



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**FEDERAL ELECTION COMMISSION**  
**CONCURRING STATEMENT OF REASONS**  
**OF COMMISSIONER LEE E. GOODMAN**

**RESPONDENTS:**            Lee Zeldin                    )                    MUR 6985  
                                      Zeldin for Senate            )

On March 23, 2016, the Commission voted to find reason to believe that Lee Zeldin and the Zeldin for Senate Committee, a New York state political committee, violated 52 U.S.C. § 30125(e)(1)(B). I voted with my colleagues to find reason to believe and to approve a Factual and Legal Analysis, but Respondents have a right under 52 U.S.C. § 30109(a)(2) and 11C.F.R. § 111.9 to further clarification of the facts and inferences that were material to my vote.

Section 30125(e)(1)(B) prohibits “an entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of [a] candidate[] or individual[] holding Federal office” from spending funds raised outside the federal contribution limits and prohibitions from spending those funds in connection a state or local election. The Commission’s Factual and Legal Analysis premises reason to believe a violation occurred upon the finding that the Zeldin for Senate Committee “is an entity subject to 52 U.S.C. § 30125(e)(1)(B)” and it made donations to state and local candidates and political parties with funds raised outside the federal contribution limits or prohibitions.<sup>1</sup>

The Factual and Legal Analysis does not clarify, however, on which statutory factor the Commission concluded the Zeldin for Senate Committee is covered by the statute—that is, whether Zeldin “established,” “financed,” “maintained,” or “controlled” the state committee. As the Commission observes in footnote 11:

The law does not require that all four factors be present in order to support a finding of reason to believe that a violation occurred. Any one of the four factors will suffice if it provides the basis for four or more Commissioners to find reason to believe, even though some Commissioners may believe that other factors are also present.<sup>2</sup>

In other words, four of more Commissioners must conclude here that Lee Zeldin either (i) established, (ii) financed, (iii) maintained, or (iv) controlled the Zeldin for Senate Committee in order to justify the reason to believe finding. Consequently, the Commission’s finding as to each

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<sup>1</sup> Factual and Legal Analysis at 4, MUR 6985 (Zeldin).

<sup>2</sup> *Id.* at n. 11.

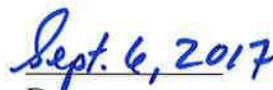
of the four factors is highly relevant to the Commission's conclusion and, therefore, the Respondents' right under the Federal Election Campaign Act and Commission regulations to be informed of the basis for the Commission's decision. Accordingly, I have recorded here the facts that persuaded me to conclude that there was reason to believe a violation may have occurred so that they may be provided to the Respondents with the Commission's Factual and Legal Analysis.

First, I did not, and would not, find that the Zeldin for Senate Committee is subject to the statutory prohibition because Lee Zeldin "established" the organization years before he became a federal candidate. The plain language of the statute requires the state committee to be established by a federal candidate or officeholder. Zeldin was not a federal candidate or officeholder when the Zeldin for Senate Committee was established.

Second, I did not find that Lee Zeldin "financed" the Zeldin for Senate Committee, because there is no evidence in the record that Lee Zeldin substantially funded, or provided any funds, to the state committee.

I concluded, however, that the Zeldin for Senate Committee was subject to the statute because it appears likely Lee Zeldin "maintained" or "controlled" the state committee while he was a federal candidate and officeholder. This conclusion is premised on the assumption that he continued to make decisions regarding its financial activities and its disbursements to state candidates after he became a candidate. On this factual basis, I voted to find reason to believe a violation occurred.

  
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Lee E. Goodman  
Commissioner

  
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Date