



MURs 7327, 7337 and 7344 (Debbie Lesko, *et al.*)

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1 **MUR 7344**  
2 DATE FILED: March 13, 2018  
3 DATE OF NOTIFICATION: March 14, 2018  
4 LAST RESPONSE RECEIVED: April 25, 2018  
5 DATE ACTIVATED: July 12, 2018  
6

7 EARLIEST SOL: January 29, 2023  
8 LATEST SOL: January 29, 2023  
9 ELECTION CYCLE: 2018  
10

11 **COMPLAINANT:** Linda Migliore  
12

13 **RESPONDENTS:** Conservative Leadership for Arizona and  
14 Tim Sifert in his official capacity  
15 as treasurer  
16

17 **RELEVANT STATUTES  
18 AND REGULATIONS:** 52 U.S.C. § 30104(g)  
19 52 U.S.C. § 30116(a)(1)(C)  
20 52 U.S.C. § 30116(a)(7)(B)(i)  
21 52 U.S.C. § 30120(a)(3)  
22 52 U.S.C. § 30125(e)(1)(A)  
23 11 C.F.R. § 110.3(d)  
24 11 C.F.R. § 109.21  
25 11 C.F.R. § 300.2(c)(2)  
26

27 **INTERNAL REPORTS CHECKED:** Disclosure Reports  
28

29 **FEDERAL AGENCIES CHECKED:** None  
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31 **I. INTRODUCTION**

32 Debbie Lesko, a former Arizona State Senator and a 2018 Congressional candidate,  
33 transferred \$50,000 from her state committee to Conservative Leadership for Arizona and Tim  
34 Sifert in his official capacity as treasurer (“CLA”), a newly-formed independent-expenditure-  
35 only political committee (“IEOPC”) that raised a total of \$50,050 and spent most of its funds in  
36 support of Lesko’s federal campaign. The Complaints in MURs 7327 and 7337 allege that the  
37 transactions by Lesko, Re-Elect Debbie Lesko for Senate (“State Committee”), and CLA  
38 violated the soft money prohibitions of the Federal Election Campaign Act of 1971, as amended

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1 (the “Act”), and the regulation prohibiting transfers of funds from a federal candidate’s state  
2 committee to his or her federal committee. The Complaints also allege that CLA initially tried to  
3 hide the source of the \$50,000 contribution by improperly reporting it, and that CLA coordinated  
4 its expenditures with Lesko in support of her federal committee, Debbie Lesko for Congress and  
5 Ashley Ragan in her official capacity as treasurer (“Federal Committee”). The Complaint in  
6 MUR 7344 alleges that CLA failed to timely file a 24- or 48-Hour report of independent  
7 expenditures in support of Lesko, and that CLA’s disclaimers on the communications were  
8 inadequate.

9 Lesko, the Federal Committee, and the State Committee (collectively, “Lesko  
10 Respondents”) assert that the State Committee’s contribution to CLA was permissible and CLA  
11 could use the monies in support of Lesko in its discretion. In response to the MUR 7344  
12 Complaint, CLA asserts that it properly reported the independent expenditures, and that the  
13 omissions on the disclaimers were inadvertent.

14 As explained below, we recommend that the Commission find reason to believe that  
15 Lesko, the State Committee, and CLA transferred, spent, or received funds in connection with an  
16 election for federal office that were not subject to the limitations, prohibitions, and reporting  
17 requirements of the Act. Further, we recommend that the Commission take no action at this time  
18 on the allegation that CLA failed to properly report the receipt of the funds from the State  
19 Committee. We also recommend that the Commission find no reason to believe that CLA failed  
20 to file a 24- or 48-Hour report, and take no action at this time on the allegation that CLA violated  
21 the Act’s disclaimer provisions. Additionally, we recommend that the Commission take no  
22 action at this time as to the Federal Committee. We recommend that the Commission merge

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1 MUR 7327 into MUR 7337. Finally, we recommend the Commission authorize compulsory  
2 process.

3 **II. FACTUAL BACKGROUND**

4 In December 2017, Debbie Lesko, then a State Senator in Arizona, became a candidate in  
5 the 2018 special election for the U.S. House seat from Arizona's Eighth District.<sup>1</sup> On  
6 January 10, 2018, CLA registered with the Commission as an IEOPC.<sup>2</sup> Eight days later, Lesko's  
7 state committee, for which Lesko served as chair and treasurer, contributed \$50,000 to CLA, the  
8 only funds CLA reported receiving other than an unitemized \$50 contribution.<sup>3</sup> According to  
9 CLA's reports, it disbursed \$21,000 for polling the very next day, and on January 29, 2018,  
10 within nine days of receiving the donation, it disseminated mailers supporting Lesko that cost  
11 \$20,193.50 and paid \$7,581 for road signs supporting Lesko.<sup>4</sup> CLA disclosed its disbursement  
12 for the mailers on a 48-hour independent expenditure ("IE") report filed on January 31, 2018,

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<sup>1</sup> See Debbie Lesko's Statement of Candidacy (Dec. 21, 2017). Lesko won the special primary election of the Republican Party for United States Congress on February 27, 2018 and the special general election for United States Congress on April 24, 2018. See [https://azsos.gov/sites/default/files/2018\\_0307\\_official\\_canvass\\_special\\_primary\\_election.pdf](https://azsos.gov/sites/default/files/2018_0307_official_canvass_special_primary_election.pdf) and <https://azsos.gov/about-office/media-center/press-releases/826>. Lesko was re-elected to Congress in November 2018.

<sup>2</sup> See CLA Statement of Organization (Jan. 10, 2018). Lesko's Federal Committee named as treasurer Ashley Ragan, who previously served as treasurer of a state-registered entity called Conservative Leadership for Arizona that operated as an independent-expenditure-only committee from 2014 to 2016. See Federal Committee Original Statement of Organization at 3 (Dec. 12, 2017); Conservative Leadership for Arizona (state-registered committee) 2014 Report (June 30, 2014), available at <https://apps.azsos.gov/apps/election/cfs/search/publicreports/2014/932DB29B-F57F-4553-AB77-7EB3B782DCFC.pdf>. CLA registered a domain name, conservativeaz.org, but through research on Internet, it does not appear to have been used. See CLA Statement of Organization (Jan. 10, 2018). The state-registered committee has a Facebook page that contains information about the 2014 gubernatorial election in Arizona and it appears that it has not been updated since October 2014. See <https://www.facebook.com/ConservativeLeadershipforArizona>.

<sup>3</sup> See State Committee 2018 3rd Report (1st Quarter) at 6 (Apr. 16, 2018); Lesko Resp., Lesko Decl. ¶ 3. CLA Amended 2018 Pre-Special Election Report at 3, 6, 7 (Feb. 19, 2018). CLA did not receive any further contributions during 2018; *see infra* n.6.

<sup>4</sup> CLA disseminated the road signs on February 2, 2018. See CLA Amended 2018 Pre-Special Election Report at 8. Both the mailers and yard signs included the phrase "Debbie Lesko for Congress." See MUR 7344 Compl., Attach.

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1 which was the first reported IE in support of Lesko before the February 27, 2018, special primary  
 2 election.<sup>5</sup> CLA had \$1,230.50 cash-on-hand after the special primary election and has been  
 3 largely inactive since then.<sup>6</sup>

4 CLA's original 2018 Pre-Special Election Report disclosed the \$50,000 receipt from the  
 5 State Committee as unitemized "Other Federal Receipts."<sup>7</sup> After a reporter questioned CLA's  
 6 treasurer concerning its description of this transaction, CLA amended its Pre-Special Election  
 7 Report to disclose the \$50,000 receipt as a contribution from the State Committee.<sup>8</sup>

8 Respondents explain the \$50,000 transfer from the State Committee to CLA as follows.

9 In her declaration, Lesko states that upon becoming a federal candidate, she decided to donate  
 10 the State Committee's funds "to an independent organization that shares [her] values and  
 11 priorities" and, after seeking legal counsel, she asked her political consultant, Brian Murray, to  
 12 select an appropriate organization.<sup>9</sup> Murray avers that he asked Jon Seaton, a consultant to  
 13 Arizona Grassroots Action PAC ("Arizona PAC") about the State Committee making a

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<sup>5</sup> CLA 24/48 Hour Report of Independent Expenditures (Jan. 31, 2018). The next independent expenditure in support of Lesko was made on Feb. 6, 2018. *See* House Freedom Fund 24/48 Hour Report of Independent Expenditures (Feb. 6, 2018).

<sup>6</sup> *See* CLA Amended 2018 Pre-Special Election Report at 2 (Feb. 19, 2018). On subsequent disclosure reports, CLA disclosed no additional receipts. CLA's 2018 April Quarterly and July Quarterly Reports only disclose disbursements of \$10 and \$30, for "other federal operating expenditures," respectively, and cash-on-hand of \$335 and \$305, respectively. *See* CLA 2018 April Quarterly Report at 4 (Apr. 15, 2018); CLA 2018 July Quarterly Report at 4 (July 3, 2018). CLA disclosed \$305 in other federal operating expenditures and a zero balance for its ending cash-on-hand on its 2018 October Quarterly Report. *See* CLA 2018 October Quarterly Report at 2, 3 (Oct. 14, 2018). On its 2019 April Quarterly Report and its 2018 Year-End Report, CLA disclosed no financial activity and cash-on-hand of zero. *See* CLA 2019 April Quarterly Report (Apr. 10, 2019) and CLA 2018 Year-End Report (Jan. 31, 2019).

<sup>7</sup> CLA 2018 Pre-Special Election Report (Feb. 15, 2018) at 3 (Line 17 of detailed summary page).

<sup>8</sup> CLA Amended 2018 Pre-Special Election Report (Feb. 19, 2018) at 3, 6 (Schedule A and Line 11 of detailed summary page); *see* State Committee 2018 3rd Report (1st Quarter) at 6 (Apr. 16, 2018); CLA Resp. in MUR 7327; CLA Resp. in MURs 7337 and 7344, Tim Sifert Decl. ¶ 13.

<sup>9</sup> Lesko Resp., Lesko Decl. ¶ 6.

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1 contribution to Arizona PAC.<sup>10</sup> According to Murray, Seaton told him that Arizona PAC would  
 2 accept a contribution, so Murray told Seaton to provide wiring instructions to Ashley Ragan,  
 3 who both served as the Federal Committee's treasurer and assisted Lesko with the State  
 4 Committee's finances.<sup>11</sup> However, according to Murray, Seaton sent Ragan instructions for a  
 5 wire transfer to CLA, not Arizona PAC.<sup>12</sup> Murray adds that Seaton never mentioned CLA,  
 6 Murray had never heard of CLA, and he did not know that the State Committee's funds had been  
 7 transferred to CLA until CLA reported the transfer to the Commission.<sup>13</sup>

8           In her declaration, Ragan states that she worked with the State Committee's counsel to  
 9 identify federally permissible funds for the contribution, and she received wire transfer  
 10 instructions for CLA from Seaton's business partner, Chad Heywood. She too states that she had  
 11 never heard of CLA,<sup>14</sup> but she assumed Murray had selected CLA, so she prepared the wire  
 12 transfer.<sup>15</sup> Lesko, who personally authorized the transfer, provided an explanation similar to  
 13 Murray's and Ragan's.<sup>16</sup>

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<sup>10</sup> Lesko Resp., Murray Decl. ¶ 5.

<sup>11</sup> Lesko Resp., Murray Decl. ¶ 6; Lesko Decl. ¶ 7; Ragan Decl. ¶ 4.

<sup>12</sup> Lesko Resp., Murray Decl. ¶ 8. Jon Seaton is a partner at East Meridian, an entity with a connection to the company that produced the pro-Lesko mailers for CLA. *See* <http://www.meridianhq.com/>. East Meridian is a part of a strategic political consulting group called the Meridian Family of Companies, which also includes Meridian Pacific. *Id.* Meridian Pacific owns a direct-mail company called Post Road Communications, which is the vendor that produced the CLA mailers supporting Lesko. *See* <https://opengovus.com/sacramento-business/1000636>; *see also* CLA Amended Pre-Special Election Report at 8 (Feb. 19, 2018).

<sup>13</sup> Lesko Resp., Murray Decl. ¶¶ 9, 10.

<sup>14</sup> Ragan acknowledges that she previously served as the treasurer of the state-registered Conservative Leadership for Arizona, although she states that to the best of her knowledge, there is no relationship between the state and federal CLA committees. *See* Lesko Resp., Ragan Decl. ¶ 14.

<sup>15</sup> Lesko Resp., Ragan Decl. ¶ 7. In her affidavit, Ragan does not say if she questioned or investigated the wire transfer to an entity with the same name as one for which she once served as treasurer.

<sup>16</sup> Lesko Resp., Lesko Decl. ¶ 7.

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1 CLA's treasurer, Tim Sifert, responded that he "join[s] in the Lesko response" and denies  
 2 that CLA communicated with Lesko or her campaign. He says nothing more about the State  
 3 Committee's \$50,000 contribution or CLA's expenditures other than that he believed that  
 4 reporting the contribution as "other federal receipts" was correct, and that he amended CLA's  
 5 report after a reporter asked him about it.<sup>17</sup>

6 Finally, as to CLA's \$21,000 expenditure for polling the day after it received \$50,000

7 from the State Committee, the MUR 7327 Complaint attached a news article reporting that a  
 8 Lesko spokesperson said that the campaign had not seen CLA's polling.<sup>18</sup> Neither the Lesko  
 9 Respondents nor Sifert mention the polling in their responses.

10 **III. LEGAL ANALYSIS**

11 **A. The State Committee's Transfer to CLA and CLA's Receipt and Spending of  
 12 the Funds Violated the Soft Money Prohibition**

13 The Complaints allege that the \$50,000 transfer from Lesko's State Committee to CLA

14 and CLA's expenditures in support of Lesko's federal committee violated the Act's soft money  
 15 prohibitions.<sup>19</sup> The Act prohibits federal candidates and officeholders, their agents, and entities  
 16 directly or indirectly established, financed, maintained or controlled by ("EFMC'd") or acting on  
 17 behalf of one or more candidates or individuals holding federal office from "solicit[ing],  
 18 receiv[ing], direct[ing], transfer[ing], or spend[ing] funds in connection with an election for  
 19 federal office . . . unless the funds are subject to the limitations, prohibitions, and reporting

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<sup>17</sup> CLA Resp. in MUR 7327; CLA Resp. in MURs 7337 and 7344, Sifert Decl. ¶¶ 4, 12, 13. Sifert's declaration does not shed light on why the federally-registered CLA and state-registered CLA have the same name. *See supra* n.15.

<sup>18</sup> MUR 7327 Compl. Exh. 2, *Lesko Funds Her Own Independent Expenditure*, THE ARIZONA CAPITOL TIMES, (Feb. 20, 2018).

<sup>19</sup> MUR 7327 Compl. at 1, 2; MUR 7337 Compl. at 1, 2, 6.

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1 requirements of the Act.”<sup>20</sup> Thus, the nature of the funds and the funds being subject to the  
 2 Act’s reporting requirements are separate requirements,<sup>21</sup> and the failure to comply with any one  
 3 aspect is sufficient to comprise a violation.<sup>22</sup> A soft money violation may also result from a  
 4 direct or indirect transfer of funds from a state committee to a federal committee.<sup>23</sup>

5           The Commission has determined that the state campaign committee of a federal  
 6 candidates is, as a matter of law, established, financed, maintained or controlled by the federal  
 7 candidate and is acting on the candidate’s behalf.<sup>24</sup> Accordingly, Lesko EFMC’d the State  
 8 Committee.

9           To determine whether Lesko also directly or indirectly EFMC’d CLA, the Commission  
 10 considers a non-exhaustive list of ten factors set forth in 11 C.F.R. § 300.2(c)(2), as well as any  
 11 other relevant factors, in the context of the overall relationship between the candidate and the  
 12 entity.<sup>25</sup> Some of these factors include whether the candidate “provides funds or goods in a  
 13 significant amount or on an ongoing basis to the entity,” “causes or arranges for funds in a  
 14 significant amount or on an ongoing basis to be provided to the entity,” whether the candidate  
 15 “has authority or ability to direct or participate in the governance of the entity,” “had an active or

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<sup>20</sup>           52 U.S.C. § 30125(e)(1)(A). This provision, among others enacted as part of the Bipartisan Campaign Reform Act of 2002, was designed to “plug the soft-money loophole.” *See McConnell v. FEC*, 540 U.S. 93, 133 (2003).

<sup>21</sup>           See 52 U.S.C. § 30125(e).

<sup>22</sup>           For purposes of statutory interpretation, “one of the most basic interpretive canons” is that a “statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant.” *Rubin v. Islamic Republic of Iran*, 138 S. Ct. 816, 824 (2018) (quoting *Corley v. United States*, 556 U.S. 303, 314 (2009)); *see also Hibbs v. Winn*, 542 U.S. 88, 101 (2004).

<sup>23</sup>           11 C.F.R. § 110.3(d).

<sup>24</sup>           See Advisory Op. 2009-26 (Coulson) at 5; Advisory Op. 2007-26 (Schock) at 4.

<sup>25</sup>           See 11 C.F.R. § 300.2(c)(2).

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1 significant role in the formation of the entity," or whether the candidate "has common or  
 2 overlapping officers or employees with the entity that indicates a formal ongoing relationship."<sup>26</sup>

3 The key factor in this matter is whether Lesko provided funds in a "significant amount or  
 4 an ongoing basis" to CLA. The Commission has approached the question of what constitutes "a  
 5 significant amount" on a case-by-case basis in view of all the relevant circumstances.<sup>27</sup> The  
 6 Commission has explained that amounts that are so large or comprise a substantial percentage of  
 7 the organization's receipts would be considered as "financing" a committee under 11 C.F.R.  
 8 § 300.2.<sup>28</sup> In Advisory Opinion 2006-04 (Tancredo), the Commission determined that a  
 9 donation of 50 percent of an organization's total receipts would be a "significant amount."<sup>29</sup>

10 Lesko authorized the State Committee's \$50,000 wire transfer to CLA, and that  
 11 contribution comprised 99% of CLA's total receipts.<sup>30</sup> Thus, under the above authorities, the  
 12 current record provides reason to believe that Lesko EFMC'd CLA. The Lesko Respondents  
 13 maintain that they did not "finance" CLA because the State Committee made a single  
 14 contribution, they allegedly did not know how the funds would be used, nor did they know  
 15 whether or not the organization had other funding sources.<sup>31</sup> The Lesko Respondents further

<sup>26</sup> 11 C.F.R. § 300.2(c)(2)(ii), (v), (vii), (viii), (ix).

<sup>27</sup> See 11 C.F.R. § 300.2(c)(2); Advisory Op. 2006-04 (Tancredo) at 3.

<sup>28</sup> See Advisory Op. 2004-29 (Akin) at n.4; Advisory Op. 2004-25 (Corzine) at 4.

<sup>29</sup> AO 2006-04 (Tancredo) at 4. The Commission further determined in the context of the overall relationship between the committee and the entity that even a donation of 25 percent of the entity's total receipts would result in the committee "financing" the entity under 11 C.F.R. § 300.2. *Id.* at 4.

<sup>30</sup> As noted, CLA only received another \$50 in contributions, and CLA spent most of its funds within 10 days of receipt of the \$50,000 contribution. See *supra* at 4 and nn.3, 6.

<sup>31</sup> Lesko Resp. at 10. The Lesko Respondents also assert that they did not know that CLA either could not or would not amass funds from other sources, and CLA's fundraising was beyond their control. *Id.* Respondents cite MUR 6753 (People for Pearce) and Advisory Op. 2004-41 (CUNA Mutual) in support of their position, but these authorities are distinguishable. In MUR 6753, the Commission dismissed the alleged soft money violation where the candidate committee's \$10,000 donation to WestPAC, an independent expenditure-only political committee, was

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1 assert that most of the § 300.2(c)(2) factors do not apply to them.<sup>32</sup> None of these arguments  
 2 alters the fact that the State Committee almost completely funded CLA—far beyond the 50% the  
 3 Commission found to constitute “financing” in Advisory Opinion 2006-04.<sup>33</sup>

4 And the available record on the overall relationship between Lesko and CLA—the  
 5 “relevant circumstances” considered by the Commission in determining whether a candidate  
 6 EFMC’d an entity<sup>34</sup>—also raises a sufficient inference that Lesko EFMC’d CLA to warrant  
 7 investigating that relationship. The Lesko Respondents state that the State Committee’s  
 8 contribution was intended to be made to another organization, but a switch made by Jon Seaton  
 9 caused the contribution to be made to CLA. Respondents provide no information from Seaton or  
 10 anyone else to explain the circumstances of that switch. Lesko nevertheless authorized the  
 11 transfer to CLA and does not state that she had no communication with CLA. Instead, she  
 12 denies participating in the establishment and governance of CLA or suggesting that CLA make  
 13 communications in connection with her candidacy.<sup>35</sup> She makes no mention, however, of CLA’s  
 14 polling, on which CLA spent \$21,000 the day after it received the contribution from the State

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a significant amount of WestPAC’s receipts for the first six months of operation, but the \$10,000 donation was ultimately refunded and WestPAC did not disburse any funds for substantive, non-administrative expenses before refunding it. *See* Factual and Legal Analysis in MUR 6753 at 7 (Aug. 11, 2015). In AO 2004-41, the Commission determined that a one-time \$50,000 payment did not constitute evidence of affiliation. *See* 11 C.F.R. § 100.5(g). The current matters are distinguishable from MUR 6753 and AO 2004-41 because the State Committee’s donation to CLA was 99% of CLA’s receipts and CLA immediately spent a significant amount of the funds in support of Lesko’s federal campaign. Moreover, while the affiliation factors are similar to the EFMC factors, the latter incorporates the “directly or indirectly” language of the soft money provisions and, as noted above, AO 2006-04 (Tancredo) specifically addressed the EFMC factors and concluded that “[a] donation” of 50% of an organization’s total receipts constituted “financing.”

<sup>32</sup> Lesko Resp. at 11.

<sup>33</sup> As mentioned above, CLA spent the majority of the \$50,000 on Lesko’s election within nine days of receiving the money.

<sup>34</sup> *See* 11 C.F.R. § 300.2(c)(2); AO 2006-04 (Tancredo) at 3.

<sup>35</sup> Lesko Resp., Lesko Decl. ¶¶ 8-16.

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1 Committee, suggesting that CLA had arranged the spending before its receipt of the funds.  
 2 Lesko avers that she never communicated directly or indirectly with CLA regarding any  
 3 communications or expenditures by CLA,<sup>36</sup> but this general denial does not clarify whether she  
 4 or her agents received any results from CLA's polling.

5 Thus, there is reason to believe Lesko EFMC'd both her State Committee and CLA, and  
 6 the \$50,000 transfer was prohibited because neither the State Committee nor CLA reported the  
 7 donations that comprised the transfer to the Commission. The Lesko Respondents argue that the  
 8 \$50,000 transfer to CLA was permissible because the funds comprising it did not violate the  
 9 Act's source prohibitions and contribution limits.<sup>37</sup> Respondents rely on Advisory Opinion  
 10 2007-26 (Schock), but that opinion addressed a federal candidate's state committee contributing  
 11 funds to other *state* committees, not to a federal committee EFMC'd by the federal candidate.  
 12 The more relevant Advisory Opinion is 2011-21 (Constitutional Conservatives Fund), in which  
 13 the Commission determined that funds received by a committee EFMC'd by a federal candidate  
 14 were subject to the limitations, prohibitions, and reporting requirements of the Act.<sup>38</sup>

15 In addition, in MURs 6563/6733 (Schock), the fact that the underlying funds satisfied the  
 16 source prohibitions and amount limitations did not avoid the violation. The Commission pursued  
 17 Schock, a federal candidate and officeholder, for soliciting a \$25,000 contribution from a

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<sup>36</sup> *Id.* ¶ 15.

<sup>37</sup> Lesko Resp. at 6, 7. Respondents assert that the State Committee applied a "last in, first out" protocol, which the Commission has determined to be a reasonable accounting method, to segregate funds not exceeding \$2,700 from individuals or from federal political action committees not exceeding \$5,000. *Id.* at 7. Arizona does not permit corporate contributions. *Id.* at 7, n.6.

<sup>38</sup> See AO 2011-21 (Constitutional Conservatives Fund) at 4. See 2 U.S.C. § 30125(e)(1)(A); 11 C.F.R. § 300.61. The committee at issue in AO 2011-21 was a leadership PAC. Even assuming that the funds comprising the \$50,000 contribution did not violate the Act's source prohibitions and amount limitations, the State Committee had not reported those funds to the Commission, thus, the contribution was not permissible. See 52 U.S.C. § 30125(e)(1)(A); 11 C.F.R. § 300.61.

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1 multicandidate committee to an IEOPC and a \$25,000 contribution from a local party committee  
 2 to the IEOPC. The underlying funds contributed by the multicandidate committee and the local  
 3 party committee were of federally permissible amounts, but the Commission nevertheless  
 4 applied section 30125(e)'s prohibition on soliciting amounts in excess of the \$5,000 contribution  
 5 limit, and considered Schock's solicitation of the two \$25,000 contributions to violate section  
 6 30125(e).<sup>39</sup> Just as a federal candidate may not solicit nonfederal funds to an IEOPC, a federal  
 7 candidate may not direct or transfer non-federal funds to an IEOPC.

8 In sum, Lesko and the entities she EFMC'd transferred, spent, and received funds that had  
 9 not been reported to the Commission.<sup>40</sup> Section 30125(e) prohibits the State Committee's  
 10 disbursement of \$50,000 in non-federal funds to CLA, CLA's receipt of those funds, and CLA's  
 11 disbursement of the funds in connection with a federal election.<sup>41</sup> Accordingly, we recommend  
 12 that the Commission find reason to believe that Lesko, the State Committee, and CLA violated  
 13 52 U.S.C. § 30125(e)(1)(A).<sup>42</sup>

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<sup>39</sup> Factual and Legal Analysis in MURs 6563/6733 (Aaron Schock). The Commission found reason to believe that Schock violated 52 U.S.C. § 30125(e) and conciliated with him. *See Certifications*, MUR 6563/6733 (Schock)(Nov. 23, 2015)(Reason to Believe), (Oct. 6, 2016)(Accepting Conciliation Agreement). *See also* Advisory Op. 2011-12 (Majority PAC) (federal candidates and officeholders may solicit contributions of up to \$5,000 on behalf of IEOPCs).

<sup>40</sup> Respondents have not disclosed an itemization of the funds comprising the \$50,000 contribution from the State Committee to CLA.

<sup>41</sup> *See* 11 C.F.R. § 300.60, 300.61 (entities EFMC'd by a federal candidate shall not solicit, receive, direct, transfer, spend, or disburse non-federal funds in connection with an election for Federal office).

<sup>42</sup> The MUR 7327 Complaint presents alternative theories of liability, namely, allegations that the same conduct resulted in excessive in-kind contributions due to coordinated communications, *see* 11 C.F.R. § 109.21, or an indirect transfer of funds from a candidate's non-federal committee to her federal committee, *see* 11 C.F.R. § 110.3(d). The MUR 7327 Complaint alleges that the circumstances of Lesko providing nearly all of CLA's funding indicates conduct satisfying the Commission's coordinated communications regulations. MUR 7327 Compl. at 2; 11 C.F.R. § 109.21(d). The Lesko Respondents deny communicating directly or indirectly with CLA's agents or representatives about the plans, projects or needs of Lesko's congressional campaign or CLA's communications or expenditures. Lesko Resp. at 1, 3, n.3. If there were a coordinated communication by CLA it would appear to result in a violation. *See* 11 C.F.R. § 109.22 (any person who is otherwise prohibited from making contributions or expenditures under any part of the Act or Commission regulations is prohibited from paying for a coordinated communication); *see also* Advisory Op. 2017-10 (Citizens Against Plutocracy) at 2 (quoting Advisory

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1        Additionally, CLA paid \$21,000 for polling the day after it received the \$50,000 from the  
 2        State Committee. We do not know whether the polling related to Lesko or any other federal  
 3        candidate, and Respondents did not address the allegations regarding polling. Under these  
 4        circumstances, an investigation is warranted to determine whether CLA's spending on the  
 5        polling also violated section 30125(e).

6        **B. Reporting and Disclaimer Allegations**

7        The Complaints first allege that CLA tried to hide the source of the \$50,000 contribution  
 8        by initially reporting it as "other federal receipts" and not identifying the contributor.<sup>43</sup> And, as  
 9        mentioned above, neither the State Committee nor CLA disclosed to the Commission the  
 10       contributions that comprised the \$50,000 transfer.

11       The Act requires committee treasurers to file reports of receipts and disbursements in  
 12       accordance with the provisions of 52 U.S.C. § 30104.<sup>44</sup> These reports must include, *inter alia*,  
 13       the total amount of receipts and disbursements, including the appropriate itemizations, where  
 14       required.<sup>45</sup>

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Op. 2016-21 (Great America PAC) at 3-4 ("An independent expenditure-only political committee 'may not make contributions to candidates or political party committees, including in-kind contributions such as coordinated communications.'"). The MUR 7327 Complaint also alleges that Lesko has impermissibly transferred her state committee funds to support her Federal Committee in violation of 11 C.F.R. § 110.3(d). *See* MUR 7327 Compl. at 2; *see also* MUR 7337 Compl. at 5-6. The Lesko Respondents assert that the Federal Committee "never received a dime from the State Committee at any time or for any purpose." Lesko Resp. at 2. Further, the Lesko Respondents assert that the Commission has not applied Section 110.3(d) to "transfers by a state campaign committee to a third party independent expenditure organization." *Id.* If during the proposed investigation of the apparent soft money violations we obtain information supporting the coordination and section 110.3(d) allegations, we will make the appropriate recommendations to the Commission.

<sup>43</sup>       MUR 7327 Compl. at 2.

<sup>44</sup>       52 U.S.C. § 30104(a)(1); 11 C.F.R. § 104.1(a).

<sup>45</sup>       52 U.S.C. § 30104(b); 11 C.F.R. § 104.3.

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1 CLA implicitly admits that it misreported the \$50,000 transfer as “other federal receipts,”  
 2 as it immediately amended its report upon learning that this description was improper.<sup>46</sup> The  
 3 Commission’s records show that CLA amended its disclosure report four days after the original  
 4 filing. As we are recommending the Commission find reason to believe on the soft money  
 5 violations, we further recommend the Commission take no action at this time on the reporting  
 6 allegations pending the results of an investigation (*see* section IV below).

7 In addition, the Complaint in MUR 7344 alleges that CLA placed between 400 and 600  
 8 road signs that cost between \$20,000 and \$25,000, but failed to file a 24- or 48-Hour IE Report  
 9 for the road signs. The Complaint alleges that the disclaimers on the road signs and the mailers  
 10 were incomplete because they did not include CLA’s street address, website, or telephone  
 11 number.<sup>47</sup> The disclaimer read, “Paid for by Conservative Leadership for Arizona. Not  
 12 authorized by a candidate or a committee controlled by a candidate.”<sup>48</sup>

13 CLA responds that the road signs cost well under \$10,000, so a 48-Hour Report was not  
 14 required, and a 24-Hour Report was not required because the signs were disseminated outside the  
 15 time window for such reports.<sup>49</sup> CLA also asserts that its disclaimers on its signs and mailers  
 16 were complete except it inadvertently omitted its web address.<sup>50</sup>

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<sup>46</sup> See CLA Resp. in MUR 7327; CLA Resp. in MURs 7337 and 7344, Sifert Decl. ¶¶ 12, 13.

<sup>47</sup> MUR 7344 Compl. at 1.

<sup>48</sup> MUR 7344 Compl., Attach.

<sup>49</sup> CLA Resp. in MURs 7337 and 7344 at 1.

<sup>50</sup> *Id.* CLA disclosed its spending on voter contact mail by a 48-Hour Report on independent expenditures on January 31, 2018.

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1        A person (including a political committee) that makes or contracts to make independent  
 2 expenditures<sup>51</sup> aggregating \$10,000 or more within a calendar year with respect to a given  
 3 election any time prior to the 20th day before the election, must file a report, known as a 48-Hour  
 4 Report, disclosing those expenditures within 48 hours of the communication's public distribution  
 5 or dissemination.<sup>52</sup> A person (including a political committee) that makes or contracts to make  
 6 independent expenditures aggregating \$1,000 or more after the 20th day, but more than 24 hours,  
 7 before the date of an election must file a 24-Hour Report disclosing those expenditures.<sup>53</sup>

8        When a person makes a disbursement for the purpose of financing communications  
 9 expressly advocating the election or defeat of a clearly identified candidate, such communication  
 10 if not authorized by a candidate, an authorized political committee of a candidate, or its agents,  
 11 shall clearly state the name and permanent street address, telephone, or internet address of the  
 12 person who paid for the communication and state that the communication is not authorized by  
 13 any candidate or candidate's committee.<sup>54</sup>

14        According to CLA's reports, it spent \$7,581 on the road signs, and it paid for them on  
 15 January 29, 2018. Thus, the expenditure was less than the \$10,000 threshold for 48-Hour  
 16 Reports and outside of the 20-day window for 24-Hour Reports. Accordingly, we recommend  
 17 that the Commission find no reason to believe that CLA violated 52 U.S.C. § 30104(g).

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<sup>51</sup>        An independent expenditure is an expenditure that expressly advocates the election or defeat of a clearly identified Federal candidate and that is not made in concert or cooperation with, or at the request or suggestion of, the candidate or his or her committee or agent, or a political party committee or its agent. 52 U.S.C. § 30101(17).

<sup>52</sup>        52 U.S.C. § 30104(g)(2); 11 C.F.R. § 104.4(b)(2). A person must file additional reports within 48 hours after each time it makes or contracts to make independent expenditures aggregating an additional \$10,000 with respect to a given election. *Id.*

<sup>53</sup>        52 U.S.C. § 30104(g)(1); 11 C.F.R. § 104.4(c). A person must file additional reports within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional \$1,000 with respect to a given election. *Id.*

<sup>54</sup>        52 U.S.C. § 30120(a)(3).

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1 CLA's disclaimers on the mailers and signs were facially deficient because they did not  
2 include CLA's mailing address, phone number, or web address. The Commission has dismissed  
3 disclaimer violations where the disclaimer was incomplete, such as lacking the "paid for by"  
4 statement where the communication included information from which the public could determine  
5 the party responsible for the communication.<sup>55</sup> In this case, however, CLA's soft money  
6 violations also raise questions regarding the accuracy of the entire disclaimer, which stated that  
7 CLA paid for the communications and they were not authorized by a candidate or a candidate's  
8 committee. As we recommend the Commission find reason to believe on the soft money  
9 violations, we recommend the Commission take no action at this time on the disclaimer  
10 allegations pending an investigation (*see* next section).

#### 11 **IV. PROPOSED INVESTIGATION**

12 In an investigation, we would seek further information regarding the circumstances of the  
13 \$50,000 transfer from the State Committee to CLA. We also intend to determine the substance  
14 of CLA's polling and whether it shared its results with the Federal Committee. We intend to  
15 seek the information informally but request that the Commission authorize compulsory process  
16 should informal means fail.

#### 17 **V. RECOMMENDATIONS**

18 1. Merge MUR 7327 into MUR 7337;  
19 2. Find reason to believe that Debbie Lesko and Re-Elect Debbie Lesko for Senate  
20 violated 52 U.S.C. § 30125(e)(1)(A) by transferring funds that were not subject to  
21 the reporting requirements of the Act and used in connection with a federal election.  
22

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<sup>55</sup> *See* MUR 6814 (Erin Bilbray for Congress) (EPS case).

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- 1       3. Find reason to believe that Conservative Leadership for Arizona and Tim Sifert in
- 2           his official capacity as treasurer violated 52 U.S.C. § 30125(e)(1)(A) by receiving
- 3           and spending funds that were not subject to the reporting requirements of the Act
- 4           and used in connection with a federal election;
- 5
- 6       4. Take no action at this time on the allegation that Conservative Leadership for
- 7           Arizona and Tim Sifert in his official capacity as treasurer improperly reported
- 8           funds received from Re-Elect Debbie Lesko for Senate;
- 9
- 10      5. Find no reason to believe that Conservative Leadership for Arizona and Tim Sifert
- 11           in his official capacity as treasurer violated 52 U.S.C. § 30104(g) in MUR 7344 by
- 12           failing to file 24-Hour or 48-Hour Reports of independent expenditures;
- 13
- 14      6. Take no action at this time on the disclaimer allegations in MUR 7344 against
- 15           Conservative Leadership for Arizona and Tim Sifert in his official capacity as
- 16           treasurer;
- 17
- 18      7. Take no action at this time as to Debbie Lesko for Congress and Ashley Ragan in
- 19           her official capacity as treasurer;
- 20
- 21      8. Approve the attached Factual and Legal Analysis for Debbie Lesko and Re-Elect
- 22           Debbie Lesko for Senate;
- 23
- 24      9. Approve the attached Factual and Legal Analysis for Conservative Leadership for
- 25           Arizona and Tim Sifert in his official capacity as treasurer;
- 26
- 27      10. Approve the use of compulsory process; and

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11. Approve the appropriate letters.

Lisa J. Stevenson  
Acting General Counsel

Charles Kitcher  
Acting Associate General Counsel for Enforcement

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6.11.19

Stephen Gura  
Stephen Gura

Stephen Gura  
Deputy Associate General Counsel for Enforcement

Mark Allen

Mark Allen  
Assistant General Counsel

Delbert K. Rigsby

Delbert K. Rigsby  
Attorney