the Commission.¹¹ Later that same day, CLF

⁴ Mark E. Rizik Resp., Ex. A ¶¶ 3, 5 (Dec. 14, 2020) (“Rizik Aff.”). Rizik states that he is an attorney who specializes in tax and business law, and avers that he “understood the creation of Montcalm LLC to be for purposes other than federal political contributions” and was “unaware of any discussion or plans involving the potential use of Montcalm LLC for any federal political contributions.” *Id.* ¶¶ 2, 6.

⁵ Rizik Aff. ¶ 6.

⁶ *2020 Michigan U.S. House – District 3 Republican Primary Results*, THE DETROIT NEWS (Aug. 6, 2020), <https://www.detroitnews.com/elections/results/race/2020-08-04-house-R-MI-23754/>. Peter Meijer ultimately won the general election in Michigan’s 3rd Congressional District for the 2021-2022 term.

⁷ CLF, Amended Statement of Organization at 5 (Dec. 18, 2020), <https://docquery.fec.gov/pdf/010/202012189393370010/202012189393370010.pdf>; CLF, Statement of Organization at 2 (Oct. 24, 2011), <https://docquery.fec.gov/pdf/996/11030681996/11030681996.pdf>.

⁸ CLF, Amended Statement of Organization at 3 (Feb. 1, 2023), <https://docquery.fec.gov/pdf/647/202302019578112647/202302019578112647.pdf>.

⁹ *See* CLF, Statement of Organization at 1 (Oct. 24, 2011), <https://docquery.fec.gov/pdf/996/11030681996/11030681996.pdf> (explaining that it intends to raise unlimited funds to make independent expenditures only).

¹⁰ CLF, 2020 12-Day Pre-General Report at 192 (Oct. 22, 2020), <https://docquery.fec.gov/pdf/227/202010229336412227/202010229336412227.pdf>.

¹¹ Compl. at 1 (reflecting receipt date of October 23, 2020).

1 amended its disclosure report to attribute the contribution to Montcalm’s single member,
 2 Hendrik “Hank” Meijer.¹²

3 **III. LEGAL ANALYSIS**

4 **A. Contribution in the Name of Another**

5 1. No Person May Furnish Another Person with Funds for the Purpose of 6 Making a Political Contribution

7 The Act prohibits a person from making a contribution in the name of another person,
 8 knowingly permitting his or her name to be used to effect such a contribution, or knowingly
 9 accepting such a contribution.¹³ A contribution includes “any gift, subscription, loan, advance,
 10 or deposit of money or anything of value made by any person for the purpose of influencing any
 11 election for Federal office.”¹⁴ The term “person” for purposes of the Act and Commission
 12 regulations includes individuals, partnerships, corporations, and “any other organization or group
 13 of persons.”¹⁵ The Commission has included in its regulations illustrations of activities that
 14 constitute making a contribution in the name of another:

- 15 (i) Giving money or anything of value, all or part of which was
 16 provided to the contributor by another person (the true contributor)
 17 without disclosing the source of money or the thing of value to the
 18 recipient candidate or committee at the time the contribution is
 19 made; or
- 20 (ii) Making a contribution of money or anything of value and
 21 attributing as the source of the money or thing of value another
 22 person when in fact the contributor is the source.¹⁶

¹² CLF, Amended 2020 12-Day Pre-General Report at 193 (Oct. 23, 2020), <https://docquery.fec.gov/pdf/232/202010239336506232/202010239336506232.pdf>.

¹³ 52 U.S.C. § 30122; *see also* 11 C.F.R. § 110.4(b).

¹⁴ 52 U.S.C. § 30101(8)(A).

¹⁵ *Id.* § 30101(11); 11 C.F.R. § 100.10.

¹⁶ 11 C.F.R. § 110.4(b)(2)(i)–(ii).

1 Because the purpose of the Act’s disclosure requirements is to, among others, reveal the
2 true source from which a contribution to a candidate or committee originates, regardless of the
3 mechanism by which the funds are transmitted,¹⁷ the Commission examines the structure of the
4 transaction itself and the arrangement between the parties to determine who in fact “made” a
5 given contribution. The Commission and the D.C. Circuit have found that Section 30122’s
6 prohibition of contributions in the name of another applies to LLCs — such that an LLC cannot
7 be used as a “straw donor” to transmit the funds of another but must instead be the true source of
8 any contribution it purports to make.¹⁸

9 2. Mark E. Rizik

10 The available record provides no indication that Rizik, as Montcalm’s registered agent
11 and organizer, participated in the relevant categories of statutorily prohibited conduct, since he
12 does not appear to have been either the contributor or the conduit for the contribution at issue.¹⁹
13 Rizik also provided a sworn affidavit stating that he was “unaware of any discussion or plans
14 involving the potential use of Montcalm LLC for any federal political contributions.”²⁰ The

¹⁷ See *Campaign Legal Ctr. v. FEC*, 952 F.3d 352, 354 (D.C. Cir. 2020) (“As the Supreme Court has repeatedly declared, the electorate has an interest in knowing where political campaign money comes from and how it is spent by the candidate. To that end, the [Act] imposes disclosure requirements on those who give and spend money to influence elections. The straw donor provision, 52 U.S.C. § 30122, is designed to ensure accurate disclosure of contributor information.”) (internal citations and quotation marks omitted).

¹⁸ Factual & Legal Analysis (“F&LA”) at 5-7, MUR 7903 (Tomfoolery, LLC, *et al.*) (finding reason to believe that a single member LLC was used as a straw donor to make a contribution in violation of 52 U.S.C. § 30122 where the source of the funds underlying the contribution did not come from the LLC); *Campaign Legal Ctr.*, 952 F.3d at 357 (“The controlling commissioners did not dispute that [52 U.S.C.] § 30122 applies to closely held corporations and corporate LLCs. *We agree that it does.*”) (emphasis added). The Court nevertheless held that the Commission’s dismissal of several matters involving alleged LLC conduits — based on the rationale that the matters presented an issue of first impression, which raised fair notice and due process concerns — was reasonable. *Campaign Legal Ctr.*, 952 F.3d at 357-58.

¹⁹ 52 U.S.C. § 30122 (prohibiting any person from making, knowingly permitting his name to be used to effect, or knowingly accepting, a contribution in the name of another).

²⁰ Rizik Aff. ¶ 6.

1 available information does not undercut Rizik’s assertion that he was unaware of how Montcalm
2 would be used prior to its formation. Moreover, after the filing of the Complaint, CLF amended
3 its disclosure report to attribute the contribution to Meijer, showing that Rizik was not the source
4 of the contributed funds. Therefore, the Commission finds no reason to believe that Rizik
5 violated 52 U.S.C. § 30122 by making contributions in the name of another.

6 **B. Political Committee Status**

7 The Act defines a political committee as “any committee, club, association, or other
8 group of persons” that receives aggregate contributions or makes aggregate expenditures in
9 excess of \$1,000 during a calendar year.²¹ Notwithstanding the threshold for contributions and
10 expenditures, an organization is considered a political committee only if its “major purpose is
11 Federal campaign activity (*i.e.*, the nomination or election of a Federal candidate).”²² Political
12 committees are required to register with the Commission, meet organizational and recordkeeping
13 requirements, and file periodic disclosure reports.²³

14 The Complaint alleges that Montcalm was both a conduit for the contribution of another
15 person *and* a political committee that failed to register and report as required. However, by
16 definition, a person can be either a conduit that transmits the contribution of another person, or
17 the source of that contribution — not both.²⁴ Because the record indicates that Montcalm merely
18 transmitted Meijer’s contributions to CLF, by implication, Montcalm did not make those

²¹ 52 U.S.C. § 30101(4)(A).

²² Political Comm. Status, 72 Fed. Reg. 5,595, 5,597 (Feb. 7, 2007); *see Buckley v. Valeo*, 424 U.S. 1, 79 (1976); *FEC v. Mass. Citizens for Life, Inc.*, 479 U.S. 238, 262 (1986).

²³ *See* 52 U.S.C. §§ 30102, 30103, 30104.

²⁴ *See Campaign Legal Ctr.*, 952 F.3d at 358 (finding that the Commission provided a reasonable basis for its decision to not investigate the allegations that the LLCs were political committees where the Commission found that the LLCs acted as conduits rather than political committees).

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1 contributions. Montcalm therefore does not appear to have satisfied the statutory threshold for
2 political committee status. Accordingly, the Commission finds no reason to believe that Rizik
3 violated 52 U.S.C. §§ 30102, 30103, or 30104 by failing to register Montcalm as a political
4 committee and submit the corresponding disclosure reports for political committees.