

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

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3 **ENFORCEMENT PRIORITY SYSTEM**  
4 **DISMISSAL REPORT**

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6 **MUR:** 8127

**Respondents:** LaLota for Congress and Thomas  
Datwyler in his official capacity as  
treasurer  
LaLota for New York L4NY  
Nick LaLota

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12 **Complaint Receipt Date:** April 17, 2023

13 **Response Date:** June 8, 2023

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17 **Alleged Statutory/  
18 Regulatory Violations:**

52 U.S.C. § 30125(e)  
11 C.F.R. §§ 110.3(d)

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20 The Complaint alleges that LaLota for Congress and Thomas Datwyler in his official  
21 capacity as treasurer (the “Federal Committee”), the principal campaign committee<sup>1</sup> of Nick  
22 LaLota, a 2022 candidate in New York’s 1st Congressional District,<sup>2</sup> received prohibited in-kind  
23 and monetary transfers totaling \$1,525 from LaLota for New York L4NY (the “State Committee”),  
24 the candidate’s campaign committee for state office, in violation of the Federal Election Campaign  
25 Act of 1971, as amended (the “Act”).<sup>3</sup> The Complaint states that the State Committee transferred  
26 \$1,000 to the Federal Committee shortly after the candidate filed a Statement of Candidacy.<sup>4</sup> The  
27 Federal Committee disclosed a \$1,000 contribution from the State Committee.<sup>5</sup> Additionally, the

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<sup>1</sup> LaLota for Congress, Amended Statement of Organization (Feb. 6, 2024), <https://docquery.fec.gov/pdf/999/202402069619677999/202402069619677999.pdf>.

<sup>2</sup> Nick LaLota, Statement of Candidacy (Feb. 21, 2022), <https://docquery.fec.gov/pdf/223/202202219493671223/202202219493671223.pdf>.

<sup>3</sup> Compl. at 2-3 (Apr. 17, 2023)

<sup>4</sup> *Id.* at 2.

<sup>5</sup> LaLota for Congress, Amended 2022 April Quarterly Report at 118 (Dec. 15, 2022), <https://docquery.fec.gov/pdf/051/202212159562586051/202212159562586051.pdf>.

1 Complaint states that the State Committee disbursed \$525 to a vendor that would later receive  
2 disbursements from the Federal Committee totaling \$18,000.<sup>6</sup> The Complaint argues that the  
3 disbursements from the State Committee to the vendor could not have been made in connection  
4 with a state election, as the candidate was not seeking any state office at the time they were made.<sup>7</sup>  
5 The Complaint argues that the disbursements by the State Committee were, therefore, prohibited in-  
6 kind transfers to the Federal Committee.<sup>8</sup>

7 Respondents argue that the \$1,000 disbursement from the State Committee to the Federal  
8 Committee was a permissible “contribution” by an unregistered organization made with funds  
9 subject to the limitations and prohibitions of the Act rather than a “transfer” of funds specifically  
10 prohibited by 11 C.F.R. § 110.3(d).<sup>9</sup> Respondents further argue that the Complaint’s allegations  
11 regarding the \$525 disbursed by the State Committee to a vendor in common with the Federal  
12 Committee are “mere speculation” and that “the Commission must find no reason to believe a  
13 violation occurred.”<sup>10</sup>

14 Based on its experience and expertise, the Commission has established an Enforcement  
15 Priority System using formal, pre-determined scoring criteria to allocate agency resources and  
16 assess whether particular matters warrant further administrative enforcement proceedings. These  
17 criteria include (1) the gravity of the alleged violation, taking into account both the type of activity  
18 and the amount in violation; (2) the apparent impact the alleged violation may have had on the

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<sup>6</sup> Compl. at 3.

<sup>7</sup> *Id.* at 4.

<sup>8</sup> *Id.*

<sup>9</sup> Resp. at 1-2 (June 8, 2023) (“Here, the State Committee made a permissible \$1,000 contribution to the Federal Committee within the limits of the Act, which was reported as a contribution, not a transfer, on the Federal Committee’s campaign finance report.”).

<sup>10</sup> *Id.* at 2-3.

1 electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in  
 2 potential violations and other developments in the law. This matter is rated as low priority for  
 3 Commission action after application of these pre-established criteria. Given that low rating and  
 4 apparent low dollar amount at issue we recommend that the Commission dismiss the Complaint,  
 5 consistent with the Commission's prosecutorial discretion to determine the proper ordering of its  
 6 priorities and use of agency resources.<sup>11</sup> We also recommend that the Commission close the file  
 7 effective 30 days from the date of certification of this vote (or on the next business day after the  
 8 30th day, if the 30th day falls on a weekend or holiday) and send the appropriate letters.

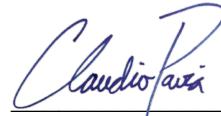
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 10 Lisa J. Stevenson  
 11 Acting General Counsel  
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15 Charles Kitcher  
 16 Associate General Counsel  
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18 March 22, 2024  
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20 Date

21 BY:



22 Claudio J. Pavia  
 23 Deputy Associate General Counsel



24 Wanda D. Brown  
 25 Assistant General Counsel  
 26  
 27



28 Gordon King  
 29 Attorney  
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<sup>11</sup> *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).