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In the matter of the Complaint
Against
Andrew Cuomo for New York
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DETERMINATION
E2021-093

WHEREAS, by email dated September 9, 2021, four good government groups¹ made a complaint to the Division of Election Law enforcement (DELE) alleging that former Governor Andrew Cuomo converted campaign funds to personal use, in violation of Election Law § 14-130. Complainants alleged that the former governor used campaign funds to hire his former press aide as his spokesperson. Former Governor Cuomo is not currently an office holder and has not publicly announced any plans to seek office; and

WHEREAS, Andrew Cuomo announced his resignation from public office on or about August 10, 2021, amid a sexual harassment scandal and after the NYS Assembly took steps toward impeachment. See, [nytimes.com/2021/08/10/nyregion/andrew-cuomo-resigns.html](https://www.nytimes.com/2021/08/10/nyregion/andrew-cuomo-resigns.html); and

WHEREAS, in the January 2022 Financial Disclosure Statement, Andrew Cuomo for New York, Inc. reports having paid Bulldog Strategies \$42,500² for “professional services” during the reporting period in 4 separate transactions. Richard Azzopardi is the founder and principle of Bulldog Strategies, LLC. See, <https://www.linkedin.com/in/rich-azzopardi-298624133/>³; and

WHEREAS, upon the publication of the instant complaint, Azzopardi told the press “I’m on board to help answer press inquiries related to the governor’s time in office and ongoing legal reviews—which is permissible.” *Cuomo under fire for re-hiring flack, good-government groups demand probe*, NY Dailey News, 9/9/21, <https://www.nydailynews.com/news/politics/new-york-elections-government/ny-cuomo-azzopardi-board-of-elections-common-cause-20210909-mm2f7yci7fg4vpz3tjccqzwqee-story.html>.

WHEREAS, pursuant to Election Law § 14-130[1]:

¹ Complaint to CEC was made jointly by Common Cause NY, League of Women Voters NYS, NY Public Interest Research Group, and Reinvent Albany. Complainants presumably provided copy of complaint to the press. See e.g., https://www.nydailynews.com/news/politics/new-york-elections-government/ny-cuomo-azzopardi-board-of-elections-common-cause-20210909-mm2f7yci7fg4vpz3tjccqzwqee-story.html?mc_cid=9b74db0f84&mc_eid=8467b7e218.

² During the reporting period, Andrew Cuomo for New York also spent approximately \$1,790,000 on attorney fees to four firms, with \$800,000 to Sullivan Cromwell and almost \$900,00 to Glavin PLLC.

³ Azzopardi filed the LLC with the NY Secretary of State on or about September 21, 2021. The first payment from the Committee to Bulldog Strategies was after the registration of the LLC.

Contributions received by a candidate, or a political committee, may be expended for any lawful purpose. Such funds shall not be converted by any person to a personal use which is unrelated to a political campaign or the holding of a public office or party position; and

WHEREAS, on its face, there is nothing unlawful about expending campaign funds for a political consultant or for the services of a communications professional. Thus, the appropriateness of the expenditure at issue here turns on whether it is exclusively for former Governor Cuomo's personal benefit or made in connection with or related to a political campaign. Election Law 14-130[3]. New York Election Law places no restriction on when a political committee must terminate or dispose of its funds (except for death of the candidate). See Election Law § 14-132. Similarly, nothing requires that the candidate declare the office he is seeking, or the election year, before his campaign committee may receive contributions or expend campaign funds. Election Law § 14-100 [7].

WHEREAS, the statute provides some examples, without limitation, of "converted by any person to a personal use." Election Law 14-130[3]. Paying a communications consultant is not included in the statutory prohibited list. Nor is retaining counsel. *Id.* The statute does not contain examples of permissible specific expenditures. SBOE shall issue advisory opinion upon request regarding personal use. *Id.* at subsection 6. There does not appear to be any advisory opinion directly on point for this issue.

WHEREAS, however, the statute explicitly prohibits "salary payments or other compensation provided to any person for services where such services are not solely for campaign purposes or provided in connection with the execution of the duties of public office or party position". *Id.* at sub section[3][5][v]. This section of the personal use statute was discussed in ADVISORY OPINIONS OPINION NO. 17-1, but the facts presented therein are inapposite to the instant complaint. ("Given that lobbying is not a "campaign purpose", using PAC contributions to pay for the trade association's lobbying costs would violate §14-130 of the Election Law.") Here, the campaign funds at issue were used to pay a communications consultant – a common campaign purpose. It is a purpose not unlike the campaign marketing services at issue in ADVISORY OPINIONS OPINION NO. 15-2, and would similarly likely be assumed to be proper.

WHEREAS, here, although former Governor Cuomo has not announced any explicit plan to run for a specific public office, his conduct fits the definition of candidate set forth in Election Law, 14-100 (7) [2] (emphasis added):

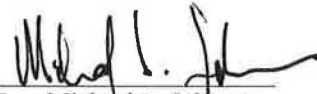
[A]n individual shall be deemed to seek nomination for election, or election, to an office or position, if he has . . . received contributions or made expenditures, given his consent for any other person to receive contributions or make expenditures, with a view to bring about his nomination for election, or election, to any office or position at any time whether in the year in which such contributions or expenditures are made or **at any other time.**

WHEREAS, New York Election Law does not prohibit a former office holder, or anyone else from using campaign funds to test the waters for a future political candidacy. Campaign committee funds could be used, for example, for polling, for political ads, and/or to pay for the professional services of a trusted longstanding advisor and "crisis communications professional", such as

Azzopardi, to repair the harm to a former office holder's reputation and pave the way for a future candidacy.

WHEREAS, there is not sufficient evidence here to sustain a violation of Election Law § 14-130 and therefore there is not a sufficient basis to refer this matter for criminal prosecution. Based on the foregoing, this matter is now closed.

NEW YORK STATE
BOARD OF ELECTIONS

A handwritten signature in black ink, appearing to read "Michael L. Johnson", written over a horizontal line.

By: Michael L. Johnson
Chief Enforcement Counsel