



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

**STATEMENT OF Chair CAROLINE C. HUNTER and
Commissioner MATTHEW S. PETERSEN
ON ADVISORY OPINION 2012-19 (AMERICAN FUTURE FUND) AND
*THE HISPANIC LEADERSHIP FUND, INC. v. FEDERAL ELECTION COMMISSION***

We write to add our voices to Commissioner McGahn’s Statement On Advisory Opinion 2012-19 and *The Hispanic Leadership Fund, Inc., v. Federal Election Commission*.

We agree that, generally, third party non-requestors do not have standing to sue the Commission over adverse advisory opinions. In this case, though, Plaintiff has standing because the deadlocked Advisory Opinion 2012-19 created a credible threat of prosecution that exists if Plaintiff proceeds with its permissible advertising plans.

Moreover, the status quo with regard to the definition of electioneering communications is not represented by the “controlling group’s” position. This case presents a unique procedural posture. Unlike direct challenges to regulations, advisory opinions, or enforcement actions, the Commission has taken no official action on the issues presented. The Commission may not adopt or impose a new legal norm prospectively without at least four approving Commissioners.