

**FEDERAL ELECTION COMMISSION**

Washington, DC 20463

February 1, 2023

BY EMAIL ONLY

Justin Clark, Esq.
Elections, LLC
1050 Connecticut Avenue, Suite 500
Washington, DC 20036
Justin.Clark@ElectionLawLLC

RE: MUR 7961
Yankee PAC and Nancy Watkins in
her official capacity as treasurer
(terminated)

Dear Mr. Clark:

On February 17, 2022, the Federal Election Commission notified your client, Yankee PAC and Nancy Watkins in her official capacity as treasurer (terminated), of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On January 24, 2023, the Commission found, on the basis of the information in the complaint, and information provided by your client, that there is no reason to believe Yankee PAC violated 52 U.S.C. § 30114(b) by converting campaign funds to personal use. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). The Factual and Legal Analysis, which explains the Commission's finding, is enclosed for your information.

If you have any questions, please contact Delbert K. Rigsby, the attorney assigned to this matter, at (202) 694-1616 or drigsby@fec.gov.

Sincerely,

Mark Allen

Mark Allen
Assistant General Counsel

Enclosure
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Lou Barletta MUR 7961
Mary Grace Barletta
Leaders Only Unite Political Action Committee (AKA LOU PAC)
and Robert Carlin in his official capacity as treasurer
Yankee PAC and Nancy Watkins in her official capacity as
as treasurer (terminated)

I. INTRODUCTION

According to FEC disclosure reports, Leaders Only Unite Political Action Committee (AKA LOU PAC) (“LOU PAC”), a multicandidate committee that converted from the leadership PAC of former Congressman and former U.S. Senate candidate Lou Barletta, paid \$33,000 in rent over a 21-month period in 2019-2020 for office space at a property jointly owned by Barletta and his wife, Mary Grace Barletta. The amount of rent paid varied from month to month. During the rental period, LOU PAC received a transfer of \$57,428.51 from Yankee PAC, a nonconnected committee which converted from Lou Barletta for Senate. The Complaint alleges that because the rental payment amounts varied, LOU PAC must have at times been overpaying, resulting in the conversion of campaign funds to the personal use of Barletta and his wife, and at other times underpaying, resulting in Barletta and his wife making unreported and excessive in-kind contributions to LOU PAC, both of which are violations of the Federal Election Campaign Act of 1971, as amended (the “Act”).

For the reasons set forth below, the available information does not indicate that LOU PAC is subject to the Act’s personal use prohibition, or that the rent received by Lou and Mary Grace Barletta to LOU PAC was less than or more than the fair market value of the property resulting in either the personal use of campaign funds or the making or accepting of excessive contributions. Thus, the Commission finds no reason to believe that Respondents converted

campaign funds to personal use, in violation of 52 U.S.C. § 30114(b); made or accepted excessive contributions, in violation of 52 U.S.C. § 30116(a)(1)(C) or 52 U.S.C. § 30116(f); or failed to report contributions, in violation of 52 U.S.C. § 30104(b).

II. FACTUAL BACKGROUND

Lou Barletta was a Member of Congress from the 11th Congressional District of Pennsylvania from 2011 to 2019.¹ Barletta established a leadership PAC, LOU PAC, in 2014.² In 2018, Barletta did not run for reelection to the U.S. House of Representatives, but ran for U.S. Senate in Pennsylvania, in which he was unsuccessful.³

On February 13, 2019, LOU PAC paid Mary Grace Barletta \$4,400 for rent, as disclosed on its 2019 Mid-Year Report, for the property jointly owned by Lou Barletta and Mary Grace Barletta located at 322 Rocky Road, Hazleton, Pennsylvania.⁴ On February 27, 2019, Barletta converted his principal campaign committee, Lou Barletta for Senate, to a nonconnected committee named Yankee PAC.⁵ On February 28, 2019, LOU PAC amended its Statement of Organization to convert to a multicandidate committee.⁶ On the same day, Yankee PAC

¹ Compl. at 2 (Feb. 15, 2022); CONGRESS.GOV, <https://www.congress.gov/member/lou-barletta/B001269?q=%7B%22search%22%3A%5B%22civil%22%22defense%22%5D%7D>.

² Compl. at 2; LOU PAC Statement of Organization (June 6, 2014).

³ Compl. at 2; Lou Barletta Statement of Candidacy (Sept. 27, 2017); BALLOTPEdia, https://ballotpedia.org/United_States_Senate_election_in_Pennsylvania_2018.

⁴ LOU PAC 2019 Mid-Year Report at 11 (July 31, 2019); Compl. at 3; LOU PAC and Lou Barletta Resp. at 1 (Mar. 4, 2022).

⁵ Compl. at 3; Yankee PAC Amended Statement of Organization (Feb. 27, 2019).

⁶ Compl. at 2; LOU PAC Amended Statement of Organization (Feb. 28, 2019).

transferred its remaining cash on hand, \$57,428.51, to LOU PAC,⁷ and terminated.⁸ LOU PAC made its next payment to Mary Grace Barletta for rent in the amount of \$2,200 on March 11, 2019.⁹ The chart below shows all of LOU PAC's rental payments to Mary Grace Barletta.

LOU PAC'S Rental Payments to Mary Grace Barletta¹⁰	
Payment Date	Amount
February 13, 2019	\$4,400
March 11, 2019	\$2,200
April 1, 2019	\$2,200
May 1, 2019	\$2,200
June 3, 2019	\$2,200
July 1, 2019	\$2,200
August 1, 2019	\$2,200
September 3, 2019	\$1,100
October 1, 2019	\$1,100
November 1, 2019	\$1,100
December 2, 2019	\$1,100
January 2, 2020	\$1,100
February 1, 2020	\$1,100
March 2, 2020	\$1,100
April 1, 2020	\$1,100
May 1, 2020	\$1,100
June 1, 2020	\$1,100
July 1, 2020	\$1,100
August 3, 2020	\$1,100
September 1, 2020	\$1,100
October 1, 2020	\$1,100
Total	\$33,000

⁷ Compl. at 3; Yankee PAC Termination Report at 16 (Mar. 15, 2019); LOU PAC 2019 Mid-Year Report at 6 (July 30, 2019).

⁸ Yankee PAC filed a termination report on March 15, 2019, and the Commission approved Yankee PAC's termination. Termination Approval (Mar. 22, 2019).

⁹ LOU PAC 2019 Mid-Year Report at 11 (July 31, 2019).

¹⁰ LOU PAC 2019 Mid-Year Report at 12, 13 (July 31, 2019); 2019 Year-End Report at 7, 8 (Jan. 30, 2020); 2020 February Monthly Report at 6 (Feb. 20, 2020); 2020 March Monthly Report at 6 (Mar. 30, 2020); 2020 April Monthly Report at 7 (Apr. 20, 2020); 2020 May Monthly Report at 6 (May 20, 2020); 2020 June Monthly Report at 6 (June 19, 2020); 2020 July Monthly Report at 6 (July 20, 2020); 2020 August Monthly Report at 6 (Aug. 20, 2020); 2020 September Monthly Report at 6 (Sept. 18, 2020); 2020 October Monthly Report at 9 (Oct. 20, 2020); 2020 Pre-General Report at 7 (Oct. 22, 2020).

During the 2020 election cycle, LOU PAC had a beginning cash-on-hand of \$111,141.74, \$133,235.47 in total receipts, including contributions totaling \$51,047.20 and transfers from affiliated committees of \$81,310.24,¹¹ total disbursements of \$207,837.69 including operating expenditures of \$164,597.69, contributions to other committees of \$22,500.00, and other disbursements of \$20,740.00, and ending cash-on-hand of \$36,539.52.¹²

The Complaint alleges that between February 2019 and October 2020, LOU PAC paid rent to Mary Grace Barletta for office space in Hazleton, Pennsylvania, jointly owned by Lou and Mary Grace Barletta, in varying amounts, \$4,400 for the first month's rent, \$2,200 a month for the next six months, and \$1,100 per month until the end of the 2020 election cycle.¹³ The Complaint cites the varying monthly rent as suggesting that in some months the rental payments exceeded the fair market value, in which case the amount of payments above the fair market value consisted of Lou Barletta's and Mary Grace Barletta's personal use of campaign funds, and in other months the payments were below fair market value, in which case the payments constituted excessive and unreported contributions from Lou Barletta and Mary Grace Barletta to LOU PAC.¹⁴

¹¹ LOU PAC 2019 Mid-Year Report at 6 (July 29, 2019) (LOU PAC received \$57,428.51 from Lou Baretta for Senate on February 28, 2019, \$19,825 from Lou Victory Fund, a joint fundraising committee, on January 22, 2019, and \$4,056.73 from Lou Victory Fund on January 28, 2019). Although Lou Barletta for Senate was converted to Yankee PAC on February 27, 2019, LOU PAC disclosed its receipt of the transfer of \$57,428.51 on February 28, 2019 from Lou Barletta for Senate. Yankee PAC Termination Report at 16 (Mar. 15, 2019) (Yankee PAC transfer to LOU PAC).

¹² FEC Receipts and Disbursements, <https://www.fec.gov/data/committee/C00564369> (reflecting a summary of LOU PAC's financial activity for the period between January 1, 2019 and December 31, 2020).

¹³ Compl. at 4.

¹⁴ *Id.* at 5.

The Complaint describes the property as a functional garage space, professional office space on two levels and a ground loading dock area jointly owned by Lou and Mary Grace Barletta from at least 2011 to November 2020.¹⁵ The Complaint states that although LOU PAC's disclosure reports indicate that it paid rent to Mary Grace Barletta, Lou Barletta's Financial Disclosure Reports filed with the U.S. House of Representatives between 2011 and 2019 indicate that he received between \$15,001 and \$50,000 annually in rental income from this jointly owned property from at least 2011.¹⁶ The Complaint also states that Lou and Mary Grace Barletta sold the property for \$800,000 in November 2020.¹⁷

In response to the Complaint, LOU PAC and Barletta assert that LOU PAC entered into a lease agreement with Mary Grace Barletta to rent the property located at 322 Rocky Road, Hazleton, Pennsylvania, from January 1, 2019 through October 31, 2020 at \$2,200 per month.¹⁸ The Response asserts that "LOU PAC's expenditures constituted fair market value."¹⁹ LOU PAC and Barletta also assert that the initial payment of \$4,400 was for the January and February 2019 rent, the standard rent of \$2,200 per month was paid through August 2019, and from September 2019 through October 2020, LOU PAC "relinquished, or otherwise sublet, half of the Premises and accordingly paid 50% of the standard lease amount during such time," or \$1,100.²⁰

¹⁵ *Id.* at 3-4; *id.*, Ex. A at 2.

¹⁶ Compl. at 4; *see, e.g.*, Lou Barletta 2019 House Financial Disclosure Statement (Jan. 24, 2019), https://disclosures-clerk.house.gov/public_disc/financial-pdfs/2019/10025047.pdf.

¹⁷ Compl. at 4. According to the deed of sale, the property consists of 5.22 acres. *Id.* at Ex. A.

¹⁸ LOU PAC and Lou Barletta Resp. at 1; *see* February 2020 listing of the property at LOOPNET, <https://www.loopnet.com/Listing/322-Rocky-Rd-Hazleton-PA/9082910/>; *see also* Google Earth, <http://earth.google.com/web/search/322+Rocky+Road,Hazleton,+PA/40.9357>.

¹⁹ LOU PAC and Lou Barletta Resp. at 2 n.2.

²⁰ *Id.* at 1, 2.

Yankee PAC’s brief Response asserts that for the reasons stated in the LOU PAC and Barletta Response, it requests that the Commission find no reason to believe in this matter, dismiss this Complaint and close the file.²¹

III. LEGAL ANALYSIS

The Act and Commission regulations define “contribution” as any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.²² “Anything of value” includes “all in-kind contributions,” such as the “provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services.”²³ If the goods or services are provided at less than the usual and normal charge, the amount of the in-kind contribution is the difference between the usual and normal charge and the amount charged to the political committee.²⁴ The Act provides that each treasurer of a political committee shall file reports of receipts and disbursements in accordance with the provisions of 52 U.S.C. § 30104.²⁵

Under the Act, a contribution accepted by a candidate may be used by the candidate for otherwise authorized expenditures in connection with the campaign for federal office of the candidate.²⁶ The Act and Commission regulations give candidates wide discretion over the use of

²¹ Yankee PAC Resp. at 1 (Apr. 1, 2022). Mary Grace Barletta did not respond to the Complaint.

²² 52 U.S.C. § 30101(8)(A)(i); 11 C.F.R. § 100.52(a).

²³ 11 C.F.R. § 100.52(d)(1).

²⁴ *Id.*

²⁵ 52 U.S.C. § 30104(a)(1); *id.* § 30104(b).

²⁶ *Id.* § 30114(a)(1).

campaign funds.²⁷ However, a contribution received by a candidate shall not be converted by any person to personal use.²⁸ “Personal use” means any use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation, or expense of any person that would exist irrespective of the candidate’s campaign or duties as a federal officeholder.²⁹

The Act and Commission’s regulations enumerate certain expenses that are considered *per se* “personal use” and thus prohibited, including mortgage, rent or utility payments.³⁰ With respect to real or personal property that is owned by the candidate or a member of the candidate’s family and used for campaign purposes, payments to a present or former candidate are prohibited to the extent the payments exceed the fair market value of the property usage.³¹

The Commission has previously determined that where a political committee receives goods or services from a company partly owned by a candidate, it must avoid paying more or less than the fair market value to avoid converting the funds to personal use or receiving an in-kind contribution, respectively.³² No person shall make contributions to a multicandidate committee in

²⁷ Explanation and Justification for Expenditures; Reports by Political Committees; Personal Use of Campaign Funds, 60 Fed. Reg. 7862, 7863 (Feb. 9, 1995).

²⁸ 52 U.S.C. § 30114(b)(1).

²⁹ *Id.* § 30114(b)(2); 11 C.F.R. § 113.1(g).

³⁰ 52 U.S.C. § 30114(b)(2); 11 C.F.R. § 113.1(g)(1)(i)(I).

³¹ 11 C.F.R. § 113.1(g)(1)(i)(E)(2).

³² Advisory Opinion 1995-08 at 3 (Stupak) (“You have suggested that the rental amount charged may be below the usual and normal charge for rental of the building. Although this avoids the payment of excessive rent and, hence, personal use of campaign funds, the undercharging for rent would constitute something of value to the committee and would thus be an in-kind contribution from your spouse and you.”).

any calendar year which in the aggregate exceed \$5,000.³³ No candidate or political committee shall knowingly accept an excessive contribution.³⁴

The Commission has concluded that principal campaign committees can be converted to multicandidate committees, but contributions received when the committee was still a principal campaign committee remain subject to the personal use prohibition.³⁵ Here, Barletta's principal campaign committee, Lou Barletta for Senate, converted to a nonconnected committee, Yankee PAC.³⁶ Yankee PAC transferred its funds to LOU PAC, a leadership PAC that converted to a multicandidate committee the same day it received funds from Yankee PAC.³⁷ LOU PAC made one rental payment of \$4,400 on February 13, 2019, before it received funds from Yankee PAC.³⁸ The majority of rental payments were made after LOU PAC's receipt of the funds from Yankee PAC, at which point LOU PAC contained leadership PAC funds and funds that originated as contributions to Barletta's principal campaign committee. The Complaint alleges that LOU PAC's funds were subject to the personal use prohibition and that the rent payments constituted personal use to the extent the rent exceeded the fair market value of the property.³⁹

³³ 52 U.S.C. § 30116(a)(1)(C); 11 C.F.R. § 110.1(d).

³⁴ 52 U.S.C. § 30116(f).

³⁵ Factual & Legal Analysis at 5, MUR 7578 (FAIRPAC); Factual & Legal Analysis at 6-7, MUR 7850 (Freedom First PAC).

³⁶ Yankee PAC Amended Statement of Organization (Feb. 27, 2019).

³⁷ LOU PAC Amended Statement of Organization (Feb. 28, 2019). The term "leadership PAC," with respect to a candidate for Federal office or an individual holding Federal office, is a political committee that is directly or indirectly established, financed, maintained or controlled by the candidate or the individual, but which is not an authorized committee of the candidate or individual and not affiliated with an authorized committee of the candidate or individual. 11 C.F.R. § 100.5(e)(6).

³⁸ As of January 1, 2019, LOU PAC had cash-on-hand of \$111,141.74. LOU PAC 2019 Mid-Year Report (July 31, 2019). It also received other contributions before receipt of the transfer of funds from Yankee PAC. *Id.*

³⁹ Compl. at 5.

However, the Act and Commission regulations state that the prohibition against personal use applies only to the “use of funds in a campaign account of a present or former candidate”—i.e., the prohibition is limited in scope to funds held by a candidate’s authorized committee.⁴⁰ The Commission has never determined that the personal use restrictions extend to a leadership PAC, which by definition cannot be an authorized candidate committee.⁴¹ In Advisory Opinion 2008-17 (KITPAC), the Commission explained that a candidate’s leadership PAC, which “cannot be affiliated with an authorized committee,” was a “‘third party’ for the purposes of 11 C.F.R. § 113.1(g)(6),” and that the leadership PAC could permissibly pay for certain expenses without making a contribution to the candidate, whereas the candidate’s campaign committee’s payment of those same expenses would constitute personal use.⁴² Thus, absent a change in Commission regulations, the personal use prohibition is inapplicable to LOU PAC because it is not an authorized candidate committee.

Moreover, even if the personal use prohibition did apply in these circumstances, the available information does not indicate that LOU PAC paid too much or too little rent causing either the personal use of campaign funds or an excessive contribution to LOU PAC. The only specific information cited in support of the Complaint’s allegations is that LOU PAC paid varying amounts of rent over a 21-month period. However, LOU PAC and Barletta assert that pursuant to the lease, the monthly payments were \$2,200 per month, which was fair market value, and that

⁴⁰ See 52 U.S.C. § 30114(b); 11 C.F.R. § 113.1(g). See also 11 C.F.R. § 100.5(f)(1) (“An authorized committee means the principal campaign committee or any other political committee authorized by a candidate . . . to receive contributions or make expenditures on behalf of such candidate”).

⁴¹ See 11 C.F.R. § 100.5(e)(6) (defining “leadership PAC”).

⁴² AO 2008-17 at 3-4 n.4.

the first payment of \$4,400 covered two months of rent. Beginning in September 2019 through October 2020, Lou PAC “relinquished, or otherwise sublet, half of the Premises and accordingly paid 50% of the standard lease amount during such time,” and paid \$1,100 per month during that period.⁴³ We do not have any information to dispute these contentions. Respondents do not provide any information regarding the circumstances of the change in the need for rental space, but the general decrease in LOU PAC’s activity during those months is consistent with a reduction in the need for office space.⁴⁴

In the absence of information that LOU PAC was paying too much or too little in rent, this matter does not warrant a reason to believe finding. Thus, the Commission finds no reason to believe that Lou Barletta and Mary Grace Barletta made excessive contributions to LOU PAC. Further, the Commission finds no reason to believe that LOU PAC accepted excessive contributions from Lou Barletta and Mary Grace Barletta and failed to report the contributions. In addition, the Commission finds no reason to believe that LOU PAC’s rental payments to Lou Barletta and Mary Grace Barletta constituted the personal use of campaign funds. Finally, the

⁴³ LOU PAC and Barletta refer to the lease in their Response, but did not submit a copy of the lease. Barletta reported income between \$15,001 and \$50,000 on his 2019 House Financial Disclosure Report for the property rented at 322 Rocky Road, Hazleton, Pennsylvania. See https://disclosures-clerk.house.gov/public_disc/financial-pdfs/2019/10025047.pdf. The amount of rent that LOU PAC paid in 2019 for this property was \$22,000, which is within the broad range disclosed on previous House Financial Disclosure Statements. See 2019 LOU PAC Mid-Year Report at 12, 13 (July 31, 2019); LOU PAC 2019 Year-End Report at 7, 8 (Jan. 30, 2020).

⁴⁴ LOU PAC paid a salary of \$3,800 or \$3,850 per month to Caroline Maloney in 2019 and \$2,800 per month in 2020, except for a salary of \$1,500 as disclosed on the 2020 Pre-General Report for the month of October 2020. LOU PAC 2019 Mid-Year Report at 20, 21 (July 31, 2019); 2019 Year-End Report at 16, 17, 18 (Jan. 31, 2020); 2020 February Monthly Report at 7 (Feb. 20, 2020); 2020 March Monthly Report at 7 (Mar. 20, 2020); 2020 April Monthly Report at 8 (Apr. 20, 2020); 2020 May Monthly Report at 7 (May 20, 2020); 2020 June Monthly Report at 7 (June 19, 2020); 2020 July Monthly Report at 7 (July 20, 2020); 2020 August Monthly Report at 7 (Aug. 20, 2020); 2020 September Monthly Report at 7 (Sept. 18, 2020); 2020 October Monthly Report at 10 (Oct. 20, 2020); 2020 Pre-General Report at 9 (Oct. 22, 2020). During several months in 2020, LOU PAC did not receive any contributions, nor did it make any contributions to federal candidates. See 2020 February Monthly Report at 3, 4 (Feb. 20, 2020); 2020 March Monthly Report at 3, 4 (Mar. 20, 2020); 2020 May Monthly Report at 3, 4 (May 20, 2020); 2020 June Monthly Report at 3, 4 (June 19, 2020); 2020 September Monthly Report at 3, 4 (Sept. 18, 2020).

MUR 7961 (LOU PAC, *et al.*)
Factual and Legal Analysis
Page 11 of 11

Commission finds no reason to believe that Yankee PAC (terminated) converted campaign funds to personal use.