



FEDERAL ELECTION COMMISSION  
 WASHINGTON, D.C. 20463

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
 )  
 Keith Gross for Florida and Jason D. Boles ) MUR 8144  
 in his official capacity as treasurer, *et al.* )  
 )

**STATEMENT OF REASONS OF VICE CHAIR ELLEN L. WEINTRAUB AND  
 COMMISSIONERS SHANA M. BROUSSARD AND DARA LINDENBAUM**

The Complaint alleges that Keith Gross, a 2024 Senate candidate in Florida, incorporated and used Advancing Florida, a 501(c)(4) entity, for testing-the-waters activity resulting in prohibited corporate contributions to Gross’s campaign committee, Keith Gross for Florida (“Committee”).<sup>1</sup> The Complaint further alleges that Advancing Florida failed to register and report as a political committee, and that Gross failed to timely file his Statement of Candidacy.<sup>2</sup> Respondents argue that Advancing Florida was merely a vendor and that the Committee properly reported Gross’s payments to Advancing Florida as in-kind contributions from Gross to the Committee.<sup>3</sup> Respondents deny the remaining allegations.<sup>4</sup>

The Office of General Counsel (“OGC”) recommended that the Commission dismiss the allegations in the Complaint.<sup>5</sup> Although the Commission unanimously agreed with OGC’s recommendations to dismiss, the Commission did not approve a factual and legal analysis.<sup>6</sup> We write this Statement to explain the reasons for our vote to dismiss the allegation that Advancing Florida made, and the Committee accepted, prohibited or excessive corporate contributions. We otherwise adopt OGC’s analysis.<sup>7</sup>

The Complaint and Response offer two different glosses on essentially undisputed facts. While the Committee argues that Gross paid Advancing Florida as a vendor, the Complaint

<sup>1</sup> Compl. at 11 (June 21, 2023).

<sup>2</sup> *Id.* at 1-2, 13.

<sup>3</sup> Gross Resp. at 2-3 (Aug. 7, 2023).

<sup>4</sup> *Id.* at 5.

<sup>5</sup> First Gen. Counsel’s Rpt. at 14-15 (June 27, 2024).

<sup>6</sup> Certification ¶¶ 1, 2.a. (Aug. 15, 2024).

<sup>7</sup> *See* First Gen. Counsel’s Rpt. at 12-14.

alleges that Gross created and capitalized Advancing Florida to test the waters. The distinction matters because the raising of funds for testing-the-waters activities must comply with the source limitations and prohibitions of the Act,<sup>8</sup> including the prohibition on corporate in-kind contributions.<sup>9</sup> If Advancing Florida was a vendor, then the Committee reported the expenditures correctly as in-kind contributions from Gross to the Committee. However, if Gross capitalized Advancing Florida such that Gross's personal funds became the corporate funds of Advancing Florida, then Advancing Florida arguably made prohibited in-kind contributions to the Committee. Nevertheless, candidates may spend unlimited personal funds to further their own campaigns.<sup>10</sup> Given that all of Advancing Florida's funds appear to have originated from Gross and in light of the Commission's scarce resources, we voted to dismiss the allegation as an exercise of prosecutorial discretion.<sup>11</sup>

September 9, 2024

Date



Ellen L. Weintraub  
Vice Chair

9/9/24

Date



Shana M. Broussard  
Commissioner

9/9/24

Date



Dara Lindenbaum  
Commissioner

<sup>8</sup> 11 C.F.R. §§ 100.72, 100.131.

<sup>9</sup> 52 U.S.C. § 30118(a).

<sup>10</sup> 11 C.F.R. § 110.10 (implementing *Buckley v. Valeo*, 424 U.S. 1, 52 (1976)).

<sup>11</sup> *Heckler v. Chaney*, 470 U.S. 821 (1985).