

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In re. Commission Initiated Investigation into *Lumaj for CT*

File No. 2019-032

FINDINGS AND CONCLUSIONS

The State Elections Enforcement Commission initiated this investigation at its March 20, 2019 meeting, naming Joseph Kilduff as a respondent in this matter. The matter centered on certain charitable contributions made by the *Lumaj for CT* candidate committee as it was winding down during the 2018 election cycle. After an investigation, the Commission makes the following findings and conclusions:

1. On Nov. 28, 2017, Pjerin “Peter” Lumaj established a candidate committee to run for governor in the 2018 election cycle. Lumaj named Kilduff as the treasurer for the candidate committee.
2. The committee opted not to participate in the Citizens’ Election Program. The committee raised a total of \$204,759.77 in contributions, but that amount included \$113,799.62 in carry-over funds that were transferred from an exploratory committee that Lumaj established in September 2016 to the Lumaj candidate committee. The Lumaj exploratory committee, which was terminated in December 2017, raised a total of \$407,494 in its 15-month existence.
3. The Connecticut Republican Party held its 2018 nominating convention on May 11 and 12 at Foxwoods Casino. The party nominated Bob Stefanowski for governor; Lumaj failed to secure a spot on the ballot for the August primary. Four days later, on May 16, 2018, Lumaj announced that he was ending his candidacy for governor.
4. That same day, May 16, 2018, Lumaj’s campaign manager, Brock Weber, contacted the Commission for advice on how to terminate the candidate committee and Commission staff explained to Weber how the termination process worked.
5. Under General Statutes § 9-608 (e), a candidate committee that is subject to an audit must terminate within 120 days of the primary or election. Specifically, the statutory provisions state:

(1) Notwithstanding any provisions of this chapter, in the event of a surplus the treasurer of a candidate committee or of a political committee, other than a political committee formed for ongoing political activities or an exploratory committee, shall distribute or expend such surplus not later than ninety days, or for the purposes of subparagraph (H) of this subdivision, one hundred twenty days after a primary which

results in the defeat of the candidate, an election or referendum not held in November or by March thirty-first following an election or referendum held in November, or for the purposes of subparagraph (H) of this subdivision, June thirtieth following an election or referendum held in November, in the following manner:

(A) Such committees may distribute their surplus to a party committee, or a political committee organized for ongoing political activities, return such surplus to all contributors to the committee on a prorated basis of contribution, distribute all or any part of such surplus to the Citizens' Election Fund established in section 9-701, distribute such surplus to any charitable organization which is a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, or, in the case of a candidate committee for any candidate, other than a participating candidate, distribute such surplus to an organization under Section 501(c)(19) of said code, as from time to time amended, provided (i) no candidate committee may distribute such surplus to a committee which has been established to finance future political campaigns of the candidate, (ii) a candidate committee which received moneys from the Citizens' Election Fund shall distribute such surplus to such fund, and (iii) a candidate committee for a nonparticipating candidate, as described in subsection (b) of section 9-703, may only distribute any such surplus to the Citizens' Election Fund or to a charitable organization;

...

(2) Notwithstanding any provision of this chapter, the treasurer of the candidate committee of a candidate who has withdrawn from a primary or election may, prior to the primary or election, distribute its surplus to any organization which is tax-exempt under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, or return such surplus to all contributors to the committee on a prorated basis of contribution.

(3) Not later than seven days after such distribution or not later than seven days after all funds have been expended in accordance with subparagraph (D) of subdivision (1) of this subsection, the treasurer shall file a supplemental statement, sworn under penalty of false statement, with the proper authority, identifying all further contributions received since the previous statement and explaining how any surplus has been distributed or expended in accordance with this section. No surplus may be distributed or expended until after the election, primary or referendum.

6. Because Lumaj withdrew from the election prior to the primary, his candidate committee was permitted to distribute any funds that remained in its candidate committee either to a not-for-profit entity organized under section 501(c)(3) of the Internal Revenue Code or the committee may return them to contributors on a pro rata basis.
7. On July 25, 2018, Weber again contacted the Commission to discuss how to distribute surplus funds. Specifically, Weber asked if the candidate committee could give \$50,000 to 501(c)(3) organization that was affiliated with the candidate. The plan Weber presented was to give \$50,000 to the not-for-profit entity now and then give whatever money remained after the committee had satisfied all of its other obligations in the future. Commission staff approved this plan as presented but noted that if the final payment was delayed for too long that could present some problems.
8. On July 25, 2018, the Lumaj candidate committee made a charitable contribution to Albanian Connect, Inc., an organization based in the Bronx, New York. The committee made another contribution to Albanian Connect, Inc., on January 9, 2019, totaling \$6,356.79, to zero out the bank account of the committee.
9. Albanian Connect, Inc., was established in 2015 by Lumaj. It was designated as a 501(c)(3) organization by the IRS, effective May 26, 2015, and was additionally classified as a private foundation under section 509 (a) of the Internal Revenue Code. As such, the entity was required to file a Form 990-PF, annually. As the acceptance letter states, failure to file this Form 990-PF for three years would result in the automatic revocation of Albanian Connect's tax-exempt status.
10. According to the IRS website, Albanian Connect, Inc.'s nonprofit status was automatically revoked on May 15, 2018. The IRS website also reflects a "revocation posting date" of August 13, 2018.
11. Respondent stated that at the time that the initial check was written to Albanian Connect, Inc., neither Lumaj nor the accountant handling its finances were aware of the revocation of the group's 501(c)(3) status.
12. After the notification of the suspension, Lumaj and the accountant began the process of reinstating the group's tax-exempt status. Reinstatement of the tax-exempt status would be retroactive to May 26, 2015 and would reflect no gaps.
13. The Commission confirmed with the IRS that Albanian Connect, Inc., is currently a nonprofit entity, and its tax-exempt status began on May 26, 2015.

14. Two issues exist for the Commission. First, does the association between the candidate, Lumaj, and the nonprofit entity, Albanian Connect, Inc., create a problem for the distribution of surplus funds from the candidate committee? Second, does the fact the tax-exempt status of the nonprofit entity, Albanian Connect, Inc., had been suspended at the time that the distribution of funds was made render the distribution impermissible? The statutory provisions that govern distribution of surplus funds gathered under Chapter 155 indicates that neither is a problem.
15. General Statutes § 9-608 (e) allows a candidate committee to distribute surplus to any charitable organization organized under chapter 501(c)(3) of the Internal Revenue Code. The only restrictions on distribution of surplus to an entity related to the candidate prohibits surplus distributions to a committee established to support the candidate's future political campaigns. The statute would allow distribution of surplus to a political committee established by the candidate to support other candidate's elections – and the Commission has allowed such distributions in the past – the only restriction is on distribution to a committee established to support the candidate's future political campaigns. There is nothing in the statute to prohibit distribution to a charitable organization established by the candidate.
16. The tax-exempt status of the organization at the time that the distribution was made also does not appear to be a problem. According to the Commission's communications with the IRS, the federal agency only notes that the tax-exempt status for Albanian Connect, Inc., began on May 26, 2015. Its records do not reflect that there was a break in status. By working with the IRS to bring its status current, Albanian Connect appears to have cured that defect and is now in good standing with the federal tax agency. The Commission lacks both the jurisdiction and the expertise to look behind that tax-exempt designation.
17. The Commission has jurisdiction and expertise to point out one failing on the part of the Respondent in his role as treasurer of the *Lumaj for CT* candidate committee: the termination report and final distribution of funds from the candidate committee's bank account took place well beyond the deadline established in General Statutes § 9-608.
18. According to the statute, a candidate committee that is subject to audit by the Commission must terminate no later than 120 days after the "primary that results in the defeat of the candidate." The question here is because Lumaj was not a candidate in the primary, can he rely on that extended termination deadline?
19. Even with the extra time, however, the candidate committee terminated on Feb. 25, 2019, which was 195 days after the August 14, 2018 primary. This clearly was not within the statutory deadline laid out for termination.

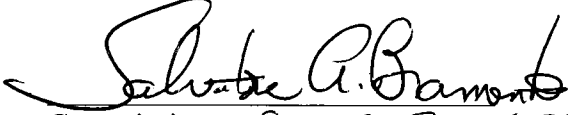
20. The Commission has not traditionally taken a strict stance on enforcing these termination deadlines, especially related to large statewide candidate committees. Nevertheless, the Commission strongly encourages the candidate and treasurer to pay closer attention to these deadlines in the future.

ORDER

The following Order is recommended on the basis of the aforementioned findings:

This matter is dismissed.

Adopted this 5 day of August, 2020 at Hartford, Connecticut.


Commissioner *Salvatore Bramante*
By Order of the Commission *Vice Chair*