FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Representative Stevan E. Pearce;	)	
People for Pearce and James Francis,	)	MUR 6753
in his official capacity as Treasurer; and	)	
GOAL WestPAC and Philip G. Pearce,	)	
in his official capacity as Treasurer.	)	

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CONCURRING STATEMENT OF REASONS
OF COMMISSIONER LEE E. GOODMAN

The Commission voted to dismiss this matter. I write separately to observe that, as the Commission has routinely found, candidates' authorized committees and leadership PACs[1] may make unlimited contributions to independent expenditure committees and other political organizations without implicating the restrictions of 52 U.S.C. § 30125(e)(1) (formerly 2 U.S.C. § 441i(e)(1)).[2] With respect to a candidate's authorized committee, it has been the Commission's "long-standing opinion that candidates have wide discretion over the use of campaign funds,"[3] so long as the candidate's committee expends its funds for a "lawful purpose" and does not convert campaign funds to personal use.[4]

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[1] A "leadership PAC" is defined as "a political 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, except that leadership PAC does not include a political committee of a political party." 11 C.F.R. § 100.5(e)(6). *See also* 52 U.S.C. § 30104(i)(8)(B) (formerly 2 U.S.C. § 434(i)(8)(B)).

[2] *See, e.g.*, Advisory Opinion 2012-34 (Friends of Mike H.) (approving unlimited contributions by former candidate's authorized committee to Super PAC); Advisory Opinion 2010-11 (Commonsense 10) (approving unlimited contributions from all federal political committees to Super PACs); Advisory Opinion 2007-29 (Jackson) (approving unlimited contributions by candidate's authorized committee to wife's campaign committee for state party office); Advisory Opinion 2000-32 (Martinez) (approving candidate's authorized committee's contribution to a state candidate).

[3] Expenditures; Reports by Political Committees; Personal Use of Campaign Funds, 60 Fed. Reg. 7867 (Feb. 9, 1995).

[4] 52 U.S.C. § 30114(b) (formerly 2 U.S.C. § 439a(b)); 11 C.F.R. §§ 113.1(g), 113.2(e). This statute does not apply the personal use restriction to leadership PACs.

The Bipartisan Campaign Reform Act of 2002 ("BCRA") amended the Federal Election Campaign Act of 1971 ("FECA") by imposing additional restrictions upon federal officeholders and federal candidates. At issue here, the BCRA prohibits federal candidates and officeholders from soliciting, receiving, directing, transferring or spending funds in connection with federal or other elections that are not subject to the FECA's contribution limits and source restrictions.[5] The prohibition also extends to organizations "directly or indirectly established, financed, maintained or controlled" by a federal candidate or officeholder.[6] The statutory prohibition is intended to insulate federal candidates from funds raised outside the federal amount and source restrictions by prohibiting them from soliciting or controlling such funds.[7]

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The statute's extension of the prohibition to cover organizations "directly or indirectly established, financed, maintained or controlled" by a federal candidate must be understood to reach those organizations over which the candidate exercises significant financial or operational control. An arm length contribution—even a large contribution—from a candidate's campaign committee or leadership PAC to an independent expenditure committee may be a form of financial support, but it does not constitute the kind of financial control over non-federal funds which is the focus of the BCRA. The candidate or officeholder must exercise a significant degree of control over the recipient organization beyond the mere provision of financial support in order for an organization to be "financed" by the candidate as contemplated by the statute.

Along these lines, a candidate campaign committee's or leadership PAC's contribution of funds raised within the FECA's amount and source restrictions—and fully disclosed as an expenditure on the committee's public reports—to a Super PAC or other political organization does not implicate any of the corruption concerns of the FECA or BCRA.

Additionally, in this matter, there was no indication in the record before the Commission that anyone associated with the GOAL WestPAC was acting on behalf of Pearce or the Pearce Committee in the work they performed for GOAL WestPAC. As the Commission previously has observed, campaign employees may wear different hats and work for other political organizations without implicating the candidate in a violation of 52 U.S.C. § 30125(e)(1), so long as "the individuals are not acting on behalf of any Federal candidate or officeholder or any political party committee."[8]

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5 52 U.S.C. § 30125(e)(1)(A), (B) (formerly 2 U.S.C. § 441i(e)(1)(A), (B)).

6. 52 U.S.C. § 30125(e)(1).

7 *See generally* 148 CONG. REC. H408 (Feb. 13, 2002) (statement of Rep. Shays).

8 Advisory Opinion 2006-08 (Matthew Brooks) at p. 5; *see also* Advisory Opinion 2003-10 (Reid) (the activities of an individual who acts in his own capacity and not on behalf of a federal candidate or officeholder will not be attributed to that federal candidate or officeholder despite an existing agency relationship).

For these reasons, I voted to dismiss this matter and I would have supported a motion to find no reason to believe any violation occurred.[9]

Lee E. Goodman
Commissioner

Sept. 6, 2012
Date

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[9] The Commission often summarily dismisses matters involving insubstantial legal issues or mitigating factors or small dollar amounts based upon the Commission's discretion under *Heckler v. Chaney*, 470 U.S. 821 (1985), and its desire to focus agency attention and resources on more substantial matters. *See* Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12545, 12546 (Mar. 16, 2007). These dismissals usually reach no conclusion on whether there is, or is not, "reason to believe" a violation occurred and express no substantive position on the broader legal theories or factual circumstances (except that similarly situated respondents should be treated equally).