

**FACT**FOUNDATION FOR
ACCOUNTABILITY
AND CIVIC TRUST**MUR 8164**

September 7, 2023

Ms. Lisa J. Stevenson
Acting General Counsel
Office of the General Counsel
Federal Election Commission
1050 First Street, NE
Washington, D.C. 20463

Email: EnfComplaint@fec.gov**COMPLAINT BEFORE THE FEDERAL ELECTION COMMISSION**

RE: GWEN PAC

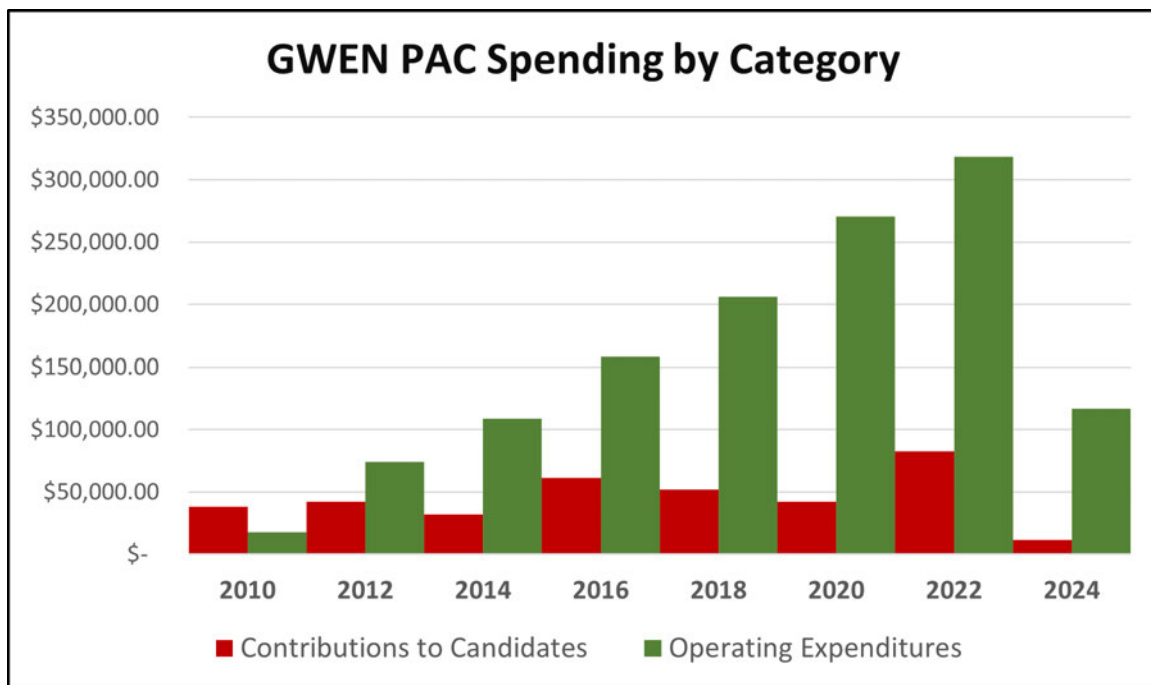
Dear Ms. Stevenson,

The Foundation for Accountability and Civic Trust (FACT) is a nonprofit organization dedicated to promoting accountability, ethics, and transparency in government and civic arenas. We achieve this mission by hanging a lantern over public officials who put their own interests over the interests of the public good. This complaint is submitted upon information and belief that Representative Gwen Moore has abused her leadership PAC to the extent its activity demonstrates it is a 'scam PAC' and is in violation of the Federal Election Campaign Act (FECA or the Act).¹ We request the Federal Election Commission (FEC) investigate and, if needed, take appropriate enforcement actions.²

¹ This complaint is submitted pursuant to 52 U.S.C. § 30109(a)(1) and is against Rep. Gwen Moore (FEC ID # H4WI04183) and Giving Willingly Empowering Nationally PAC (GWEN PAC) (FEC ID # C00431478).

² "If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [Act] . . . [t]he Commission shall make an investigation of such alleged violation." 52 U.S.C. § 30109(a)(2); 11 C.F.R. § 111.4(a).

A scam PAC is a political action committee that raises funds under the guise of supporting candidates or causes, but actually spends the money it raises primarily on other costs that may be described as “administrative and fundraising expenses”, often times for the benefit of the founders. Although there is no precise ratio of spending, any time a PAC’s administrative costs constitute its primary spending then it is likely a scam PAC. In this case, Rep. Moore has a leadership PAC, GWEN PAC, which if operating as intended under the law should be supporting candidates but primarily spends its funds elsewhere. GWEN is an acronym for “Giving Willingly Empowering Nationally” which, as will be clearly demonstrated below, is unfortunately the epitome of irony—without question this entity has given very little and has empowered almost no one. The extent of this can be seen in the graphs below, but, for example, in one recent two-year period **only 14% of its spending went to support candidates or causes** while the remaining 86% was spent on other items.³ By a plain reading of the text, it is clear that the Act does not allow for candidates to use federal funds in this manner.



³ Note on data: FACT’s analysis was made using processed [receipt](#) and [disbursement](#) data submitted to the FEC by GWEN PAC.

FACTS

Rep. Gwen Moore established a leadership pact named “Giving Willingly Empowering Nationally” or “GWEN PAC.”⁴ Since its inception, approximately 22% of GWEN PAC’s spending has gone to contributions to other political candidates and political committees, while around 78% has gone to operating expenditures, which can be seen in the table below:⁵

Election Cycle	Receipts	Total Expenditures	Total Committee Contributions (% Of Total Expenditures)	Total Operating Expenditures (% Of Total Expenditures)
2008	\$5,000.00	\$0.00	\$0.00 (0%)	\$0.00 (0%)
2010	\$54,350.00	\$55,637.32	\$38,000.00 (68%)	\$17,637.32 (32%)
2012	\$117,777.57	\$116,836.75	\$42,000.00 (36%)	\$74,086.75 (63%)
2014	\$144,046.10	\$141,141.80	\$32,000.00 (23%)	\$108,641.80 (77%)
2016	\$225,906.11	\$219,151.85	\$61,200.00 (28%)	\$157,951.85 (72%)
2018	\$252,723.00	\$258,209.79	\$52,000.00 (20%)	\$205,809.79 (80%)
2020	\$325,243.70	\$312,751.58	\$42,322.59 (14%)	\$270,428.99 (86%)
2022	\$397,500.26	\$401,186.45	\$82,595.06 (21%)	\$318,591.39 (79%)
2024	\$140,234.90	\$128,140.02	\$11,448.18 (9%)	\$116,691.84 (91%)
Total	\$1,662,781.64	\$1,633,055.56	\$361,565.83 (22%)	\$1,269,839.73 (78%)

Notably, in recent years the spending disparity has grown even worse, routinely approaching or even exceeding 80% of its total disbursements.⁶ For example, in the 2019-2020 election cycle, **only 14% of GWEN PAC’s spending went to candidates**, while 86% of disbursements went towards other expenses. In the 2021-2022 election cycle, 21% of GWEN PAC’s spending went to candidates, while 79% went to other expenses. So far in the 2023-2024 election cycle, **only 9% of GWEN PAC’s spending has gone towards candidates**, while 91%

⁴ “FEC Form 1 – Statement Of Organization,” [GWEN PAC](#), Filed Jan. 3, 2007.

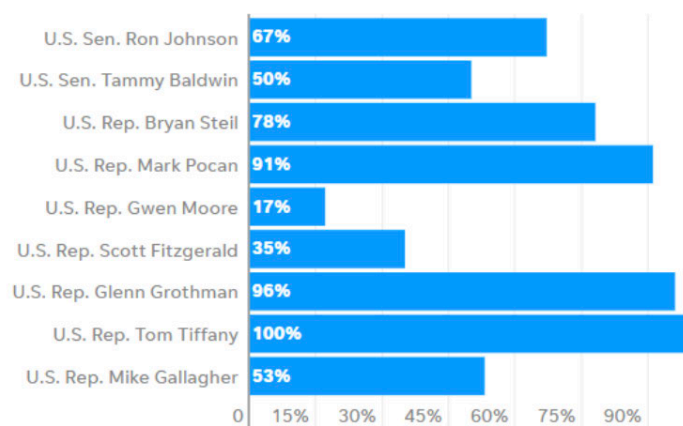
⁵ GWEN PAC, Federal Election Commission, available at: <https://www.fec.gov/data/committee/C00431478/>.

⁶ Federal Election Commission, GWEN PAC Disbursements, available at: https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00431478&max_date=12/31/2024.

has paid for other expenses.⁷ When questioned about the PAC's unbalanced spending, Rep. Moore's chief of staff reportedly admitted: "Our expenditures-to-contributions has historically been about 20%, and I suspect that will be the case going forward."⁸ This is a problematic statement as this is the same ratio as a scam PAC.

This spending ratio is clearly antithetical to the intent of a leadership PAC. One of the many ways to demonstrate this is through a cross-partisan, current view of her and her fellow state colleagues. As compared to other Members of Congress from Wisconsin who also have leadership PACs, GWEN PAC's ratio of spending on its purported mission from January 2019 to December 2022 is by a very wide margin the worst, according to a recent analysis published in *The Milwaukee-Journal Sentinel*:⁹

Percent spent on political donations



Source: Federal Elections Commission.

In addition to GWEN PAC's spending ratios being the same as a scam PAC, the *Milwaukee Journal-Sentinel* noted Rep. Moore appeared to be abusing her leadership PAC to

⁷ *Id.*

⁸ Daniel Bice, *U.S. Rep Gwen Moore Used Her Leadership PAC On Lobster, Limos And Wine Country Luxury*, [Milwaukee Journal-Sentinel](#), May 30, 2023 (Exhibit A).

⁹ Daniel Bice, *U.S. Rep Gwen Moore Used Her Leadership PAC On Lobster, Limos And Wine Country Luxury*, [Milwaukee Journal-Sentinel](#), May 30, 2023. (Exhibit A).

subsidize a lavish lifestyle, which is also indicative of a scam PAC.¹⁰ According to our analysis, GWEN PAC has spent \$361,565.83 on contributions to campaigns or committees compared with \$1,269,839.73 on operating expenses since its inception.¹¹ Of the nearly \$1.3 million spent on operating expenses:

- \$366,692.65 was spent on fundraising-related services—more than what was spent on political contributions. These fundraising consulting payments have largely gone towards individuals, including Rep. Moore’s own sister, Brenda Moore, who has received \$57,235.¹²
- \$430,336.89 was spent on travel, food, catering, lodging, and facility rentals—again more than what was spent on political contributions. These expenditures have included numerous large purchases at upscale restaurants; over \$17,000 at a single resort in California wine country between February and April 2022¹³; over \$26,000 at Uber and Uber Eats¹⁴ (which includes \$19,000 on 363 trips with Uber and 175 meals via Uber Eats from 2019 to 2022—making the four-year-period average one Uber trip every four days and one Uber Eats meal every eight days¹⁵); \$5,573.23 at Starbucks¹⁶; nearly \$36,000 on tickets¹⁷ (including tickets to see the popular Broadway show

¹⁰ *Id.*

¹¹ Federal Election Commission, GWEN PAC Disbursements, available at: https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00431478&max_date=12/31/2022.

¹² See disbursements to Moore, Brenda: https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00431478&recipient_name=moore%2C+brenda

¹³ See disbursements to Fairmont Sonoma: https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00431478&recipient_name=sonoma

¹⁴ ¹⁴ See disbursements to Uber: https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00431478&recipient_name=uber

¹⁵ Daniel Bice, *U.S. Rep Gwen Moore Used Her Leadership PAC On Lobster, Limos And Wine Country Luxury*, [Milwaukee Journal-Sentinel](#), May 30, 2023 (Exhibit A).

¹⁶ See disbursements to Starbucks: https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00431478&recipient_name=starbucks

¹⁷ See disbursements describes as for tickets: https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00431478&disbursement_description=tickets

"Hamilton"¹⁸); and major disbursements to executive transportation services¹⁹ and a personal chef.²⁰

LAW

The Federal Election Campaign Act sets forth a regulatory scheme under which federal candidates are only allowed to raise and spend funds as specifically provided for in the Act. Put another way, candidates are prohibited from soliciting, receiving, directing, transferring, or spending funds in connection with a federal election unless the funds are "federal funds," defined as funds that "comply with the limitations, prohibitions, and reporting requirements of [federal law]."²¹

Raising Federal Funds. Under 52 U.S.C. sections 30116 and 30118, federal candidates are prohibited from soliciting or accepting contributions from an individual in excess of \$3,300, from non-multi-candidate-PACs in excess of \$3,300, from multi-candidate PACs in excess of \$5,000, and any contribution from any corporation or labor organization.²² A candidate can only raise funds according to the limitations.

Spending Federal Funds. Under 52 U.S.C. section 30114(a), federal candidates are only permitted to spend contributions²³ for specifically numerated activities:

¹⁸ Daniel Bice, *U.S. Rep Gwen Moore Used Her Leadership PAC On Lobster, Limos And Wine Country Luxury*, [Milwaukee Journal-Sentinel](#), May 30, 2023. (Exhibit A).

¹⁹ See disbursements to Blackline Car Service, Blackline Transportation, Blackline Limousines: https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00431478&recipient_name=blackline

²⁰ See disbursement to Expressively Your Personal Chef Service: https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00431478&recipient_name=personal+chef

²¹ 11 C.F.F. 300.2(g); *see also* 52 U.S.C. §§ 30101, 30114 (permitted uses of contributions), 30116 (limitations on contributions and expenditures), 30118 (limitations on contributions or expenditures for corporations, labor organization, national banks); 11 C.F.F. 300.2(g) (defining "federal funds") and (k) (defining "non-federal funds" as "funds that are not subject to the limitations and prohibitions of the act").

²² 52 U.S.C. §§ 30116, 30118. Federal candidates are also prohibited from accepting contributions from entities that accept contributions from corporations or labor organizations. 52 U.S.C. §§ 30101, 30118. Conversely, federal law also prohibits individuals from making contributions in excess of the limit and corporations from making any contribution. *See, e.g.*, 52 U.S.C. § 30116(a)(7)(B).

²³ The plain language of the statute makes it clear that "contributions" includes any type of contribution a candidate or Member raises under the Act and is not limited to those held in the candidate's authorized committee.

- (1) “authorized expenditures in connection with the campaign for Federal office of the candidate or individual;
- (2) for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office;
- (3) for contributions to an organization described in [section 170\(c\) of title 26](#);
- (4) for transfers, without limitation, to a national, State, or local committee of a political party;
- (5) for donations to State and local candidates subject to the provisions of State law; or
- (6) for any other lawful purpose”²⁴

Additionally, subsection 30114(b) prohibits federal candidates from using contributions for personal use. Section 30114 states: a “contribution accepted by a candidate, and any other donation received by an individual as support for activities of the individual as a holder of Federal office,” “shall not be converted by any person to personal use.”²⁵

The plain language of the statute makes it clear that “contributions” includes any type of contribution a candidate or Member raises under the Act and is not limited to those held in the candidate’s authorized committee. Moreover, in a similar application the House rules also demonstrate this is the case, stating “the term ‘campaign funds’ includes funds of any political committee under the Federal Election Campaign Act of 1971, without regard to whether the committee is an authorized committee of the Member”²⁶

Personal use is defined by the following: “a contribution or donation shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment,

²⁴ 52 U.S.C. § 30114(a).

²⁵ 52 U.S.C. sec. 30114(a) and (b)(1). 11 CFR 113.1(e) (“Federal officeholder means an individual elected to or serving in the office of President or Vice President of the United States; or a Senator or a Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.”).

²⁶ House Rule 23 cl. 15(d)(1) (

obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal office”²⁷

Leadership PACs. Under federal law, a Member of Congress may spend federal campaign funds from two sources: an authorized campaign committee and a leadership PAC. A Member may establish a “leadership PAC” to support candidates for federal and nonfederal office.²⁸ A leadership PAC is not the Member’s authorized campaign committee, nor is it associated with the Member’s campaign committee.²⁹ Rather, a leadership PAC is a separate political committee that a Member has “directly or indirectly established, financed, maintained or controlled.”³⁰ The Member’s purpose in establishing a leadership PAC is to support other candidates for office and their preferred political parties.³¹

A leadership PAC operates under the same rules as other non-connected committees, but additional requirements apply to leadership PACs that do not apply to other non-connected committees.³² “Due to restrictions on the types of funds that federal candidates may **raise and spend**, any PAC that is directly or indirectly established, financed, maintained or controlled by a federal candidate may not solicit, receive, direct, transfer, spend or disburse funds in connection with an election for federal office, including federal election activity as defined in 11 CFR 100.24, outside the limits and prohibitions of the [the Act]. Such a PAC may solicit, receive, direct, transfer, spend or disburse funds in connection with a nonfederal election, but only if the

²⁷ 52 USC sec. 30114(b)(2). The statute provides non-inclusive examples of personal use: “(A) a clothing purchase; (B) a noncampaign-related automobile expense; (C) a country club membership; (D) a vacation or other noncampaign-related trip; (E) a household food item; (F) a tuition payment; (G) admission to a sporting event, concert, theater, or other form of entertainment not associated with an election campaign; and (H) dues, fees, and other payments to a health club or recreational facility.”

²⁸ The Federal Election Commission, *Types of Nonconnected PACs*, available at: <https://www.fec.gov/help-candidates-and-committees/registering-pac/types-nonconnected-pacs/>.

²⁹ *Id.*

³⁰ [52 U.S.C. sec. 30104\(i\)\(8\)\(b\)](#) (defining “leadership PAC”); [11 CFR sec. 100.5\(e\)\(6\)](#).

³¹ The Federal Election Commission, *Types of Nonconnected PACs*, available at: <https://www.fec.gov/help-candidates-and-committees/registering-pac/types-nonconnected-pacs/>, last accessed Sep. 5, 2023.

³² *Id.*

amounts and sources are consistent with state law, and the Act's contribution limits and source prohibitions are observed.”³³

Scam PACs. A scam PAC is not a type of committee that a candidate is permitted to have under the Act. The term “scam PAC” describes a political committee (including a leadership PAC) that fundraises under the pretext that donations will be used to support candidates, but instead the funds are primarily spent on overhead expenses.³⁴ A scam PAC may be identified when the majority of the funds it raises are spent on administrative and fundraising costs and not spent on contributions to candidates.³⁵ According to a media analysis on leadership PAC spending “[t]he typical federal lawmaker spends 70% of their money from their leadership PAC on politics.”³⁶

ANALYSIS

There are two distinct ways to view this case and both yield the same result—Moore's GWEN PAC is not allowed.

First, as will be discussed below in number one, federal law does not authorize Members to have scam PACs. It only authorizes candidates and Members to spend federal funds from a campaign committee or leadership PAC—and under the law GWEN PAC is neither. GWEN PAC claims to be a leadership PAC that supports political candidates or causes, however, on average approximately 80% of its spending does not align with its purported mission or the reason for which donors are contributing. GWEN PAC must be evaluated not by what it claims to be, but by what its activity clearly demonstrates it to be. By definition, GWEN PAC is not a leadership PAC, rather it is a scam PAC and thus a type of PAC federal law does not permit Members to have.

³³ The Federal Election Commission, *Types of Nonconnected PACs*, available at: <https://www.fec.gov/help-candidates-and-committees/registering-pac/types-nonconnected-pacs/>, last accessed Aug. 28, 2023.

³⁴ A scam PAC may also state it is raising funds to support a specific cause.

³⁵ See, e.g., Maja Cook, [How “Scam PACs” Line Their Pockets by Deceiving Political Donors](#), Open Secrets, Aug. 18, 2023.

³⁶ Daniel Bice, *U.S. Rep Gwen Moore Used Her Leadership PAC On Lobster, Limos And Wine Country Luxury*, [Milwaukee Journal-Sentinel](#), May 30, 2023. (Exhibit A).

Second, as will be discussed below in number two, GWEN PAC's actual spending is equally problematic in that much of it appears to be for personal use. Under the plain text of the statute, candidates and Members cannot use federal funds for personal use. A brief description of past FEC action on the application of the personal-use prohibition is below (with extensive details in the footnotes), but those cases should not be controlling here.

1. Federal Law Does Not Authorize Members to Have Scam PACS. The facts are clear and speak for themselves—GWEN PAC's own spending demonstrates it is not a leadership PAC, but is in fact a scam PAC. Federal law permits candidates to spend federal funds from either their authorized campaign committee for campaign-related expenses or from their leadership PAC to support other candidates. There is no other provision in federal law that permits a candidate to spend federal funds from a scam PAC, and in fact that would be “unlawful spending.”

As the FEC provides, a leadership PAC must be operated “to support candidates for various federal and nonfederal offices.”³⁷ GWEN PAC's lack of spending on candidates clearly demonstrates that it is not a leadership PAC. Since its inception only 22% of its spending has gone to support other candidates or causes, and recently the ratio of spending has worsened. According to its own disclosures, only **9% of its disbursements for this election cycle have gone towards candidates**. It is irrelevant that GWEN PAC claims it is a leadership PAC because its activity is inconsistent with this status.³⁸ Its activity is consistent with the status of a scam PAC.

2. Conversion to Personal Use. While its clear GWEN PAC is not spending its funds on its purported mission and should not be deemed a leadership PAC, how it actually spends its

³⁷ The Federal Election Commission, *Types of Nonconnected PACs*, available at: <https://www.fec.gov/help-candidates-and-committees/registering-pac/types-nonconnected-pacs/>, last accessed Aug. 28, 2023.

³⁸ For instance, an entity that confers a “private benefit” cannot qualify for 501(c)(4) exempt status. When determining whether an entity confers a “private benefit”, the court applies an “operational test” examining the “actual purpose for the organization’s activities and not the nature of the activities or the organization’s statement of purpose.” *American Campaign Academy v. Commissioner of Internal Revenue*, 92 T.C. No. 66, 92 T.C. 1053, 1063-64 (1989). “In testing compliance with the operational test, we look beyond the four corners of the organization’s charter to discover ‘the actual objects motivating the organization and the subsequent conduct of the organization.’” *Id.*

funds is equally troubling. A significant amount of GWEN PACs spending has gone towards food, travel, and other lifestyle expenses. These expenses seemingly have a purpose other than supporting candidates and may actually be to support Rep. Moore in her personal capacity.

It is a misconception that federal law permits a Member to use their leadership PAC as a “slush fund” for personal expenses. The plain language of the statute does not allow this. 52 U.S.C. section 30114 gives the only permissible purposes a candidate or Member may spend federal funds, of which personal use is not one. The fact that the statute lists all permissible uses for federal funds and personal use is not one of those is decisive.

Also, this section then further and explicitly limits a candidate or Member from using federal funds for personal use. It states that a “contribution accepted by a candidate, and any other donation received by an individual as support for activities of the individual as a holder of Federal office,” “shall not be converted by any person to personal use.”³⁹ Further, the law’s personal-use-prohibition is not limited to only funds held by an authorized campaign committee. The prohibition applies to any **“contribution accepted by a candidate, and any other donation received by an individual as support for activities of the individual as a holder of Federal office.”** This definition encompasses “federal funds” and more.

A leadership PAC is “established, financed, maintained, or controlled”⁴⁰ by a Member of Congress such that the contributions received by the leadership PAC are received by “a candidate.” Additionally, the purpose of a leadership PAC is for a Member of Congress (holder of federal office) to be able to engage in supporting other candidates (an activity of the individual as a holder of federal office). Thus, by the plain language of the statute, a Member cannot use funds held in the Member’s authorized campaign committee or their leadership PAC for personal

³⁹ 52 U.S.C. sec. 30114(a) and (b)(1). 11 CFR 113.1(e) (“Federal officeholder means an individual elected to or serving in the office of President or Vice President of the United States; or a Senator or a Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.”).

⁴⁰ 11 C.F.R. § 100.5(e)(6) (defining a leadership PAC as a “committee that is directly or indirectly established, financed, maintained, or controlled by a candidate for Federal office or an individual holding Federal office but which is not an authorized committee of the candidate or individual and which is not affiliated with an authorized committee of the candidate or individual.”)

use. Moreover, the House of Representatives itself, in its own rules, makes it clear that “contributions” or “campaign funds” is not a restrictive term, but applies to any type of organization allowed under the Act.⁴¹

Besides being wholly antithetical to common sense, any other interpretation of the statute would be contrary to both the plain statutory language and the statutory regulatory scheme of the Act. The Act only allows candidates and Members to raise and spend federal funds and it does not allow for candidates and Members to use different entities to violate the statutory regulations.⁴² The law is applicable to candidates and Members, whether they are acting through authorized campaign committees or leadership PACs, and this is plainly evident by the application of the contribution limits to both types of committees. If it did not apply to leadership PACs then the personal-use prohibition would be rendered meaningless. By any interpretation that would allow for personal use, a candidate or Member could completely bypass the restriction and use their leadership PAC to literally pay for all their personal expenses such as housing, food, and clothing. Were this to be the reading, what would truly stop this scenario from being allowed under law? Allowing leadership PACs to spend for personal use would clearly eviscerate the statutory regulatory scheme and it is obviously contrary to the plain language of the law.

The FEC has issued an advisory opinion and FEC cases that have discussed the personal-use prohibition and leadership PACs. However, none of these cases directly examined whether the Act allowed for a Member to have a scam PAC (a PAC that’s majority spending is on “administrative costs”). As discussed above, it does not.

Prior instances where the FEC did not apply the personal-use prohibition to leadership PACs should not be controlling. Briefly, this can be shown in the first advisory opinion to address this issue and in the most recent cases. In Advisory Opinion 2008-17, the FEC examined

⁴¹ See House Rule 23 cl. 15(d)(1).

⁴² *Id.*; 11 C.F.F. 300.2(g) (defining “federal funds”) and (k) (defining “non-federal funds” as “funds that are not subject to the limitations and prohibitions of the act”).

whether a single expense could be paid from a leadership PAC, specifically a co-author expense where the Senator was to receive no profits from a book written on a political issue.⁴³ The FEC **did not** hold that a Member could generally use their leadership PAC for personal expenses (and had it done so it would have been contrary to the plain language of the statute), but it applied a third-party payment provision.⁴⁴ Moreover, this advisory opinion “has not been cited favorably, or at all, by any other advisory opinion since it was issued.”⁴⁵

Then in MUR 7961, the FEC examined a case where a former Member of Congress converted his campaign committee to a non-connected committee, and converted his leadership PAC to a multi-candidate committee.⁴⁶ Then the non-connected committee transferred all of its funds to the multi-candidate committee, which paid rent to the former Congressman and his wife

⁴³ Federal Election Commission, AO 2008-17, available at: <https://www.fec.gov/files/legal/aos/2008-17/AO-2008-17-final.pdf>. This was a case where a Senator and another individual had co-authored a book about terrorists threats and the Senator was not receiving any profits from the book. *Id.* The Senator had not, and was not, to receive any profits from the book and his co-author had incurred \$25,000 in expenses preparing the book. *Id.* The Senator asked whether either his campaign committee or his leadership PAC could pay his co-author the \$25,000. *Id.*

With respect to the campaign committee, the FEC applied the “irrespective test” contained in the general personal use prohibition (11 CFR 113.1(g)), and found that a payment by the campaign would amount to personal use and was thus not permitted. *Id.*

With respect to the leadership PAC, the FEC applied the “irrespective test” contained in the third-party-payment provision (11 CFR 113.1(g)(6)), which states: “Notwithstanding that the use of funds for a particular expense would be a personal use under this section, payment of that expense by any person other than the candidate or the campaign committee shall be a contribution under subpart B of part 100 to the candidate unless the payment would have been made irrespective of the candidacy.” *Id.* The FEC explained the slight difference in the tests: “This provision asks whether the third party would pay the expense even if the candidate was not running for federal office. If the answer is yes, then the payment does not constitute a contribution.” *Id.*

According to the requestor of the advisory opinion, the Senator did not seek to publish the book for a personal benefit, but rather to advance ideas important to his campaign and leadership PAC and the leadership PAC’s interest in the book would exist even if the Senator was not running for federal office. *Id.* The FEC found that because the book promoted the leadership PAC’s goals and the PAC would pay for the co-author’s expenses even if the Senator was not running for federal office, that the payment would not constitute a contribution under 11 CFR 113.1(g)(6) and could be made.

⁴⁴ *Id.*

⁴⁵ Federal Election Commission, MUR 7657, *Statement of Reasons of Vice Chair Steven T. Walther, Commissioner Shana M. Broussard, and Commissioner Ellen L. Weintraub*, MUR 7657 (*In re IRL PAC*) (March 24, 2022), available at: https://www.fec.gov/files/legal/murs/7657/7657_15.pdf.

⁴⁶ Federal Election Commission, *Factual and Legal Analysis*, MUR 7961 (*In re Lou PAC*) (Feb. 1, 2023), available at: https://www.fec.gov/files/legal/murs/7961/7961_15.pdf.

for office space at a building they owned for a period of twenty-one months.⁴⁷ The Commission discussed the prohibition against personal use, which was unnecessary to the resolution of the case and which was problematic and contrary to the law for several reasons.⁴⁸ As discussed in the footnote below, the discussion hinged on a misquoted section of law. The personal-use prohibition applying to leadership PACs is “grounded firmly in the Act and Commission precedent.”⁴⁹ Nevertheless, the Commission found that regardless of whether the personal-use prohibition applied, the payments were permissible because they were for fair market value and not personal use.

Ultimately whether the personal-use prohibition applies to leadership PACs must be controlled by statute, which the plain language of the text makes abundantly clear that it does. To find otherwise would be reading the Act to actually invalidate the statute.

⁴⁷ *Id.* The Commission stated that a political committee may pay a candidate for office rent, but it must be for fair market value. Paying more than fair market value converts campaign funds to personal use and paying less than fair market value results in the committee receiving an in-kind contribution. In this case there was no evidence the payments were not for fair market value, and thus they were not personal use and were permissible.

⁴⁸ *Id.* Although unnecessary to the resolution of the case, the Commission discussed the prohibition against personal use:

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. The Commission has never determined that the personal use restrictions extend to a leadership PAC, which by definition cannot be an authorized candidate committee. . . . 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.

Id. This discussion is problematic and contrary to the law for several reasons. *Id.* The discussion begins with a statement that “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’” and cites to U.S.C. § 30114(b). *Id.* However **the quoted language in the sentence is not in the statute cited.** *Id.* The statutory text actually states, a “contribution accepted by a candidate, **and any other donation received by an individual as support for activities of the individual as a holder of Federal office,**” may not be converted for personal use. U.S.C. § 30114(b). As discussed above, the accurate plain language of the statutory text states the personal-use prohibition does apply to leadership PACs. *Id.* Second, this discussion is not controlling to the resolution of the case. *Factual and Legal Analysis*, MUR 7961 (In re Lou PAC), available at: https://www.fec.gov/files/legal/murs/7961/7961_15.pdf.

⁴⁹ Federal Election Commission, *Statement of Reasons of Commissioners Shana M. Broussard and Ellen L. Weintraub*, MUR 7961 (In re Lou PAC) (March 3, 2023), available at: https://www.fec.gov/files/legal/murs/7961/7961_19.pdf.

SUMMARY

Two distinct legal grounds for which this issue can be decided are laid out above, and in these instances both the facts and the law say the same thing—GWEN PAC is not operating lawfully under the Federal Election Campaign Act. Any inclination that FEC precedent in this area allows it is misguided. The law, quite crucially both its language and intent, clearly does not say or allude to any scenario where a candidate or Member can run a leadership PAC that spends the vast majority of its funds on administrative costs or as a personal-use slush fund. Principally, the Act does not allow for this because the result would be just as antithetical to the Act itself as it would be disastrous in practice. This specific case is tailor-made to finally set this issue straight given the extreme nature of its disbursement percentage breakdown and the fact that GWEN PAC is a perfect example of leadership PAC misuse. This would be true even if it did not involve tickets to “Hamilton,” trips to California wine country, and payments being made directly to her own sister, which rather unfortunately it does.

Based on the facts above, it appears candidate Moore and her leadership PAC are in violation of federal law and therefore, we request the FEC investigate. Ultimately, if one or more campaign laws are found to have been broken, we request the FEC hold the respondents accountable.

Respectfully submitted,

Kendra Arnold

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Subscribed and sworn to before me on September 6th, 2023.

Devin Kyle Wright

Notary Public

DEVIN KYLE WRIGHT
Notary Public - State of Idaho
Commission Number 20221182
My Commission Expires 03-04-2028

Bice: U.S. Rep. Gwen Moore used her leadership PAC on lobster, limos and wine country luxury

Milwaukee Journal Sentinel

Daniel Bice

May 30, 2023

<https://www.jsonline.com/story/news/politics/2023/05/30/gwen-moore-spent-leadership-pac-funds-on-lobster-limos-and-wine-country-fundraiser/70245090007/>

U.S. Rep. **Gwen Moore** is living it up on her leadership PAC.

Leadership PACs [were created in the 1970s](#) to allow top federal lawmakers to raise and contribute money to like-minded candidates, preferred political parties and allied political groups.

But Moore spent only 16.6% of her funds in her leadership PAC on political donations from January 2019 to December 2022 out of her overall outlay of \$727,910 — the lowest percentage within the Wisconsin congressional delegation.

Instead, during the four-year period, Milwaukee Democrat's leadership PAC — **Giving Willingly Empowering Nationally** (GWEN) — spent about \$96,000 on travel, more than \$48,000 on food and beverages, nearly \$173,000 on fundraising and fundraising consultants, and \$17,000 on tickets via **StubHub**, **Ticketmaster** and **Live Nation**.

But it's the itemized expenditures that are the most eye-catching. A top aide to Moore said these expenses were part of the fundraising efforts by the leadership fund.

Federal Election Commission records show GWEN PAC:

- Spent more than \$6,000 on 16 trips to **Ruth's Chris Steakhouse**, [an average of \\$376 per visit to the upscale eatery](#). The PAC also covered 13 dinners at **Kobe Japanese Steakhouse** at a total cost of \$2,055.
- [Paid out \\$4,623](#) to **Blackline Limousines** in Oak Creek.
- Dropped [\\$1,017 for food and drinks](#) at **Luke's Lobster** in Chicago.

- Spent nearly \$18,000 at the **Fairmont Sonoma Mission Inn and Spa**, [a luxury wine country resort in California](#).
- Paid more than \$19,000 on 363 trips with **Uber** and 176 meals via **Uber Eats**. (That works out to one Uber trip every four days over four years and one Uber Eats dinner every eight days.)

Finally, the leadership PAC [wrote seven checks to Moore's sister](#), **Brenda Moore**, for a total of \$22,200 for fundraising and consulting. Brenda Moore was paid another \$232,000 in salary for work on her sister's re-election campaign — which is separate from the leadership PAC — during the same four-year period.

In her 10th term, Moore, 72, is [now the de facto dean of Wisconsin's House delegation](#), representing the overwhelming blue 4th District. As a member of Congress Moore makes \$174,000 a year.

The only other member of the state delegation who spent less than half of the money from a leadership PAC on political donations in recent years was Republican Rep. **Scott Fitzgerald**, who took office in 2021. His leadership PAC paid out a little more than a third of its tiny \$39,006 total outlay on donations.

Reform group calls for ban on using leadership PAC money on personal expenses

Issue One, a bipartisan political reform group, first highlighted how little GWEN PAC was spending on campaign contributions in 2021, listing her among eight federal lawmakers who were guilty of "outlandish spending" by their leadership PACs in a study called, "[All Expenses Paid](#)."

Michael Beckel, research director for Issue One, said last week that the majority of members of Congress use the bulk of the money in their leadership funds on political donations. But he said that's not always the case.

A few, it appears, turn these leadership funds into slush funds.

"When a politician appears to be amassing money from special interests in a leadership PAC and then using that cash to enjoy perks of lavish living that are beyond the reach of most Americans, it raises questions about corruption and the appearance of corruption," Beckel said via email.

Beckel said members of Congress are barred from using money from their re-election campaign fund on personal items. The same prohibition, he said, should apply to money raised for a leadership PAC.

The FEC [first approved leadership PACs in 1978](#) at the request of former U.S. Rep. **Henry Waxman**, a California Democrat, so that congressional leaders could raise money and give it away to political allies

and vulnerable colleagues.

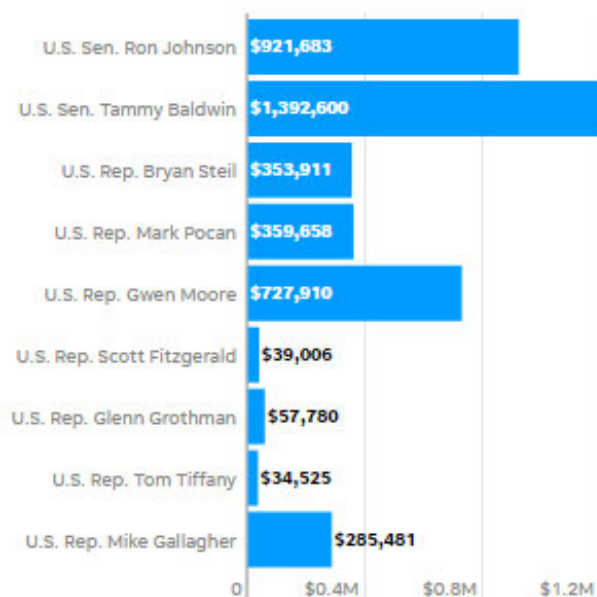
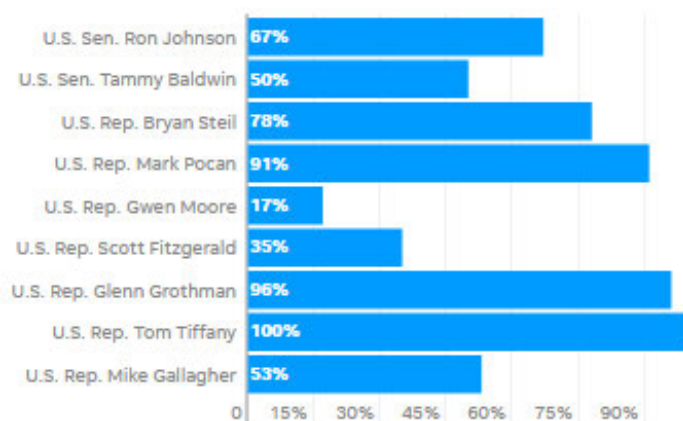
Today, more than 90% of the members of Congress have leadership PACs. (Former Wisconsin Rep. **Jim Sensenbrenner** was one of the few who rejected the practice.) On average, Issue One found, federal lawmakers spent about 70% of their total expenditures on political donations.

Moore's chief of staff says DNC, pandemic contributed to skewed numbers

Sean Gard, chief of staff to Moore, said the numbers for Moore are skewed somewhat because she had extra expenditures from her leadership PAC because of the **Democratic National Convention** in Milwaukee in 2020 and the COVID-19 pandemic.

"Our expenditures-to-contributions has historically been about 20%, and I suspect that will be the case going forward," Gard said.

If that's true, GWEN PAC would still have the lowest percentage spent on political donations of any leadership PAC run by a member of the Wisconsin congressional delegation.

Amount spent from leadership PAC**Percent spent on political donations**

Source: Federal Elections Commission.

15 9 views

Gard said it was important to note that the **Journal Sentinel** was looking at two back-to-back election cycles.

Over the two cycles, he said, Moore's leadership fund ran a constant fundraising operation and with that came "expenses for consultants, administration, and general fundraising expenses related to our mission of helping elect pro-choice Democratic women and men to the U.S. Congress and Senate."

Indeed, GWEN PAC spent [\\$172,843 on fundraising expenses](#), including five consultants, while doling out only \$120,504 in donations to political candidates, parties and groups from 2019 to 2022. The biggest recipient of campaign dollars from Moore's leadership fund was the **Democratic Congressional Campaign Committee**, [which took in \\$39,500](#).

Gard also provided some context for several of the individual expenditures during that span.

For instance, the trip to the Sonoma resort in California was a fundraiser attended by 30 donors in April 2022. He said the trip occurred before [a unionizing effort by employees at the Fairmont Sonoma Mission Inn & Spa](#), and that Moore "supports the rights of all workers to unionize."

As for the 16 trips to Ruth's Chris Steakhouse, Gard said those were all meetings with donors in Chicago and Washington, D.C., over four years.

GWEN PAC also bought a number of "event tickets" in the lead-up to the Democratic National Convention in Milwaukee, Gard said. Moore, he said, hosted numerous fundraising trips to donors from across the country in an effort to raise the city's profile before the DNC, which was [later converted to a virtual convention because of the pandemic](#).

"This included purchasing tickets to 'Hamilton' when it was touring in Milwaukee during the fall of 2019," Gard said of the Broadway musical. "Unfortunately, the COVID pandemic rendered a lot of those efforts null."

Of the \$17,218 spent on tickets, records show, GWEN PAC paid out \$4,810 around the time that ["Hamilton" was performed at Milwaukee's Marcus Center in late 2019](#). In 2022, the leadership PAC spent another \$4,360 on tickets to various events, including a fundraiser at **Nationals Park**, home of the **Washington Nationals** baseball team.

Alexander Crane, chief of staff to Fitzgerald, defended **Sconnie PAC**, his leadership fund, for paying out only 35% of its expenditures on political donations. Fitzgerald, a Juneau Republican, was elected in 2020.

"Congressman Fitzgerald complies with all FEC rules and regulations," Crane said.

FEC records show Sconnie PAC's [biggest expenditure was \\$9,714](#) at **Kraemer Wisconsin Cheese** in Watertown for donor gifts and gift boxes. Fitzgerald's leadership fund has also covered the cost of nine flights for \$2,288 and a \$1,006 fundraiser at Ruth's Chris Steakhouse.

Beckel, the research director for Issue One, said politicians like to say that it takes money to raise money. Almost no leadership PAC spends all 100% of its money on political donations.

And, he said, it's probably not surprising for someone from a poor congressional district — Moore's is among the least affluent in the country — to try to raise money from out-of-district and out-of-state donors.

"But the frequently given explanation that lavish spending is necessary for political fundraising rings hollow," Beckel said, "when just a fraction of the money raised by your leadership PACs goes toward aiding other candidates and political allies."

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