



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

May 15, 2024

VIA ELECTRONIC MAIL

dross@compasslegal.org

Derek H. Ross, Esq.
Compass Legal Group
300 Independence Ave SE
Washington, DC 20003

RE: MUR 8127
LaLota for Congress

Dear Mr. Ross:

On April 24, 2023, the Federal Election Commission notified your clients, LaLota for Congress (the "Committee"), LaLota for New York, and Nicholas LaLota, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on April 15, 2024, voted to dismiss this matter and close the file effective May 15, 2024. The General Counsel's Report, which more fully explains the Commission's decision, is enclosed for your information.

Documents related to the case will be placed on the public record today. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016).

Sincerely,

Lisa J. Stevenson
Acting General Counsel

Wanda D. Brown

BY: Wanda D. Brown
Assistant General Counsel

Enclosure
General Counsel's Report

BEFORE THE FEDERAL ELECTION COMMISSION
ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

MUR: 8127

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

Complaint Receipt Date: April 17, 2023

Response Date: June 8, 2023

**Alleged Statutory/
 Regulatory Violations:**

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

The Complaint alleges that LaLota for Congress and Thomas Datwyler in his official capacity as treasurer (the “Federal Committee”), the principal campaign committee¹ of Nick LaLota, a 2022 candidate in New York’s 1st Congressional District,² received prohibited in-kind and monetary transfers totaling \$1,525 from LaLota for New York L4NY (the “State Committee”), the candidate’s campaign committee for state office, in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”).³ The Complaint states that the State Committee transferred \$1,000 to the Federal Committee shortly after the candidate filed a Statement of Candidacy.⁴ The Federal Committee disclosed a \$1,000 contribution from the State Committee.⁵ Additionally, the

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

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

³ Compl. at 2-3 (Apr. 17, 2023)

⁴ *Id.* at 2.

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

MUR 8127 (LaLota for Congress, *et al.*)

EPS Dismissal Report

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1 Complaint states that the State Committee disbursed \$525 to a vendor that would later receive
2 disbursements from the Federal Committee totaling \$18,000.⁶ 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.⁷
5 The Complaint argues that the disbursements by the State Committee were, therefore, prohibited in-
6 kind transfers to the Federal Committee.⁸

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).⁹ 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.”¹⁰

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

⁶ Compl. at 3.

⁷ *Id.* at 4.

⁸ *Id.*

⁹ 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.”).

¹⁰ *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.¹¹ 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
 19 _____

20 Date

21 BY:



22 Claudio J. Pavia
 23 Deputy Associate General Counsel



24 Wanda D. Brown
 25 Assistant General Counsel
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28 Gordon King
 29 Attorney
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¹¹ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).