

OFFICE OF  
GENERAL COUNSELBEFORE THE  
FEDERAL ELECTION COMMISSION

2023 APR 18 PM 12:49

TIFFANY MULLER  
END CITIZENS UNITED  
100 M STREET SE  
WASHINGTON, D.C. 20003

Complainant,

v.

**MUR # 8128**

ANTHONY D'ESPOSITO  
PO BOX 188  
ISLAND PARK, N.Y. 11558

DESPOSITO FOR NEW YORK AND CLAUDIA ARMENDINGER  
PO BOX 188  
ISLAND PARK, N.Y. 11558

CITIZENS FOR D'ESPOSITO  
PO BOX 188  
ISLAND PARK, N.Y. 11558

Respondents.

**COMPLAINT**

This complaint is filed under 52 U.S.C. § 30109(a)(1) against 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. Mr. D'Esposito not only made a direct contribution from his State Committee to his Federal Committee, but also used his State Committee to pay the expenses of his federal campaign. Furthermore, after he declared candidacy for federal office, Mr. D'Esposito's state committee took in over \$44,000 in corporate contributions, in apparent violation of 11 C.F.R. § 110.3(d)

and the Act's soft money prohibitions. Subsidizing a federal campaign with soft money is the exact harm that the Bipartisan Campaign Reform Act sought to prevent, and Mr. D'Esposito's apparent violations grossly undermine the Act's anti-corruption and anti-circumvention rationales. The Commission should immediately investigate these apparent violations and take appropriate remedial action against Respondents.

## FACTS

Anthony D'Esposito served as a member of the Hempstead, New York Town Council from 2016 to 2022.<sup>1</sup> His last election for the Hempstead Town Council was in 2021.<sup>2</sup> His state campaign committee was Citizens for D'Esposito.<sup>3</sup> On March 25, 2022, Mr. D'Esposito announced his candidacy for New York's 4th Congressional District.<sup>4</sup> He filed his Statement of Candidacy for the 2022 election with the FEC on March 16, 2022.<sup>5</sup> His principal campaign committee for federal office in 2022 was DEsposito for New York, with Claudia Armendinger serving as treasurer.<sup>6</sup> At no time while a candidate for federal office was Mr. D'Esposito concurrently a candidate for state office in New York or a candidate for re-election to the Hempstead Town Council. Mr. D'Esposito's seat on the Town Council is, in fact, not up for re-election until 2025.<sup>7</sup>

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<sup>1</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> (In 2021, "Anthony D'Esposito, a Republican incumbent, defeated Democrat Aaron Meyer with 19,247 votes, or 68%, in the 4th District. He was originally appointed to the seat in 2016.").

<sup>2</sup> D'Esposito for Congress, About Anthony, <https://despositoforcongress.com/about-anthony> (last visited March 28, 2023).

<sup>3</sup> Citizens for D'Esposito, N.Y. State Bd. of Elections, <https://publicreporting.elections.ny.gov/CandidateCommitteeDisclosure/CandidateCommitteeDisclosure> (last visited March 28, 2023).

<sup>4</sup> John Asbury, *Nassau GOP Unveils Slate of Candidates*, Newsday (March 26, 2022), <https://www.newsday.com/long-island/politics/nassau-county-republican-slate-lcotgcjv>.

<sup>5</sup> DEsposito for New York, FEC Form 1, Statement of Organization (March 16, 2022), <https://docquery.fec.gov/cgi-bin/forms/C00809426/1574390>.

<sup>6</sup> *Id.*

<sup>7</sup> See Town of Hempstead, Election Information, <https://hempsteadny.gov/550/Election-Information> (last visited March 28, 2023).

In the spring of 2022, while still serving as a member of the Hempstead Town Council, Mr. D’Esposito transferred \$1,000 from his State Committee to his Federal Committee.<sup>8</sup> The transfer appears on the State Committee’s report with a date of April 20, 2022 but on the Federal Committee’s FEC reports as occurring earlier, on March 1, 2022.<sup>9</sup>

After Mr. D’Esposito declared his congressional run, his State Committee reported expenses for a Washington, D.C. P.O. Box.<sup>10</sup> The State Committee additionally reported expenses for “print ads,” “online ads,” “cell phone[s],” “office rent,” and “volunteer” expenses.<sup>11</sup> The Federal Committee did not make any expenditures for “phones” until June 2022, and did not have any expenditures for office space or rent until September 2022.<sup>12</sup> Mr. D’Esposito’s State Committee also paid a printing and fundraising vendor, Minuteman Press, \$2,119.91 for fundraising on April 30, 2022.<sup>13</sup> In August and November 2022, the Federal Committee paid that same vendor \$17,348.29 for “printing.”<sup>14</sup>

Additionally, the State Committee spent at least \$97,850.63 on a golf fundraiser,<sup>15</sup> which was held after Mr. D’Esposito’s announcement of his congressional candidacy on May 19,

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<sup>8</sup> N.Y. Bd. of Elections, Candidate/Committee Disclosures Search, Citizens for D’Esposito, 27-Day Post-Special Itemized Amended State/Local Report (May 11, 2022), <https://publicreporting.elections.ny.gov/CandidateCommitteeDisclosure/CandidateCommitteeDisclosure>.

<sup>9</sup> *Id.*; D’Esposito for New York, April Quarterly Report (Apr. 15, 2022), <https://docquery.fec.gov/pdf/708/202204159496452708/202204159496452708.pdf>.

<sup>10</sup> *See* Ex. A.

<sup>11</sup> *See id.*

<sup>12</sup> *See* Fed. Election Comm’n, D’Esposito for New York, Disbursements for Rent, [https://www.fec.gov/data/disbursements/?data\\_type=processed&committee\\_id=C00809426&disbursement\\_descripti on=rent](https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00809426&disbursement_descripti on=rent) (last visited Mar. 28, 2023); Fed. Election Comm’n, D’Esposito for New York, Disbursements for Phones, [https://www.fec.gov/data/disbursements/?data\\_type=processed&committee\\_id=C00809426&disbursement\\_descripti on=phone](https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00809426&disbursement_descripti on=phone) (last visited Mar. 28, 2023).

<sup>13</sup> N.Y. Bd. of Elections, Candidate/Committee Disclosures Search, Citizens for D’Esposito, 27-Day Post-Special Itemized Amended State/Local Report (May 11, 2022), <https://publicreporting.elections.ny.gov/CandidateCommitteeDisclosure/CandidateCommitteeDisclosure>.

<sup>14</sup> D’Esposito for New York, 2022 Post-General Report (Dec. 8, 2022), <https://docquery.fec.gov/pdf/255/202212089550179255/202212089550179255.pdf>; D’Esposito for New York, 2022 Pre-Primary Report (Aug. 11, 2022), <https://docquery.fec.gov/pdf/346/202211119546754346/202211119546754346.pdf#navpanes=0>.

<sup>15</sup> *See* Ex. B.

2022.<sup>16</sup> The fundraiser was publicly reported to have been used to get attendees “all fired up for the November elections where [they] w[ould] elect Anthony D’Esposito to represent [them] in Washington D.C.”<sup>17</sup>

After Mr. D’Esposito announced his congressional campaign, his State Committee accepted \$44,410 in corporate contributions.<sup>18</sup> It is unclear whether Mr. D’Esposito’s State Committee segregated federal funds from non-federal funds.

## LEGAL DISCUSSION

### A. Transfers from the State to Federal Committee

The Act prohibits federal candidates from transferring funds or assets from their state committees to their federal committees.<sup>19</sup> The Commission considers direct contributions from a federal candidate’s state committee to his federal committee to be a “transfer” of funds.<sup>20</sup> Here, there is irrefutable evidence that Mr. D’Esposito’s State Committee directly transferred \$1,000 to the Federal Committee.<sup>21</sup> The transfer prohibition is a bright-line rule under 11 C.F.R. § 110.3(d), which Mr. D’Esposito and his Committees appear to have violated.<sup>22</sup>

### B. Excessive and Impermissible In-Kind Contributions

The Commission’s regulation at 11 C.F.R. § 110.3(d) likewise prohibits transfers from a federal candidate’s state to federal committee made through in-kind conveyances of goods or

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<sup>16</sup> Eventbrite, Councilman D’Esposito Golf Classic, <https://www.eventbrite.com/e/councilman-desposito-golf-classic-tickets-254912559327> (last visited Mar. 28, 2023).

<sup>17</sup> See Ex. C.

<sup>18</sup> See Ex. D.

<sup>19</sup> 11 C.F.R. § 110.3(d) (“Transfers 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 are prohibited.”).

<sup>20</sup> See Fed. Election Comm’n, First Gen. Counsel’s Rep., MUR 5406.

<sup>21</sup> N.Y. Bd. of Elections, Candidate/Committee Disclosures Search, Citizens for D’Esposito, 27-Day Post-Special Itemized Amended State/Local Report (May 11, 2022), <https://publicreporting.elections.ny.gov/CandidateCommitteeDisclosure/CandidateCommitteeDisclosure>.

<sup>22</sup> See 11 C.F.R. § 110.3(d).

services.<sup>23</sup> Here, since Mr. D’Esposito became a federal candidate, his State Committee paid at least \$23,247.90 for print and online advertising, rent, cell phones, volunteer expenses, and mail services in Washington D.C.,<sup>24</sup> as well as over \$2,119.91 for fundraising services to a vendor that would later be paid by his Federal Committee.<sup>25</sup> Additionally, the State Committee spent over \$97,000 in connection with a golf fundraiser reported to have a speaker advocating for Mr. D’Esposito’s election to U.S. Congress.<sup>26</sup> Despite spending thousands of dollars on these expenses from his State Committee, Mr. D’Esposito was neither campaigning for, nor was he seeking ballot access for, any New York state or local office in the 2022 election cycle. In fact, Mr. D’Esposito’s next election for Hempstead Town Council was scheduled over three years away, in 2025.<sup>27</sup>

Thus, there is no logical reason that his State Committee needed to make payments for a campaign office, print and online advertising, cell phones, printing, fundraising, or volunteer services. Rather it seems more likely that Mr. D’Esposito made these payments in connection with his federal campaign—*his only active campaign at the time*. Furthermore, even if Mr. D’Esposito was running for state or local office in New York, there is no reason that he would need to use State Committee funds to pay for a P.O. Box in Washington D.C. The only reasonable explanation for this expenditure is that Mr. D’Esposito made it in connection with his federal campaign. Such transfers are explicitly prohibited by the Commission’s regulations.<sup>28</sup> Therefore, the Commission should immediately investigate this potential violation, as these in-

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<sup>23</sup> *Id.*; See Fed. Election Comm’n, MURs 5646, 5426; *see also* 11 C.F.R. § 100.52(a) (in-kind goods or services are contributions under the Commission’s regulations).

<sup>24</sup> *See* Ex. A.

<sup>25</sup> *See supra* nn. 13, 14 and corresponding text.

<sup>26</sup> *See* Exs. B & C.

<sup>27</sup> *See* Town of Hempstead, Election Information, <https://hempsteadny.gov/550/Election-Information> (last visited March 28, 2023).

<sup>28</sup> 11 C.F.R. § 110.3(d).

kind contributions would constitute unlawful, excessive contributions from the State Committee to the Federal Committee.

The Act's safe harbor, allowing a federal candidate who is concurrently running for state or local office to solicit, receive, and spend funds outside of the Act's amount and source limitations, if such solicitations, receipts, and expenditures are solely in connection with the state or local race,<sup>29</sup> would not apply. As discussed above, Mr. D'Esposito was not a candidate for state or local office at the time the disbursements were made, and the re-election for his local office was more than three years away. It strains credulity that any of these campaign-related expenditures were made in connection with a state or local race.

### **C. State Committee Receipts and Disbursements**

The Act's soft money provisions prohibit 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>30</sup> Once an individual triggers candidacy for federal office, the Commission has concluded that his or her state and local committees become established, financed, maintained, or controlled by a federal candidate.<sup>31</sup> Thus, Mr. D'Esposito's state committee became an entity controlled or maintained by a federal candidate when Mr. D'Esposito filed his statement of candidacy with the Commission on March 16, 2022. Yet, after that date the State Committee accepted at least \$44,410 in contributions from corporations.<sup>32</sup> Accepting corporate contributions as a federal

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<sup>29</sup> 52 U.S.C. § 30125(e)(2).

<sup>30</sup> *Id.* § 30125(e)(1)(A)-(B); 11 C.F.R. §§ 300.61-.62.

<sup>31</sup> *See* Fed. Election Comm'n, First Gen. Counsel's Rep't., MUR 5406; Advisory Op. 2007-26 (Schock) at 4; Advisory Op. 2006-38 (Casey State Committee) at 4.

<sup>32</sup> *See* Ex. D.

candidate constitutes the receipt of soft money in connection with a federal or nonfederal election, in violation of the Act and the Commission's regulations.<sup>33</sup>

Additionally, the Act prohibits *spending* soft money in connection with federal and nonfederal elections after one becomes a federal candidate. Here, it is unclear whether, upon triggering candidacy for federal office, the State Committee instituted a reasonable accounting method to determine whether its disbursements were being made with federally-permissible funds. Accordingly, it appears that Mr. D'Esposito and his state committee violated the Act's ban on spending soft money in connection with both federal and non-federal elections.

### **REQUESTED ACTION**

As we have shown, Respondents appear to have violated the Act and Commission regulations by making prohibited transfers from the State to the Federal Committee, and by receiving and spending soft money funds after Mr. D'Esposito became a federal candidate. As such, we respectfully request that the Commission immediately investigate this apparent violation, 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>33</sup> 52 U.S.C. § 30125(e)(1)(A)-(B); 11 C.F.R. §§ 300.61, 300.62.

Sincerely,



TIFFANY MULLER  
END CITIZENS UNITED  
100 M STREET SE  
WASHINGTON, D.C. 20003

SUBSCRIBED AND SWORN to before me this 11th day of April 2023



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Notary Public

My Commission Expires:

MARK ANDREWS  
NOTARY PUBLIC DISTRICT OF COLUMBIA  
My Commission Expires July 14, 2024

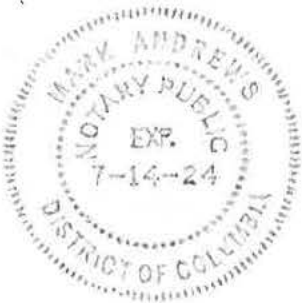




EXHIBIT A<sup>34</sup>

## Washington D.C. Expenditure

Date	Recipient	Address	Amount	Purpose
3/25/2022	USPS PO Boxes Online	900 Brentwood Rd Washington DC 20066	\$258.00	Office

## Advertisements

Date	Recipient	Amount	Purpose
4/13/2022	LI Herald Primetime	\$506.75	Print Ads
4/20/2022	5 Towns Jewish Times	\$875.00	Print Ads
4/28/2022	Oceanside Kiwanis Club	\$100.00	Journal ad
4/30/2022	L.I. Federation of Labor, AFL- CIO	\$400.00	Journal ad
9/6/2022	AOH Feis & Fest Committee	\$90.00	Journal ad
9/14/2022	Jewish Home	\$965.00	Print Ads
9/19/2022	The Inn	\$1,400.00	Online Ads
9/22/2022	The Jewish Home	\$275.00	Print Ads

## Office Rent

Date	Recipient	Amount	Purpose
4/25/2022	Equity Properties, LLC	\$6,000.00	Office Rent
8/1/2022	IP, Lido, Point Lookout Republican Committee	\$5,000.00	Office Rent
9/19/2022	Equity Properties, LLC	\$2,500.00	Office Rent
10/4/2022	IP, Lido, Point Lookout Republican Committee	\$1,250.00	Office Rent
11/2/2022	IP, Lido, Point Lookout Republican Club	\$1,250.00	Office Rent

## Cell Phones

Date	Recipient	Amount	Purpose
12/09/21	Verizon Wireless	\$104.26	Cell Phone
1/07/22	Verizon Wireless	\$104.26	Cell Phone
2/09/22	Verizon Wireless	\$104.26	Cell Phone
3/10/22	Verizon Wireless	\$104.26	Cell Phone
4/11/22	Verizon Wireless	\$104.26	Cell Phone
4/21/22	Verizon Wireless	\$495.74	Office

<sup>34</sup> Citizens for D'Esposito, N.Y. State Bd. of Elections, <https://publicreporting.elections.ny.gov/CandidateCommitteeDisclosure/CandidateCommitteeDisclosure> (last visited March 28, 2023).

5/10/22	Verizon Wireless	\$198.16	Cell Phone
6/10/22	Verizon Wireless	\$145.28	Cell Phone

### Volunteer Expenses

<b>Date</b>	<b>Recipient</b>	<b>Amount</b>	<b>Purpose</b>
8/3/2022	Mio Posto	\$190.61	Meals for volunteers
9/3/2022	Monelisa	\$350.96	Food - volunteers
9/5/2022	Starbucks	\$75.00	Refreshments - volunteers
9/12/2022	Macarthur Park	\$326.10	Meals for volunteers
9/30/2022	Starbucks	\$25.00	Refreshments for volunteers
10/23/2022	Starbucks	\$50.00	Coffee for volunteers

**EXHIBIT B<sup>35</sup>**

<b>Date</b>	<b>Recipient</b>	<b>Purpose</b>	<b>Amount</b>
2/23/2022	Inwood County Club	Fundraising Deposit – Golf Outing 2022	\$10,000.00
5/1/2022	Golf Tournament Solutions	Fundraising	\$1,000.00
5/10/2022	Home Golf Supply LLC	Fundraising	\$256.10
5/16/2022	Classic Beverage	Golf outing supplies	\$791.84
5/19/2022	Inwood County Club	Fundraising	\$83,760.74
5/19/2022	Lance Wine & Liquors	Beverages for golf outing	\$1,187.00
5/19/2022	Party City	Golf outing supplies	\$110.20
5/20/2022	Amazon	Golf outing supplies	\$61.74
5/20/2022	Five Towns Discount Liquor	Golf outing supplies	\$683.01
<b>TOTAL</b>			<b>\$97,850.63</b>

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<sup>35</sup> *Id.*

### EXHIBIT C<sup>36</sup>



<sup>36</sup> Facebook, Gabriel Boxer for State Senate (May 19, 2022), <https://www.facebook.com/gabrielboxerforstatesenate/posts/pfbid02q2BRy25nYyL2KobGj6ai1jtrxFbotJNtoZVEPrVhx3A7Vq4hqimM777oCiCypSxYl>.

**EXHIBIT D<sup>37</sup>**

<b>Date</b>	<b>Corporate Donor</b>	<b>Amount</b>
4/15/2022	A. Montilli Plumbing and Heating Corp.	\$1,500.00
4/15/2022	Andrew Barwicki, Inc.	\$1,000.00
4/15/2022	Artkev Corp.	\$750.00
4/15/2022	Jjda Propane, Inc.	\$5,000.00
4/15/2022	Lechler Electric, Inc.	\$150.00
4/15/2022	Lobster Bar Inc.	\$150.00
4/15/2022	Lucchesi Engineering, P.C	\$150.00
4/15/2022	PJP Tavern Corp.	\$1,650.00
4/15/2022	Rocco's Catering Inc.	\$150.00
4/15/2022	Stasi Brothers Asphalt Corp.	\$1,500.00
4/15/2022	Valente Contracting Corp.	\$1,000.00
5/19/2022	1016 West Beech Rest Corp.	\$150.00
5/19/2022	Armecon Inc.	\$150.00
5/19/2022	Bridgeview Banquet Corp.	\$1,500.00
5/19/2022	Doris The Florist Inc.	\$150.00
5/19/2022	Duck Fat Inc.	\$2,500.00
5/19/2022	E & T Bar & Grill Corp.	\$150.00
5/19/2022	EJP Rest. Corp.	\$150.00
5/19/2022	Graphic Fabrications Inc.	\$300.00
5/19/2022	Ironclad Investigation, Inc.	\$750.00
5/19/2022	JFF Electric	\$525.00
5/19/2022	Lambrou & Sons Seafood Rest	\$1,500.00
5/19/2022	Lucchesi Engineering, P.C.	\$200.00
5/19/2022	NY Contracting Realty Corp.	\$300.00
5/19/2022	Scotty's Fishing Station, Inc.	\$1,800.00
5/19/2022	Sutton Place	\$1,400.00
5/19/2022	Top Key Court Reporting, Inc.	\$150.00
5/27/2022	Ny Standard Home Inspection Consultants	\$585.00
5/27/2022	The MJ Team	\$375.00
5/13/2022	150 Food Center Corp.	\$150.00
5/13/2022	All Island Marine Corp.	\$150.00
5/13/2022	Christopher T. Jordan Funeral Home Inc.	\$3,000.00
5/13/2022	Classic Beverage	\$200.00
5/13/2022	Fenisia Garage Corp.	\$900.00
5/13/2022	FX The Source Inc.	\$300.00
5/13/2022	H2M Architects	\$1,650.00

<sup>37</sup> Citizens for D'Esposito, N.Y. State Bd. of Elections, <https://publicreporting.elections.ny.gov/CandidateCommitteeDisclosure/CandidateCommitteeDisclosure> (last visited March 28, 2023).

5/13/2022	Heavenly Coffee, Inc.	\$5,000.00
5/13/2022	National Rink Management	\$1,500.00
5/13/2022	Sahaj Food, Inc.	\$200.00
5/13/2022	Shriji Beverage Inc.	\$200.00
5/13/2022	Smooth Edge Collision Corp.	\$150.00
5/13/2022	Squad Security, Inc.	\$5,000.00
5/13/2022	Tonys Decorating	\$375.00
<b>TOTAL</b>		<b>\$44,410.00</b>