



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

January 11, 2024

VIA Electronic Mail
bmorgan@capdale.com

Bryson B. Morgan
Caplin & Drysdale
One Thomas Circle, NW
Suite 1100
Washington, DC 20005

RE: MUR 7982
LUPE Votes

Dear Mr. Morgan:

On December 18, 2023, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of violations of 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 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. Accordingly, the file has been closed in this matter.

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). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 52 U.S.C. § 30109(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1650 or wbrown@fec.gov.

Sincerely,

Wanda Brown by MA

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

Enclosure

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
LUPE Votes)	MUR 7982
)	

CONCILIATION AGREEMENT

This matter was initiated by a complaint filed with the Federal Election Commission (“Commission”). The Commission found reason to believe that LUPE Votes (“Respondent”) violated 52 U.S.C. §§ 30104(g) and 30120(a) of the Federal Election Campaign Act of 1971, as amended (the “Act”), and 11 C.F.R. §§ 104.4(b) and (c) and 110.11 of the Commission’s regulations.

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

- I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 52 U.S.C. § 30109(a)(4)(A)(i).
- II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Respondent enters voluntarily into this agreement with the Commission.
- IV. The pertinent facts in this matter are as follows:
 1. LUPE Votes (La Unión Del Pueblo Entero Votes) is a nonprofit group organized under section 501(c)(4) of the Internal Revenue Code.
 2. An independent expenditure means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate that is not made in concert or

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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
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12/21/23
Date

FOR THE RESPONDENT:


Bryson Morgan
Counsel, on behalf of LUPE Votes

December 1, 2023
Date