



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C.

January 11, 2024

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Alma Espinoza, L.S.S.P.

Hidalgo, TX 78557

RE: MUR 7982  
LUPE Votes  
LUPE PAC and  
Daniel Diaz, Treasurer  
Michelle Vallejo for Congress and  
Shayne Thoman, Treasurer

Dear Ms. Espinoza:

This is in reference to the complaint you filed with the Federal Election Commission on April 20, 2022, concerning LUPE Votes, LUPE PAC and Daniel Diaz in his official capacity as treasurer (“LUPE PAC”), and Michelle Vallejo for Congress and Shayne Thoman in his official capacity as treasurer (“Vallejo Committee”). The Commission found that there was reason to believe LUPE Votes violated 52 U.S.C. § 30104(g) and 11 C.F.R. § 104.4(b) and (c) by failing to timely file 24- and 48-Hour Reports of Independent Expenditures and found reason to believe that LUPE Votes violated 52 U.S.C. § 30120(a) and 11 C.F.R. § 110.11 by failing to include sufficient disclaimers on communications, provisions of the Federal Election Campaign Act of 1971, as amended, and Commission regulations. On December 18, 2023, a conciliation agreement signed by LUPE Votes was accepted by the Commission. The Commission also found no reason to believe that LUPE Votes and the Vallejo Committee violated 52 U.S.C. § 30118(a) by making and accepting prohibited in-kind contributions in the form of coordinated communications. The Commission further dismissed the allegation that LUPE PAC made, and that the Vallejo Committee accepted, an excessive in-kind contribution in violation of 52 U.S.C. § 30116(a) and 52 U.S.C. § 30116(f), respectively, and the Commission was evenly divided on whether to dismiss this allegation with a caution. Accordingly, the Commission closed the file in this matter on December 18, 2023.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). A copy of the conciliation agreement is enclosed for your information along with copies of the Commission’s Factual and Legal Analyses for all respondents in this matter.

MUR 7982  
Alma Espinoza  
Page 2

If you have any questions, please contact me at (202) 694-1650 or [wbrown@fec.gov](mailto:wbrown@fec.gov).

Sincerely,

*Wanda Brown by MA*

Wanda D. Brown  
Assistant General Counsel  
Complaints Examinations  
& Legal Administration

Enclosures  
Conciliation Agreement  
Factual and Legal Analyses



cooperation with or at the request or suggestion of such candidate, the candidate's authorized political committee, or its agents. 52 U.S.C. § 30101(17).

3. A communication "expressly advocates" when it uses phrases such as "vote for the President," "re-elect your Congressman," or "Smith for Congress," or uses campaign slogans or words that in context have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidates, such as posters, bumper stickers, or advertisements that say, "Nixon's the One," "Carter '76," "Reagan/Bush," or "Mondale!" 11 C.F.R. § 100.22(a).

4. Persons that make independent expenditures aggregating \$1,000 or more with respect to a given election after the 20th day, but more than 24 hours before the date of that election, must file a 24-Hour Report to disclose such independent expenditures by the day following the date on which a communication is publicly distributed or otherwise publicly disseminated. 52 U.S.C. § 30104(g)(1); 11 C.F.R. § 104.4(c). The Act and Commission regulations include a separate requirement to file 48-Hour Reports for Independent Expenditures aggregating \$10,000 or more at any time up to and including the 20th day before the date of an election. 52 U.S.C. § 30104(g)(2); 11 C.F.R. § 104.4(b).

5. LUPE Votes did not timely disclose its independent expenditures in 24- and 48-Hour Reports. LUPE Votes reported \$34,241.61 in expenditures on January 25, 2022, in support of Michelle Vallejo in the 15th Congressional District of Texas that should have been disclosed in a 48-Hour Report of Independent Expenditures, and \$14,431 in expenditures on February 15, 2022, in support of Michelle Vallejo that should have been disclosed in a 24-Hour Report of Independent Expenditures, prior to Texas's March 1, 2022, primary election. On

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August 30, 2022, LUPE Votes filed a 24-Hour and a 48-Hour Report of Independent Expenditures disclosing the January 25 and February 15 expenditures.

6. The Act and Commission regulations require a disclaimer on certain types of communications identifying who paid for the communication and, where applicable, whether a communication was authorized by a candidate. 52 U.S.C. § 30120(a); 11 C.F.R. § 110.11(a)-(c). Disclaimers are required on all “public communications” made by any person that expressly advocate the election or defeat of a clearly identified federal candidate. 11 C.F.R. § 110.11(a)(2). “Public communications” include mass mailings, which are mailings of more than 500 pieces of mail of an identical or substantially similar nature within any 30-day period, and “communication[s] by means of any . . . outdoor advertising facility . . . or any other form of general public political advertising.” 52 U.S.C. § 30101(22); 11 C.F.R. § 100.26. If a communication is not authorized by candidate’s authorized committee, it must clearly state the name and permanent address, telephone number, or website address of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate’s committee. 11 C.F.R. § 110.11(b)(3). The disclaimer must be “presented in a clear and conspicuous manner, to give the reader, observer, or listener adequate notice of the identity of the person or political committee that paid for, and where required, that authorized the communication.” 11 C.F.R. § 110.11(c).

7. LUPE Votes paid for and distributed mailers to households throughout Texas’ 15th Congressional District that constitutes a mass mailing and thus a public communication. LUPE Votes also funded and distributed door hangers to households throughout the Congressional District, also constituting a public communication. Both the

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mailers and the door hangers expressly advocate for the election of Michelle Vallejo by stating “Michelle Vallejo For U.S. Congress TX 15.”

8. Because the mailers and door hangers are public communications and expressly advocate the election of Vallejo, they required disclaimers. The disclaimers on the mailers and door hangers stated that they were paid for by LUPE Votes but did not include a statement that the communications were not authorized by any candidate or candidate committee.

V. Respondent violated 52 U.S.C. § 30104(g) and 11 C.F.R. § 104.4(b) and (c) by failing to timely file 24- and 48-Hour Reports of Independent Expenditures. Respondent also violated 52 U.S.C. § 30120(a) and 11 C.F.R. § 110.11 by failing to include in disclaimers a statement that the communications were not authorized by a candidate or a candidate’s committee.

VI. Respondent will pay a civil penalty to the Federal Election Commission in the amount of Eight Thousand Five Hundred dollars (\$8,500), pursuant to 52 U.S.C. § 30109(a)(5)(A).

VII. Respondent will cease and desist from violating 52 U.S.C. §§ 30104(g) and 30120(a) and 11 C.F.R. §§ 104.4(b) and (c) and 110.11.

VIII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

IX. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

X. Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:


Lisa J. Stevenson  
Acting General Counsel

BY: **Charles Kitcher**  
Charles Kitcher  
Associate General  
Counsel for Enforcement

Digitally signed  
by Charles Kitcher  
Date: 2023.12.21  
16:25:06 -05'00'

12/21/23  
Date

FOR THE RESPONDENT:

  
Bryson Morgan  
Counsel, on behalf of LUPE Votes

December 1, 2023  
Date

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 **RESPONDENT:** LUPE PAC and Daniel Diaz in his **MUR 7982**  
4 official capacity as treasurer  
5  
6

7 **I. INTRODUCTION**

8 The Complaint alleges that LUPE PAC and Daniel Diaz in his official capacity as  
9 treasurer (“LUPE PAC”) made an excessive in-kind contribution when it shared the cost of a poll  
10 with Michelle Vallejo for Congress and Shayne Thoman in his official capacity as treasurer  
11 (“Vallejo Committee”).

12 LUPE PAC states in its response that it mistakenly paid for half the cost of the poll but  
13 requested a refund of its disbursement. LUPE PAC states that it has only made one  
14 disbursement — for half the amount of the poll, which it did not use, nor does it intend to use —  
15 and plans to terminate when this matter is resolved. LUPE PAC requests that the Commission  
16 dismiss the Complaint’s allegations.

17 As set forth below, the Commission dismisses the allegation that LUPE PAC made an  
18 excessive in-kind contribution resulting from the PAC’s partial payment for the poll in violation  
19 of 52 U.S.C. § 30116(a).



1 **II. FACTUAL BACKGROUND**

2 LUPE PAC is a hybrid PAC that filed its Statement of Organization with the Commission  
3 on December 9, 2021, and Daniel Diaz is its treasurer.<sup>1</sup> Since its inception, the PAC has raised  
4 \$25,000.<sup>2</sup>

5 As alleged in the Complaint, LUPE PAC acknowledge that it split the cost for a research  
6 poll with the Vallejo Committee.<sup>3</sup> In March 2022, each committee paid \$15,037.50 to Lake  
7 Research Partners.<sup>4</sup> After LUPE PAC received notice of this Complaint, it requested a refund  
8 from Lake Research Partners.<sup>5</sup> LUPE PAC disclosed the refund on its 2022 Post-General  
9 Election Report.<sup>6</sup>

10 **II. LEGAL ANALYSIS**

11  
12 The Act provides that no person shall make contributions to any candidate or authorized  
13 committee in excess of the Act's limits.<sup>7</sup> For the 2022 election cycle, the Act limits  
14 contributions by persons to any candidate and his or her authorized political committees to

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<sup>1</sup> LUPE PAC, Statement of Organization (Dec. 9, 2021),  
<https://docquery.fec.gov/pdf/956/202112099469827956/202112099469827956.pdf>.

<sup>2</sup> LUPE PAC, 2022 Year-End Report (Jan. 31, 2023),  
<https://docquery.fec.gov/pdf/752/202301319575619752/202301319575619752.pdf>.

<sup>3</sup> LUPE PAC Resp. at 2 (Aug. 30, 2022).

<sup>4</sup> LUPE PAC, Amended 2022 April Quarterly Report at 7 (May 5, 2022),  
<https://docquery.fec.gov/pdf/956/202205059502585956/202205059502585956.pdf>; Vallejo Committee, 2022 April  
Quarterly Report at 106 (Apr. 15, 2022),  
<https://docquery.fec.gov/pdf/354/202204159496904354/202204159496904354.pdf>.

<sup>5</sup> LUPE PAC Resp. at 2.

<sup>6</sup> LUPE PAC, 2022 Post-General Election Report at 6 (Dec. 7, 2022),  
<https://docquery.fec.gov/pdf/204/202212079547290204/202212079547290204.pdf>.

<sup>7</sup> 52 U.S.C. § 30116(a).

1 \$2,900 per election.<sup>8</sup> No candidate or committee shall knowingly accept excessive  
2 contributions.<sup>9</sup>

3 A “contribution” includes “any gift, subscription, loan, advance, or deposit of money or  
4 anything of value made by any person for the purpose of influencing any election for Federal  
5 office.”<sup>10</sup> “Anything of value” includes all in-kind contributions, such as the provision of goods  
6 or services without charge or at a charge less than the usual and normal charge.<sup>11</sup> The  
7 Commission’s regulations define “usual and normal charge” as “the price of those goods in the  
8 market from which they ordinarily would have been purchased at the time of the contribution.”<sup>12</sup>  
9 In the polling context, the Commission’s regulations permit political committees to split polling  
10 results with campaign committees by choosing an allocation method that reasonably reflects the  
11 use and benefit each committee derives.<sup>13</sup> This allows the benefitting committees to share the  
12 cost of the poll without resulting in an in-kind contribution.

13 LUPE PAC made an excessive in-kind contribution on March 31, 2022, when it paid  
14 \$15,037.50 to a vendor for half of the cost of a poll that benefited Vallejo’s campaign.<sup>14</sup> The  
15 remaining cost of the poll was paid by the Vallejo Committee.<sup>15</sup> The partial payment for the poll

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<sup>8</sup> *Id.* § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1)(i); Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 86 Fed. Reg. 7867, 7869 (Feb. 2, 2021).

<sup>9</sup> 52 U.S.C. § 30116(f); 11 C.F.R. § 110.9.

<sup>10</sup> 52 U.S.C. § 30101(8)(A)(i); *accord* 11 C.F.R. § 100.52(a); *see also* 52 U.S.C. § 30118(b)(2) (adding that “contribution” includes “any direct or indirect payment, . . . gift of money, or any services, or anything of value”).

<sup>11</sup> 11 C.F.R. § 100.52(d)(1).

<sup>12</sup> *Id.* § 100.52(d)(2).

<sup>13</sup> *Id.* § 106.4(e).

<sup>14</sup> LUPE PAC, 2022 Amended April Quarterly Report at 7 (May 5, 2022), <https://docquery.fec.gov/pdf/956/202205059502585956/202205059502585956.pdf>.

<sup>15</sup> Vallejo Committee, 2022 April Quarterly Report at 106 (Apr. 15, 2022), <https://docquery.fec.gov/pdf/354/202204159496904354/202204159496904354.pdf>.

1 exceeded the \$2,900 per candidate per election contribution limit because LUPE PAC never used  
2 nor intended to use the poll for its own benefit.<sup>16</sup> LUPE PAC states it has remedied the in-kind  
3 contribution by requesting a refund for the partial payment for the poll.<sup>17</sup> LUPE PAC disclosed  
4 the refund for the poll in its 2022 Post-General Election Report.<sup>18</sup> Although LUPE PAC made  
5 an excessive contribution, its overall activity was limited to its partial payment of \$15,037.50 for  
6 the poll. In addition, LUPE PAC remedied the excessive contribution when it asked the vendor  
7 to refund its payment and disclosed the refund.<sup>19</sup> Under these circumstances, the Commission  
8 exercises its prosecutorial discretion and dismisses the allegation that LUPE PAC made an  
9 excessive in-kind contribution in violation of 52 U.S.C. § 30116(a).<sup>20</sup>

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<sup>16</sup> 52 U.S.C. § 30116(a)(1)(A).

<sup>17</sup> LUPE PAC Resp. at 2.

<sup>18</sup> LUPE PAC, 2022 Post-General Election Report at 6 (Dec. 7, 2022),  
<https://docquery.fec.gov/pdf/204/202212079547290204/202212079547290204.pdf>.

<sup>19</sup> *Id.*

<sup>20</sup> *See Heckler v. Chaney*, 470 U.S. 821 (1985).

**FEDERAL ELECTION COMMISSION****FACTUAL AND LEGAL ANALYSIS****RESPONDENT:** LUPE Votes**MUR 7982****I. INTRODUCTION**

The Complaint alleges that LUPE Votes, a 501(c)(4) organization, violated the Federal Election Campaign Act of 1971, as amended (the “Act”), when it made expenditures in support of Michelle Vallejo, a candidate in the 15th Congressional District of Texas in 2022, but failed to file 24- and 48-Hour Reports of independent expenditures disclosing the cost of producing and distributing mailers and door hangers supporting Vallejo. The Complaint also alleges that LUPE Votes failed to include complete disclaimers on the mailers and door hangers. More broadly, the complaint alleges that LUPE Votes and Michelle Vallejo for Congress (“Vallejo Committee”) illegally coordinated their spending.

LUPE Votes concedes in its response that it sent mailers and distributed door hangers but did not timely file 24- or 48-Hour Reports of independent expenditures regarding the costs of producing and distributing these communications in advance of the primary election on March 1, 2022; it asserts that its failure to file these reports was unintentional, and, in response to the Complaint, filed the missing reports on August 30, 2022. LUPE Votes also acknowledges that neither communication included complete disclaimers but asserts that both prominently disclosed that they were paid for by LUPE Votes. LUPE Votes requests that the Commission exercise its prosecutorial discretion to dismiss these allegations. In addition, LUPE Votes denies that it impermissibly coordinated communications with Michelle Vallejo, the Vallejo Committee, or any of its agents.

1           As set forth below, the Commission finds reason to believe that LUPE Votes violated  
2 52 U.S.C. §§ 30104(g) and 30120(a) and 11 C.F.R. §§ 104.4(b) and (c) and 110.11 by failing to  
3 timely file 24- and 48-Hour Reports of independent expenditures and by failing to include proper  
4 disclaimers on public communications. However, the Commission finds no reason to believe  
5 that LUPE Votes coordinated its communications with the Vallejo Committee in violation of  
6 52 U.S.C. § 30118(a).

## 7 **II. FACTUAL BACKGROUND**

8           LUPE Votes (La Unión Del Pueblo Entero Votes) states that it is a nonprofit 501(c)(4)  
9 group organized and incorporated in Texas in October 2021 and is an affiliate of La Unión Del  
10 Pueblo Entero (“LUPE”), a 501(c)(3) organization,<sup>1</sup> founded by labor rights activists César  
11 Chávez and Dolores Huerta.<sup>2</sup> Daniel Diaz is a staff member of LUPE Votes<sup>3</sup> and described in  
12 the Complaint as LUPE Votes’ primary spokesperson and Director of Organizing.<sup>4</sup> LUPE Votes  
13 states it is a “community-based non-profit that is dedicated to winning justice for working-class  
14 South Texans through issue advocacy and a certain amount of electoral activity.”<sup>5</sup> To that end,

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<sup>1</sup> La Unión Del Pueblo Entero, Form 990, 2019 Return of Organization Exempt from Income Tax (Nov. 16, 2020), [https://apps.irs.gov/pub/epostcard/cor/931029197\\_201912\\_990\\_2021040217864422.pdf](https://apps.irs.gov/pub/epostcard/cor/931029197_201912_990_2021040217864422.pdf). The Internal Revenue Service (“IRS”) notes on its website that it is experiencing delays in updating tax exempt information, and that it is just starting to process paper filings sent in 2021. The organization’s 2019 form 990 is the latest available on the IRS site. There is no filing available for LUPE Votes, which was formed in 2021.

<sup>2</sup> LUPE Votes Resp. at 1 (Aug. 30, 2022); *see also* *About LUPE*, <https://lupenet.org> and *About LUPE Votes*, <https://lupevotes.org/about-lupe-votes/> (both last visited Mar. 14, 2023).

<sup>3</sup> LUPE Votes Resp. at 8.

<sup>4</sup> Compl. at 2-3 (Apr. 20, 2022).

<sup>5</sup> LUPE Votes Resp. at 1; *see* *About LUPE Votes*, <https://lupenet.org/about-lupe-votes/>. (Last visited Mar. 14, 2023).

1 LUPE Votes asked its followers on social media to nominate community leaders to run for  
2 Congress in Texas's 15th Congressional District and interviewed potential candidates.<sup>6</sup>

3 Michelle Vallejo filed her Statement of Candidacy for Congress in the 15th  
4 Congressional District of Texas and named Michelle Vallejo for Congress as her authorized  
5 Committee on December 12, 2021, after LUPE Votes candidate recruitment efforts in November  
6 2021.<sup>7</sup>

7 After Vallejo declared her candidacy, LUPE Votes endorsed her.<sup>8</sup> LUPE Votes  
8 subsequently made independent expenditures in the form of mailers, door hangers, and  
9 canvassing to distribute the door hangers in support of Vallejo's candidacy.<sup>9</sup> The door hangers,  
10 pictured below, included Vallejo's photo, along with the statement "Michelle Vallejo for U.S.  
11 Congress" and the dates for early voting and the date of the election.<sup>10</sup> The statement "Paid for  
12 by LUPE Votes," printed in a box, appears at the bottom of the door hanger.

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<sup>6</sup> LUPE Votes Resp. at 7; *see* Facebook, LUPE Votes (Nov. 1, 2021) (post includes "#WeThePueblo are taking our district back! Nominate leaders in our community who are ready to fight in Congress for working-class South Texans at wethepueblo.org").

<sup>7</sup> Michelle Vallejo, Statement of Candidacy (Dec. 12, 2021); Michelle Vallejo for Congress, Amended Statement of Organization (Oct. 15, 2022). Vallejo came in second place in the Democratic primary election on March 1, 2022, won the runoff primary election on May 24, 2022, and lost the general election on November 8, 2022.

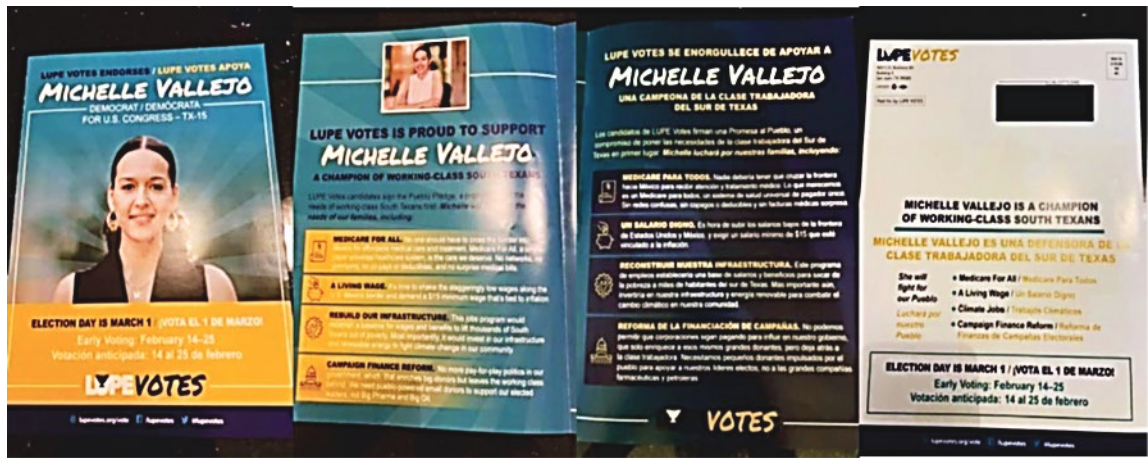
<sup>8</sup> LUPE Votes Resp. at 7.

<sup>9</sup> LUPE Votes, 2022 April Quarterly Report at 2 (Aug. 30, 2022), <https://docquery.fec.gov/pdf/116/202208309528298116/202208309528298116.pdf>; LUPE Votes, 24- and 48-Hour Reports of Independent Expenditures (Aug. 30, 2022), <https://docquery.fec.gov/pdf/134/202208309528298134/202208309528298134.pdf>; <https://docquery.fec.gov/pdf/142/202208309528298142/202208309528298142.pdf>.

<sup>10</sup> Compl. at 4, 7.



1  
2 The mailers, pictured below, included the same information, and a boxed “paid for” statement  
3 printed below the return address.<sup>11</sup>



4  
5 LUPE Votes disclosed on its 2022 Form 5 April Quarterly Report disbursements made on  
6 January 25, 2022, in the amount of \$34,241.61 and on February 15, 2022, in the amount of  
7 \$14,431.67, prior to the March 1, 2022, primary election.<sup>12</sup> On August 30, 2022, LUPE Votes

<sup>11</sup> *Id.* at 7.

<sup>12</sup> LUPE Votes, 2022 April Quarterly Report at 2 (Aug. 30, 2022), <https://docquery.fec.gov/pdf/116/202208309528298116/202208309528298116.pdf>.

1 filed a 24-Hour and a 48-Hour Report of Independent Expenditures in support of Vallejo  
2 disclosing the January 25 and February 15 expenditures.<sup>13</sup> After the Complaint in this matter  
3 was filed, LUPE Votes filed these independent expenditure reports on August 30, 2022.

### 4 **III. LEGAL ANALYSIS**

#### 5 **A. The Commission Finds Reason to Believe that LUPE Votes Failed to** 6 **Properly Disclose Independent Expenditures**

7 Committees and other persons that make independent expenditures aggregating \$1,000 or  
8 more with respect to a given election after the 20th day, but more than 24 hours before the date  
9 of that election, must file a 24-Hour Report to disclose such independent expenditures by the day  
10 following the date on which a communication is publicly distributed or otherwise publicly  
11 disseminated.<sup>14</sup> The Act and Commission regulations include a separate requirement to file 48-  
12 Hour Reports for Independent Expenditures aggregating \$10,000 or more at any time up to and  
13 including the 20th day before the date of an election.<sup>15</sup>

14 LUPE Votes acknowledges that it did not timely disclose its independent expenditures in  
15 24- and 48-Hour Reports.<sup>16</sup> Specifically, LUPE Votes reported \$34,241.61 in expenditures on  
16 January 25, 2022, that should have been disclosed in a 48-Hour Report of Independent  
17 Expenditures, and \$14,431.97 in expenditures on February 15, 2022, prior to Texas's primary

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<sup>13</sup> LUPE Votes, 24- and 48-Hour Reports of Independent Expenditures (Aug. 30, 2022), <https://www.fec.gov/data/committee/C90021304/?tab=filings>. LUPE Votes filed another 24-Hour Report of Independent Expenditure on August 30, 2022, related to activity that is not part of this matter, a \$24,629.36 disbursement for "mail" on May 10, 2022, in support of Vallejo. LUPE Votes had previously disclosed this independent expenditure by 24-hour report on May 11, 2022, and on its 2022 Form 5 July Quarterly Report. LUPE Votes, 24-Hour Report of Independent Expenditure at 2 (May 11, 2022), <https://docquery.fec.gov/pdf/742/202205119502721742/202205119502721742.pdf>; LUPE Votes, 2022 July Quarterly Report at 3 (Aug. 30, 2022), <https://docquery.fec.gov/pdf/126/202208309528298126/202208309528298126.pdf>.

<sup>14</sup> 52 U.S.C. § 30104(g)(1); 11 C.F.R. § 104.4(c).

<sup>15</sup> 52 U.S.C. § 30104(g)(2); 11 C.F.R. § 104.4(b).

<sup>16</sup> LUPE Votes Resp. at 5.



1 election that should have been disclosed in a 24-Hour Report of Independent Expenditures.  
2 After the Complaint in this matter was filed, LUPE Votes filed these independent expenditure  
3 reports on August 30, 2022. Accordingly, the Commission finds reason to believe that LUPE  
4 Votes violated 52 U.S.C. § 30104(g) and 11 C.F.R. § 104.4(b) and (c) by failing to timely file  
5 24- and 48-Hour Reports of Independent Expenditures.

6 **B. The Commission Finds Reason to Believe that LUPE Votes Failed to Include**  
7 **Sufficient Disclaimers on Public Communications**

8 The Act and Commission regulations require a disclaimer on certain types of  
9 communications identifying who paid for the communication and, where applicable, whether a  
10 communication was authorized by a candidate.<sup>17</sup> Disclaimers are required on all “public  
11 communications” made by any person that expressly advocate the election or defeat of a clearly  
12 identified federal candidate.<sup>18</sup> “Public communications” include mass mailings, which are  
13 mailings of more than 500 pieces of mail of an identical or substantially similar nature within  
14 any 30-day period, and “communication[s] by means of any . . . outdoor advertising facility . . .  
15 or any other form of general public political advertising.”<sup>19</sup>

16 If a communication is paid for by a person or entity other than a candidate’s authorized  
17 committee, but authorized by a candidate, the candidate’s authorized committee, or an agent of  
18 either, the communication must clearly state that it has been paid for by such other persons and  
19 authorized by the candidate’s authorized political committee.<sup>20</sup> If a communication is not

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<sup>17</sup> 52 U.S.C. § 30120(a); 11 C.F.R. § 110.11(a)-(c).

<sup>18</sup> 11 C.F.R. § 110.11(a)(2).

<sup>19</sup> 52 U.S.C. § 30101(22); 11 C.F.R. § 100.26. On December 1, 2022, the Commission approved a Final Rule and Explanation and Justification revising its disclaimer requirements at 11 C.F.R. § 100.26 for certain public communications placed for a fee on the internet. 87 Fed. Reg. 77467-77480 (Dec. 19, 2022). The analysis in this matter is not affected by the revisions.

<sup>20</sup> 11 C.F.R. § 110.11(b)(2).

1 authorized by candidate’s authorized committee, it must clearly state the name and permanent  
2 address, telephone number or website address of the person who paid for the communication and  
3 state that the communication is not authorized by any candidate or candidate’s committee.<sup>21</sup> The  
4 disclaimer must be “presented in a clear and conspicuous manner, to give the reader, observer, or  
5 listener adequate notice of the identity of the person or political committee that paid for, and  
6 where required, that authorized the communication.”<sup>22</sup> For printed communications, disclaimers  
7 must be clear and conspicuous, be of sufficient type size to be clearly readable, be contained in a  
8 printed box set apart from the other contents of the communication, and must clearly state who  
9 paid for the communication.<sup>23</sup>

10 LUPE Votes states that it paid a vendor \$14,431.97 for the mailers, which were  
11 distributed to “households in Texas’ 15th congressional district” and, therefore, appears to be a  
12 mass mailing and thus a public communication.<sup>24</sup> LUPE Votes also states that it paid \$2,574.95  
13 for the printing of the door hangers that were “distributed throughout the district by volunteers  
14 and paid canvassers.”<sup>25</sup> LUPE Votes paid canvassers \$21,080 to distribute the door hangers.<sup>26</sup>  
15 The Commission has previously determined that campaign literature distributed to the public at  
16 their place of residence constitutes general public advertising and is therefore a public

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<sup>21</sup> *Id.* § 110.11(b)(3).

<sup>22</sup> *Id.* § 110.11(c).

<sup>23</sup> *Id.* § 110.11(c)(2).

<sup>24</sup> LUPE Votes Resp. at 3.

<sup>25</sup> *Id.*

<sup>26</sup> LUPE Votes, 2022 April Quarterly Report at 3-10 (Aug. 30, 2022), <https://docquery.fec.gov/pdf/116/202208309528298116/202208309528298116.pdf>. On January 25, 2022, the same day that LUPE Votes paid for the door hangers, it paid 15 individuals for “canvassing.” In its response, LUPE Votes states that “paid and volunteer canvassers” distributed the door hangers. *See* LUPE Votes Resp. at 2.

1 communication.<sup>27</sup> Further, the mailers and the door hangers expressly advocate for the election  
2 of Vallejo by stating “Michelle Vallejo Democrat For U.S. Congress.”<sup>28</sup>

3 Because the door hangers and mailers are public communications that expressly advocate  
4 the election of Vallejo, they required disclaimers. Both communications’ disclaimers stated  
5 “Paid for by LUPE Votes” but did not state whether the communications were authorized by any  
6 candidate or candidate committee.<sup>29</sup> LUPE Votes acknowledges that the disclaimers lacked this  
7 required candidate authorization statement.<sup>30</sup> The Commission previously found reason to  
8 believe in MURs 7190/7208 (Alaska Republican Party) that a committee violated the disclaimer  
9 requirements on a communication on which the disclaimer stated that it was paid for by the  
10 committee but failed to include any candidate authorization statement.<sup>31</sup>

11 LUPE Votes acknowledges the incomplete disclaimers on its communications, but asks  
12 the Commission to dismiss the allegation, citing previous matters dismissed by the Commission  
13 where a communication lacked a sufficient disclaimer. Those matters, however, are  
14 distinguishable from the matter at hand, as they involved low amounts in violation and all but

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<sup>27</sup> See Factual and Legal Analysis (“F&LA”) at 6, MUR 6138 (Democrats for Good Government and David Knox) (Commission determined that campaign literature distributed to the public at their place of residence constitutes general public advertising and therefore a public communication); F&LA at 5-7, MUR 4741 (Mary Bono Committee) (same).

<sup>28</sup> See 11 C.F.R. § 100.22(a) (a communication contains express advocacy when, among other things, it uses campaign slogans or individual words such as “*Smith for Congress*,” and “*Bill McKay in '94*,” which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate); see also LUPE Votes Resp. at 7 (“the door hanger and direct mail piece contained express advocacy encouraging recipients to vote for Michelle Vallejo in the March 1, 2022 primary election.”).

<sup>29</sup> See 52 U.S.C. § 30120(a); 11 C.F.R. § 110.11(b).

<sup>30</sup> LUPE Votes Resp. at 3.

<sup>31</sup> See F&LA at 5-6, MURs 7190/7208 (Alaska Republican Party). See also MUR 5833 (Ohio Democratic Party) (reason to believe finding where disclaimer stated only “Paid for by the Ohio Democratic Party” and lacked a candidate authorization statement).

1 one were addressed as EPS dismissals.<sup>32</sup> And the other matters cited by LUPE Votes, MURs  
2 7460, 7536, and 7551 (Fair People for Fair Government, Coalition for a Safe Secure America, *et*  
3 *al.*), were addressed by six Commissioners in a Statement of Reasons setting forth the basis of  
4 the dismissal as the lack of available information regarding the funding organization and that an  
5 investigation would be a poor use of Commission resources.<sup>33</sup> In the instant matter, LUPE Votes  
6 makes clear that it paid for the communications and paid canvassers to distribute the door  
7 hangers, but admits that the candidate authorization statement was missing from the disclaimer.  
8 Finally, the cited matters contained no other allegations, and the Commission made no other  
9 determinations.

10 Accordingly, the Commission finds reason to believe that LUPE Votes violated  
11 52 U.S.C. § 30120(a) and 11 C.F.R. § 110.11 by failing to include complete disclaimers on the  
12 mailer and the door hanger.

13 **C. The Commission Finds No Reason to Believe that LUPE Votes Coordinated**  
14 **its Communications with the Vallejo Committee**  
15

16 The Complaint broadly alleges that LUPE Votes and Michelle Vallejo for Congress  
17 coordinated their efforts to advocate for Vallejo's election. As support for the allegation, the  
18 Complaint alleges that Vallejo and Daniel Diaz, director and treasurer of LUPE Votes, attended  
19 the same events and communicated at those events and alleges that Diaz co-hosted a fundraiser

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<sup>32</sup> LUPE Votes Resp. n.10. *See, e.g.*, MUR 7069 (Ron Hedlund) (alleged disclaimer violation dismissed, with EPS Dismissal Report citing "the fact that it is unlikely the general public would have been misled as to who was responsible for the letter" and the amount in violation was \$900); and MUR 7906 (Charles W. Herbster, *et al.*) (EPS Dismissal Report regarding allegation of failure to include disclaimer on a \$9,000 magazine advertisement).

<sup>33</sup> Statement of Reasons, Comm'rs Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub, MURs 7460, 7536, and 7551 (Fair People for Fair Government, Coalition for a Safe Secure America, *et al.*) (explaining dismissal of alleged disclaimer and reporting violations pursuant to *Heckler v. Chaney*, 470 U.S. 821 (1985)). Three Commissioners issued a separate Statement of Reasons. Statement of Reasons, Comm'rs Cooksey, Dickerson, and Trainor, MURs 7460, 7536, and 7551 (Fair People for Fair Government, Coalition for a Safe Secure America, *et al.*).

1 event for Vallejo.<sup>34</sup> LUPE Votes does not deny attendance at those events but asserts that the  
2 events were widely attended and open to the public such as educational round-tables, voting  
3 drives and vaccine clinics, and an awards dinner, and that Diaz and Vallejo did not coordinate at  
4 those events.<sup>35</sup> LUPE Votes acknowledges that two staff members, including Diaz, hosted a  
5 fundraiser for Vallejo, but state that the individuals did so on their own time and not on behalf of  
6 LUPE Votes, and that the event was held after the communications at issue were produced and  
7 disseminated.<sup>36</sup>

8 To the extent the Complaint alleges that LUPE Votes' communications were coordinated  
9 with the Vallejo Committee, a communication is "coordinated" with a candidate, an authorized  
10 committee, or agent thereof, and is treated as an in-kind contribution, if the communication  
11 meets a three-part test under the Commission's regulations: (1) payment for the communication  
12 by a third party; (2) satisfaction of one of five "content" standards of 11 C.F.R. § 109.21(c); and  
13 (3) satisfaction of one of six "conduct" standards of 11 C.F.R. § 109.21(d).<sup>37</sup> All three prongs  
14 are required for a communication to be considered a coordinated communication.<sup>38</sup> As a  
15 corporation, LUPE Votes is prohibited from making contributions to federal candidates and their  
16 committees, and candidate committees are prohibited from knowingly accepting corporate  
17 contributions.<sup>39</sup>

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<sup>34</sup> Compl. at 5.

<sup>35</sup> LUPE Votes Resp. at 6, 8.

<sup>36</sup> *Id.* at 6.

<sup>37</sup> 11 C.F.R. § 109.21.

<sup>38</sup> *Id.* § 109.21(a).

<sup>39</sup> 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b).

1           LUPE Votes concedes that the communications at issue in the Complaint, the mailer and  
2 the door hanger, satisfy the “payment prong” and the “content prong” of the Commission’s  
3 coordination test — LUPE Votes paid for the mailer and door hanger that expressly advocate the  
4 election of Michelle Vallejo. LUPE Votes denies, however, conduct that would result in  
5 coordinated communications.<sup>40</sup> LUPE Votes asserts that the Complaint fails to assert any  
6 specific evidence of impermissible coordination satisfying any conduct standard and argues that  
7 the events occurred after the communications were produced and disseminated.<sup>41</sup> While the  
8 response does not provide any sworn denials, neither does the record contain any specific  
9 allegations of conduct constituting coordination of LUPE Votes’ communications, and we are  
10 not otherwise aware of any.<sup>42</sup> Accordingly, the Commission finds no reason to believe that  
11 LUPE Votes coordinated its communications with the Vallejo Committee in violation of  
12 52 U.S.C. § 30118(a).

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<sup>40</sup> *Id.* § 109.21(d); LUPE Votes Resp. at 6 and 8.

<sup>41</sup> LUPE Votes Resp. at 7.

<sup>42</sup> *See* F&LA at 6, MUR 7166 (Nelson for Wisconsin, *et al.*) (dismissing coordination allegation where complaint failed to allege specific facts regarding the conduct standard and finding timing of advertisement was insufficient support for the coordination allegation).

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 **RESPONDENT:** Michelle Vallejo for Congress and **MUR 7982**  
4 Shayne Thoman in his official  
5 capacity as treasurer  
6

7 **I. INTRODUCTION**

8 The Complaint alleges that Michelle Vallejo for Congress and Shayne Thoman in his  
9 official capacity as treasurer (“Vallejo Committee”) accepted an excessive in-kind contribution  
10 when it shared the cost of a poll, and that the Vallejo Committee illegally coordinated  
11 communications.

12 The Vallejo Committee denies coordinating communications but admits that sharing the  
13 cost of a poll may have resulted in an excessive in-kind contribution. The Vallejo Committee  
14 states that it has now paid the vendor for the full cost of the poll. The Vallejo Committee  
15 requests that the Commission dismiss the allegations.

16 As set forth below, the Commission dismisses the allegation that the Vallejo Committee  
17 accepted an excessive in-kind contribution resulting from partial payment for a poll in violation  
18 of 52 U.S.C. § 30116(f). In addition, the Commission finds no reason to believe that the Vallejo  
19 Committee coordinated communications in violation of 52 U.S.C. § 30118(a).

## 1 II. FACTUAL BACKGROUND

2 Michelle Vallejo filed her Statement of Candidacy for Congress in the 15th  
3 Congressional District of Texas on December 12, 2021, and named Michelle Vallejo for  
4 Congress as her authorized committee.<sup>1</sup>

5 After Vallejo declared her candidacy, LUPE Votes (La Unión Del Pueblo Entero Votes),  
6 a nonprofit 501(c)(4) group organized and incorporated in Texas in October 2021 and an affiliate  
7 of La Unión Del Pueblo Entero (“LUPE”), a 501(c)(3) organization,<sup>2</sup> endorsed her. LUPE Votes  
8 subsequently made independent expenditures in the form of mailers, door hangers, and  
9 canvassing to distribute the door hangers in support of Vallejo’s candidacy.<sup>3</sup> LUPE Votes  
10 disclosed on its 2022 April Quarterly Report the related disbursements on January 25, 2022, in  
11 the amount of \$34,241.61 and on February 15, 2022, in the amount of \$14,431.97, prior to the  
12 March 1, 2022, primary election.<sup>4</sup>

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<sup>1</sup> Michelle Vallejo, Statement of Candidacy (Dec. 12, 2021). Michelle Vallejo for Congress, Amended Statement of Organization (Oct. 15, 2022), <https://docquery.fec.gov/pdf/335/202210159533228335/202210159533228335.pdf>. Vallejo came in second place in the Democratic primary election on March 1, 2022, won the runoff primary election on May 24, 2022, and lost the general election on November 8, 2022.

<sup>2</sup> Vallejo Committee Resp. at 2 (Aug. 29, 2022); La Unión Del Pueblo Entero, Form 990, 2019 Return of Organization Exempt from Income Tax (Nov. 16, 2020), [https://apps.irs.gov/pub/epostcard/cor/931029197\\_201912\\_990\\_2021040217864422.pdf](https://apps.irs.gov/pub/epostcard/cor/931029197_201912_990_2021040217864422.pdf). The Internal Revenue Service (“IRS”) notes on its website that it is experiencing delays in updating tax exempt information, and that it is just starting to process paper filings sent in 2021. The organization’s 2019 Form 990 is the latest available on the IRS site. There is no filing available for LUPE Votes, which was formed in 2021.

<sup>3</sup> LUPE Votes, 2022 April Quarterly Report at 2 (Aug. 30, 2022), <https://docquery.fec.gov/pdf/116/202208309528298116/202208309528298116.pdf>; LUPE Votes, 24- and 48-Hour Reports of Independent Expenditures (Aug. 30, 2022), <https://docquery.fec.gov/pdf/134/202208309528298134/202208309528298134.pdf>; <https://docquery.fec.gov/pdf/142/202208309528298142/202208309528298142.pdf>.

<sup>4</sup> LUPE Votes, 2022 April Quarterly Report at 2 (Aug. 30, 2022), <https://docquery.fec.gov/pdf/116/202208309528298116/202208309528298116.pdf>. On August 30, 2022, LUPE Votes filed a 24-Hour and a 48-Hour Report of Independent Expenditures in support of Vallejo disclosing the January 25 and February 15 expenditures. LUPE Votes, 24- and 48-Hour Reports of Independent Expenditures (Aug. 30, 2022), <https://docquery.fec.gov/pdf/134/202208309528298134/202208309528298134.pdf>; <https://docquery.fec.gov/pdf/142/202208309528298142/202208309528298142.pdf>.



1           As alleged in the Complaint, the Vallejo Committee acknowledges that it split the cost  
2 for a research poll.<sup>5</sup> In March 2022, the Vallejo Committee paid \$15,037.50 to Lake Research  
3 Partners for half of the cost of a poll.<sup>6</sup> LUPE PAC and Daniel Diaz in his official capacity as  
4 treasurer disclosed a payment to Lake Research Partners for the remainder of the cost.<sup>7</sup> After it  
5 received notice of this Complaint, the Vallejo Committee states that it paid Lake Research  
6 Partners another \$15,037.50, the balance of the cost of the poll.<sup>8</sup>

7           However, the Vallejo Committee denies coordinating its strategy with LUPE Votes.<sup>9</sup>  
8 Vallejo states that after she became a candidate, she was warned not to share non-public  
9 information with any other organization and that she followed that instruction.<sup>10</sup> The Committee  
10 specifically addresses an educational roundtable and an awards event held by the Hidalgo  
11 County Tejano Democrats, both attended by Vallejo and a representative of LUPE Votes, stating  
12 that both events were attended by the public.<sup>11</sup> According to the Vallejo Committee, the awards  
13 event was widely attended by local politicians and community members, and Vallejo did not  
14 discuss campaign strategy, plans, or needs with any other member of any organizations,  
15 including LUPE Votes.<sup>12</sup>

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<sup>5</sup> Vallejo Committee Resp. at 6.

<sup>6</sup> Vallejo Committee, 2022 April Quarterly Report at 106 (Apr. 15, 2022),  
<https://docquery.fec.gov/pdf/354/202204159496904354/202204159496904354.pdf>.

<sup>7</sup> LUPE PAC, 2022 Amended April Quarterly Report at 7 (May 5, 2022),  
<https://docquery.fec.gov/pdf/956/202205059502585956/202205059502585956.pdf>.

<sup>8</sup> Vallejo Committee Resp. at 6, 7.

<sup>9</sup> *Id.* at 2.

<sup>10</sup> *Id.* at 3.

<sup>11</sup> *Id.* at 2, 3.

<sup>12</sup> *Id.*

1           **A. The Commission Exercises its Prosecutorial Discretion to Dismiss the Allegation**  
2           **that Vallejo for Congress Accepted an In-kind Contribution**  
3

4           The Act provides that no person shall make contributions to any candidate or authorized  
5 committee in excess of the Act’s limits.<sup>13</sup> For the 2022 election cycle, the Act limits  
6 contributions by persons to any candidate and his or her authorized political committees to  
7 \$2,900 per election.<sup>14</sup> No candidate or committee shall knowingly accept excessive  
8 contributions.<sup>15</sup>

9           A “contribution” includes “any gift, subscription, loan, advance, or deposit of money or  
10 anything of value made by any person for the purpose of influencing any election for Federal  
11 office.”<sup>16</sup> “Anything of value” includes all in-kind contributions, such as the provision of goods  
12 or services without charge or at a charge less than the usual and normal charge.<sup>17</sup> The  
13 Commission’s regulations define “usual and normal charge” as “the price of those goods in the  
14 market from which they ordinarily would have been purchased at the time of the contribution.”<sup>18</sup>  
15 In the polling context, the Commission’s regulations permit political committees to split polling  
16 results with campaign committees by choosing an allocation method that reasonably reflects the  
17 use and benefit each committee derives.<sup>19</sup> This allows the benefitting committees to share the  
18 cost of the poll without resulting in an in-kind contribution.

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<sup>13</sup> 52 U.S.C. § 30116(a).

<sup>14</sup> *Id.* § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1)(i); Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 86 Fed. Reg. 7867, 7869 (Feb. 2, 2021).

<sup>15</sup> 52 U.S.C. § 30116(f); 11 C.F.R. § 110.9.

<sup>16</sup> 52 U.S.C. § 30101(8)(A)(i); *accord* 11 C.F.R. § 100.52(a); *see also* 52 U.S.C. § 30118(b)(2) (adding that “contribution” includes “any direct or indirect payment, . . . gift of money, or any services, or anything of value”).

<sup>17</sup> 11 C.F.R. § 100.52(d)(1).

<sup>18</sup> *Id.* § 100.52(d)(2).

<sup>19</sup> *Id.* § 106.4(e).

1           The Vallejo Committee accepted an in-kind contribution on March 31, 2022, when it paid  
2 \$15,037.50 to a vendor for only half of the cost of a public opinion poll that the Complaint  
3 alleges benefited Vallejo’s campaign.<sup>20</sup> The remaining cost of the poll, paid for by LUPE  
4 PAC,<sup>21</sup> exceeded the \$2,900 per candidate per election contribution limit because LUPE PAC  
5 never used nor intended to use the poll for its own benefit.<sup>22</sup> The Vallejo Committee states it has  
6 remedied the in-kind contribution by paying for the full cost of the poll.<sup>23</sup> The Vallejo  
7 Committee states that it was only after the Complaint that they learned that payment for a portion  
8 of the poll would result in a contribution.<sup>24</sup> Although the Vallejo Committee appears to have  
9 knowingly accepted an excessive contribution, the amount in violation is small, and the Vallejo  
10 Committee, upon learning of the violation, remedied the contribution by asking the vendor to  
11 refund \$15,037.50 to LUPE PAC and invoice the Vallejo Committee for that portion of the cost,  
12 which the Vallejo Committee paid.<sup>25</sup> Under these circumstances, the Commission exercises its  
13 prosecutorial discretion and dismisses the allegation that the Vallejo Committee knowingly  
14 accepted an excessive in-kind contribution in violation of 52 U.S.C. § 30116(f).<sup>26</sup>

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<sup>20</sup> Vallejo Committee, 2022 April Quarterly Report at 106 (Apr. 15, 2022), <https://docquery.fec.gov/pdf/354/202204159496904354/202204159496904354.pdf>.

<sup>21</sup> LUPE PAC, 2022 Amended April Quarterly Report at 7 (May 5, 2022), <https://docquery.fec.gov/pdf/956/202205059502585956/202205059502585956.pdf>.

<sup>22</sup> LUPE PAC Resp. at 2 (Aug. 30, 2022).

<sup>23</sup> Vallejo Committee Resp. at 6.

<sup>24</sup> *Id.* at 3.

<sup>25</sup> *Id.* at 6; Michelle Vallejo for Congress, 2022 October Quarter Report at 613 (Oct. 15, 2022), <https://docquery.fec.gov/pdf/438/202210159533228438/202210159533228438.pdf#navpanes=0>; LUPE PAC, 2022 Post-General Election Report at 6 (Dec. 7, 2022), <https://docquery.fec.gov/pdf/204/202212079547290204/202212079547290204.pdf>.

<sup>26</sup> *See Heckler v. Chaney*, 470 U.S. 821 (1985).

1                   **B. The Commission Should Find No Reason to Believe that the Vallejo**  
2                   **Committee Coordinated its Communications**

3  
4           The Complaint broadly alleges that Michelle Vallejo for Congress coordinated its efforts  
5 to advocate for Vallejo’s election. As support for the allegation, the Complaint alleges that  
6 Vallejo attended events and communicated at those events regarding the Committee’s needs and  
7 strategies.<sup>27</sup> Respondent does not deny attendance at those events but asserts that the events,  
8 such as educational round-tables, voting drives, vaccine clinics, and an awards dinner, were  
9 widely attended and open to the public, and that Vallejo did not coordinate at those events.<sup>28</sup>  
10 The Vallejo Committee states that Vallejo did not, to her knowledge, disclose any nonpublic  
11 strategies or needs with any individual, nor did she request or suggest that any person or  
12 organization sponsor communications supporting her candidacy.<sup>29</sup>

13           To the extent the Complaint alleges that the Vallejo Committee coordinated  
14 communications with LUPE Votes, a communication is “coordinated” with a candidate, an  
15 authorized committee, or agent thereof, and is treated as an in-kind contribution, if the  
16 communication meets a three-part test under the Commission’s regulations: (1) payment for the  
17 communication by a third party; (2) satisfaction of one of five “content” standards of 11 C.F.R.  
18 § 109.21(c); and (3) satisfaction of one of six “conduct” standards of 11 C.F.R. § 109.21(d).<sup>30</sup>  
19 All three prongs are required for a communication to be considered a coordinated  
20 communication.<sup>31</sup> Corporations are prohibited from making contributions to federal candidates

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<sup>27</sup> Compl. at 5 (Apr. 20, 2022).

<sup>28</sup> Vallejo Committee Resp. at 2.

<sup>29</sup> *Id.*

<sup>30</sup> 11 C.F.R. § 109.21.

<sup>31</sup> *Id.* § 109.21(a).

1 and their committees, and candidate committees are prohibited from knowingly accepting  
2 corporate contributions.<sup>32</sup>

3           The Vallejo Committee asserts that once Vallejo decided to run for Congress in  
4 December 2021, she was told that she should not communicate with any organization about  
5 nonpublic information regarding her campaign.<sup>33</sup> From that point, the Committee asserts,  
6 Vallejo observed that admonition and has no recollection of communicating with any individual  
7 or organization except in the context of the events described in the Complaint and responses.<sup>34</sup>  
8 Here, the record does not contain any specific allegations of conduct constituting coordination of  
9 communications, and the Commission is not otherwise aware of any.<sup>35</sup> Accordingly, the  
10 Commission finds no reason to believe the allegation that the Vallejo Committee violated  
11 52 U.S.C. § 30118(a) by receiving a corporate contribution in the form of coordinated  
12 communications.

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<sup>32</sup> 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b).

<sup>33</sup> Vallejo Committee Resp. at 2.

<sup>34</sup> *Id.*

<sup>35</sup> *See* F&LA at 6, MUR 7166 (Nelson for Wisconsin, *et al.*) (dismissing coordination allegation where complaint failed to allege specific facts regarding the conduct standard and finding timing of advertisement was insufficient support for the coordination allegation).