



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 7961
Leaders Only Unite PAC, *et al.*)
)

**SUPPLEMENTAL STATEMENT OF REASONS OF
VICE CHAIRMAN SEAN J. COOKSEY**

In a Statement of Reasons explaining their dissenting votes in this matter, my colleagues claim that “for the first time, a majority of the Commission explicitly determined that the Federal Election Campaign Act (FECA)’s personal-use restriction does not apply to leadership PACs,”¹ and that the Commission has “announced a substantive departure from Commission precedent on the personal-use prohibition’s application to leadership PACs.”²

Respectfully, that’s wrong. As described in the Factual and Legal Analysis,³ the Commission’s decision in this matter follows directly from Advisory Opinion 2008-17 (KITPAC), in which the Commission explained that because “a leadership PAC cannot be affiliated with an authorized committee[,] [a leadership PAC] is a ‘third party’ for purposes of 11 CFR [§] 113.1(g)(6).”⁴ Indeed, in explaining her vote against that advisory opinion, Commissioner Weintraub acknowledged that it “would allow a leadership PAC to pay for any expenses that would be deemed a personal use if it were paid for by the principal campaign committee of the candidate.”⁵

The Commission further acknowledged four separate times—in unanimously adopted legislative recommendations—that while the Act “makes it illegal for an individual to use contributions accepted by a candidate or a candidate’s committee for his or her own personal use

¹ Statement of Reasons of Commissioners Broussard and Weintraub at 1 (Mar. 2, 2023), MUR 7961 (LOU PAC, *et al.*).

² *Id.* at 3.

³ Factual & Legal Analysis at 9 (Feb. 1, 2023), MUR 7961 (LOU PAC, *et al.*).

⁴ Advisory Op. 2008-17 (KITPAC) at 4 n.4. *See also* First General Counsel’s Report at 7–8 (Feb. 15, 2013), MUR 6506 (Friends of Gregory Meeks, *et al.*) (“But the [personal use statutory provision] does not extend to other committees, such as a leadership PAC.”).

⁵ Audio File at 12:00, Open Meeting of the Federal Election Commission (Dec. 18, 2008), *available at* <https://www.fec.gov/updates/december-18-2008-open-meeting>.

... no corresponding provision covers individuals who convert contributions received by party committees, separate segregated funds, leadership PACs, and other political committees to their own personal use.”⁶ The 2013 legislative recommendations went so far as to say that “[l]eadership PACs present a particularly compelling case” for a legislative amendment subjecting them to the personal-use restriction, but “Congress might not have considered the application of the personal use prohibition to this particular type of political committee.”⁷

The KITPAC advisory opinion—which my colleagues’ statement relegates to a footnote—remains a binding Commission precedent interpreting the personal-use regulation.⁸ That precedent has not changed.



 Sean J. Cooksey
 Vice Chairman

March 2, 2023

 Date

⁶ *Legislative Recommendations of the Federal Election Commission 2013* at 12 (Dec. 17, 2013), available at <https://www.fec.gov/resources/cms-content/documents/legrec2013.pdf>; Draft Legislative Recommendations 2013, Certification (Dec. 17, 2013); *Legislative Recommendations of the Federal Election Commission 2012* at 7 (May 10, 2012), available at <https://www.fec.gov/resources/cms-content/documents/legrec2012.pdf>; Draft Legislative Recommendations 2012, Certification (May 10, 2012); *Legislative Recommendations of the Federal Election Commission 2011* at 4 (Mar. 16, 2011), available at <https://www.fec.gov/resources/cms-content/documents/legrec2011.pdf>; Draft Legislative Recommendations 2011, Certification (Mar. 16, 2011); *Legislative Recommendations of the Federal Election Commission 2009* at 4 (Mar. 19, 2009), available at <https://www.fec.gov/resources/cms-content/documents/legrec2009.pdf> (punctuation altered); Draft Legislative Recommendations, Certification (Mar. 19, 2009).

⁷ *Legislative Recommendations of the Federal Election Commission 2013* at 12 (Dec. 17, 2013), available at <https://www.fec.gov/resources/cms-content/documents/legrec2013.pdf>.

⁸ See Interpretive Statement of Commissioner Sean J. Cooksey (May 6, 2021), available at https://www.fec.gov/resources/cms-content/documents/2021-05-06_Interpretive_Statement_of_Cmsr_Cooksey.pdf.