

## Political cash

Commissioner Dara Lindenbaum, a Democrat who has repeatedly crossed the aisle to vote with her Republican colleagues since President Joe Biden appointed her and she was confirmed by the Senate in a 54-38 vote in 2022. The rupture inside the once-united bloc of Democrats has gotten so tense that at one point an actual olive branch, procured on Etsy for \$16, was given as a peace offering — and was rejected.

"We are in a new era," said Adam Noti, executive director of the Campaign Legal Center, which pushes for stricter interpretation and enforcement of the law. "It is breathtaking the speed with which the rules are being torn down. There has been more activity in the last two years to allow money into the system than in the 20 years before that combined."

One decision this spring that is already reshaping the 2024 presidential race allowed super PACs and campaigns for the first time to work together to plan and execute costly door-to-door canvassing operations. Politicians had previously been forbidden from coordinating strategy with super PACs, which can raise unlimited amounts of money, to restrain the influence of megadonors on candidates.

But the commission ruled that canvassing work was exempt because it did not amount to "public communications," freeing politicians and super PACs to work more closely than ever.

Another recent ruling permitted federal candidates, for the first time, to raise unlimited money for state-level ballot measures.

The commission decided that a wealthy donor could put money into a trust that then could distribute donations to campaigns — while keeping the original source anonymous. And it ruled in 2022 that certain types of mass text messages did not constitute "public communications" either, subjecting them to fewer restrictions.

All of those decisions — along with numerous others — were settled on a 4-2 vote, with Lindenbaum as the swing commissioner.

"It's incredible and it's stunning," said Sen. Sheldon Whitehouse, D-R.I., who is one of this party's leading voices for curbing the influence of money in politics. At first, Whitehouse said, he hoped Lindenbaum was tactically yielding to not to other "strategic victories" in return. But no longer. "We don't see any sign that this is horse trading," he said. "This looks more like just surrender."

### 'CAUGHT BY SURPRISE'

In a wide-ranging interview, Lindenbaum downplayed both her role and the sweep of the decisions. "I don't see them as necessarily moving the needle," she said. Rather, she said, she was simply following the law and formalizing what had been happening in practice, such

### Trump super PAC eyes blitz in the Rust and Sun belts

The original super political action committee supporting Donald Trump's presidential campaign plans to report that it raised nearly \$70 million in May, and that it will spend a further \$100 million through Labor Day, according to a memo written for the group's donors.

The super PAC, Make America Great Again Inc., is preparing an advertising blitz focused on a handful of key states in the Rust Belt and the Sun Belt, where several polls show Trump, the presumptive Republican presidential nominee, leading President Joe Biden.

The memo, a copy of which was provided to The New York Times by someone who received it, was written by the group's CEO, Taylor Budowich. The burst of fundraising it describes is on track with the surge that the Trump campaign has said it experienced after Trump was convicted last week in a New York City courtroom on 34 counts of falsifying business records intended to conceal a hush-money payment to a porn actor in 2016.

The memo provides insight into how Trump's extended orbit views his path to the 270 electoral votes necessary to win the presidency, and how pivotal one state in particular — Pennsylvania — is to their plans.

Democrats "need to both solidify the blue wall states of Pennsylvania, Michigan and Wisconsin, while keeping President Trump defensive in the Sun Belt states of Georgia, Arizona, North Carolina and Nevada," Budowich wrote.

— The New York Times

as with one 4-2 ruling that members of Congress could legally use their PACs for their own personal benefit.

"We don't need to try to broaden the scope of the law to cover activities that we find to be bad or icky," she said. "What the law says and what some people might wish the law says are different."

At first blush, Lindenbaum would seem a surprising apostate for the left. She once marched with Code Pink, the left-wing anti-war group, and later served as a top lawyer for Stacey Abrams, the progressive former candidate for Georgia governor, and her voting rights group.

"She came from the progressive community, so I think everyone was caught by surprise," said Craig Holman, a lobbyist for Public Citizen, a consumer advocacy group.

But it is Lindenbaum's work in the trenches of campaigns, where lawyers sort through the law's gray areas to decide what can and cannot be done, that her supporters and detractors alike say has informed her thinking.

Lindenbaum said her perspective as a lawyer who represented politicians who faced "ridiculous" allegations of wrongdoing was valuable to the commission. "I have the practical experience and I can explain why somebody did something a way they did," she said.

Noti said he had been hesitant to air his grievances with Lindenbaum publicly, lest it lead to backlash. Back when she was a private attorney, she objected through a mutual acquaintance to a public comment Noti had made about one of her clients.

"I have thought there was a potential that speaking out could make things worse rather than better," he said. "But the recent set of rulings — I'm not sure what worse would look like."

Jason Tomhinsky, a Republican elections lawyer, hailed the spate of recent decisions.

"Lots of things facing the FEC call for practical applications of campaign finance law," he

said, "and Commissioner Lindenbaum brings that to the commission from her years as a day-to-day lawyer in the field."

### THE ACTUAL OLIVE BRANCH

There have been brief periods of comity at the commission, which was created in the wake of the Watergate scandal. But for 15 years, the agency was defined by 3-3 gridlock on seemingly everything.

Donald McGahn, who became a commissioner in 2008 and later was President Donald Trump's first White House counsel, imposed discipline on the Republican bloc when he arrived. The leader of the Democratic opposition became Commissioner Ellen Weintraub, who has served on the commission since 2002.

The dysfunction was so bad that by 2021, Weintraub pushed the Democrats to adopt the unusual tactic of refusing to close stalled investigations in hopes the commission would get used to failing to act. The Democratic bloc then refused to send lawyers to defend the agency in court.

Lindenbaum unraveled that strategy almost immediately, providing the fourth vote to close all of those cases, some of which dated to 2016.

It was the beginning of what multiple people said was a frosty relationship between Lindenbaum and Weintraub, though both are Democrats. Tensions ran especially high with Weintraub's longtime counsel, Tom Moore.

At one point in late 2022, Moore ordered an actual olive branch on Etsy and gave it to Lindenbaum as a present at a commission holiday party. He attached a handwritten letter seeking to reset relations.

"I was sincere," Moore said.

He never heard back.

Lindenbaum said it would be inappropriate to discuss another commissioner's side in detail, but said of the episode: "Forgiveness only comes with a true apology and a true recognition of faults. And I don't have a true

recognition of faults, acknowledgment of what was done to bring about the apology, it is not an apology. And I will not accept it."

Moore, who declined to comment on Lindenbaum's response, left the commission in 2023 and has watched in frustration as it has moved from deadlock to deregulation.

"When nothing's happening, nothing bad is happening," said Moore, now a senior fellow at the Center for American Progress. "Now bad things are happening."

Among Republicans, Lindenbaum's reception has been warmer. Cooney said he bonded with her over their past work in politics and over being parents of young children.

"I doubt that there is a single mainstream policy issue that we agree on," he said. "But we, I think, do both agree about how the current campaign finance system is burdensome and overly complicated and often unfair."

Lindenbaum said she was fighting for more agency funding and pushing for Congress to strip the street addresses of donors from on-line contribution records.

Outside watchdogs worry about the slow pace of investigations. A little-noticed footnote in one recent statement by Weintraub revealed that the general counsel's office was actively conducting only three investigations nationwide.

"Dara has turned the FEC from dysfunctional to functionally avoiding enforcement," Holman said.

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