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By OGC-CELA at 10:15 pm, Aug 29, 2022

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August 29, 2022

**VIA ELECTRONIC MAIL***(cela@fec.gov)*

Mr. Roy Q. Lockett, Esq.  
Acting Assistant General Counsel  
Federal Election Commission  
Office of Complaints Examination  
& Legal Administration  
Attn: Kathryn Ross, Paralegal  
1050 First Street, NE  
Washington, DC 20463

**Re: MUR 7982 Response of LUPE PAC and Daniel Diaz, Treasurer**

Dear Mr. Lockett:

On behalf of LUPE PAC (committee ID# C00797027) and Daniel Diaz in his official capacity as Treasurer of LUPE PAC (collectively “LUPE PAC”), I write in response to the Complaint filed by Alma Espinoza of Hidalgo, Texas in MUR 7982 to the very limited extent that it alleges violations of the Federal Election Campaign Act of 1971, as amended (the “Act”) and Federal Election Commission (the “Commission”) regulations by LUPE PAC. I respectfully urge the Commission to dismiss the Complaint as an exercise of its prosecutorial discretion given the nature of the alleged violation at issue and the remedial actions taken by LUPE PAC as detailed below.<sup>1</sup>

LUPE PAC registered with the Commission in a timely manner on December 9, 2021 as a so-called “Carey” or “hybrid” political committee.<sup>2</sup> LUPE PAC has engaged in very little activity. Indeed, its first two reports filed with the Commission were completed by hand and reported zero receipts and zero disbursements.<sup>3</sup> As of June 30, 2022, LUPE PAC had raised a

<sup>1</sup> *Heckler v. Chaney*, 470 U.S. 821 (1985).

<sup>2</sup> LUPE PAC Statement of Organization, available at <https://docquery.fec.gov/pdf/956/202112099469827956/202112099469827956.pdf>.

<sup>3</sup> See LUPE PAC Year-End 2021 Report available at <https://docquery.fec.gov/pdf/589/202203110300400589/202203110300400589.pdf>, and Pre-Primary Report available at <https://docquery.fec.gov/pdf/565/202203110300400565/202203110300400565.pdf>.

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total of \$20,000 and had made only a single disbursement of \$15,037.50, which is the disbursement referenced in the Complaint.

Specifically, the Complaint claims that LUPE PAC reported making a disbursement on March 31, 2022 in the amount of \$15,037.50 to Lake Research Partners for a “Poll.”<sup>4</sup> The Complaint notes that this disbursement occurred one week after Michelle Vallejo for Congress, the principal campaign committee of first-time congressional candidate Michelle Vallejo, reported making a disbursement in the same amount to the same vendor for “Research.”<sup>5</sup> The Complaint makes various assertions regarding expenditures made by a separate organization, LUPE Votes, for communications that were designed and disseminated before the poll was conducted, and the only expenditure made by LUPE PAC referenced in the Complaint is the \$15,037.50 disbursement to Lake Research Partners.

Based on LUPE PAC’s recollection and understanding, the public opinion survey research conducted by Lake Research Partners was commissioned by Michelle Vallejo for Congress. Since making the disbursement to Lake Research Partners, LUPE PAC sought and obtained legal guidance and now has a clearer understanding of federal campaign finance law’s contribution amount limitations and source restrictions as applied to hybrid political committees and to in-kind contributions, including the proper allocation of polling expenses under 11 C.F.R. § 106.4. At the time the poll was commissioned, LUPE PAC did not have any specific intent to use the poll, and LUPE PAC has not used the poll to inform its spending to influence any election. LUPE PAC has not made any disbursements to influence the Texas 15th congressional district election or any other election, nor does it intend to do so in the future. Instead, upon resolution of this Complaint, LUPE PAC intends to wind up its minimal affairs and seek Commission approval to terminate its registration.

In an effort to resolve any questions regarding whether LUPE PAC was permitted to pay for a portion of the public opinion survey research under 11 C.F.R. 106.4 under these circumstances, LUPE PAC has requested and expects Lake Research Partners refunded the full amount of LUPE PAC’s payment of \$15,037.50 in the coming days, and it understands Lake Research Partners has instead charged Michelle Vallejo for Congress for that amount.

Commission enforcement precedent indicates that dismissal of this allegation would be consistent with its exercise of prosecutorial discretion.<sup>6</sup> For this reason, I respectfully urge the Commission to dismiss the Complaint as an exercise of its prosecutorial discretion as it pertains

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<sup>4</sup> Complaint at pg. 8; LUPE PAC, Amended April Quarterly 2022 Report, available at <https://docquery.fec.gov/pdf/956/202205059502585956/202205059502585956.pdf>.

<sup>5</sup> *Id.*; Michelle Vallejo for Congress, April Quarterly 2022 Report, available at <https://docquery.fec.gov/pdf/354/202204159496904354/202204159496904354.pdf>.

<sup>6</sup> *See e.g.*, MUR 6803 (Thomas Brown for Congress) (deciding by a vote of 4-1 to dismiss case involving alleged payment by a state committee of \$12,000 for a poll related to a congressional campaign); and MUR 6529 (McLeod for Congress), Statement of Reasons of Vice Chair Caroline C. Hunter and Commissioner Matthew S. Petersen (explaining vote to not find reason to believe a violation occurred in connection with a misallocation of \$16,429.09 in polling expenses that was remedied when the respondent became aware of the improper allocation).

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to LUPE PAC due to the minor nature of any alleged violation that may have occurred and the remedial steps taken by LUPE PAC in good faith and out of an abundance of caution.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bryson B. Morgan". The signature is fluid and cursive, with the first name being the most prominent.

Bryson B. Morgan  
Member  
Caplin & Drysdale, Chartered  
Counsel to LUPE PAC