

**BEFORE THE
FEDERAL ELECTION COMMISSION**

Alma Espinoza, L.S.S.P.

[REDACTED]
Hidalgo, Texas 78557

Complainant,

v.

LUPE Votes
1601 U.S. Business 83
Building S
San Juan, TX 78589
FEC ID: C90021304

LUPE PAC, treasurer Daniel Diaz
PO Box 1265
Mission, TX 78573
FEC ID: C00797217

Michelle Vallejo for Congress, treasurer Shayne Thoman
PO Box 1265
Mission, TX 78573
FEC ID: C00797217

Respondents.

COMPLAINT

This complaint, filed pursuant to 52 U.S.C. § 30109(a)(1), regards alleged violations of Federal election law during the primary election held in Texas' 15th Congressional District on March 1, 2022. Specifically, it alleges illegal failures to disclose Independent Expenditures and illegal coordination of spending, among other violations.

As laid out more fully herein, LUPE Votes ran a campaign to recruit a chosen candidate to run for Texas' 15th Congressional district, set the terms of that candidates launch, and in turn, their chosen candidate, Michelle Vallejo, referenced being "nominated by LUPE Votes." Subsequently, Michelle Vallejo was systematically supported by LUPE Votes through non-disclosed electioneering communications and expenditures which were illegally coordinated.

Further, Daniel Diaz, LUPE Votes' primary point of contact, who filed the LUPE Votes report on April 15, 2022, and also served as LUPE Votes primary spokesperson, appeared in direct communication with Michelle Vallejo during public and private events. He further served as an agent of the campaign while the organization he helped lead was spending money on, and failing to disclose in a timely manner, electioneering communications in support of Michelle Vallejo's campaign for Congress.

In the span of one week, Daniel Diaz served as an agent of the independent campaign, helping to lead a LUPE Votes canvass event for Michelle Vallejo and then as an agent of the campaign hosting a fundraising event for Michelle Vallejo for Congress and appearing with the candidate. That same week, the mail piece paid for by LUPE Votes two weeks earlier arrived in the mailboxes of citizens across the district. This constitutes egregious violations of both federal law and Commission regulations.

Moreover, Michelle Vallejo's margin of victory to secure her position in the runoff election was merely 302 votes. Given this tight margin, LUPE Votes' undisclosed, improperly disclaimed, and potentially illegal spending may have played an essential role in securing Michelle Vallejo's second-place position in the March 1st primary election. This undermines confidence in the electoral process and may have served to deprive voters of a fair chance to elect the representative of their choice. The Commission should immediately and expeditiously investigate these violations and take appropriate remedial measures as is warranted.

STATEMENT OF FACTS

On November 1, 2021 a story aired by KEVO, a local news station in McAllen, TX stated that "LUPE Votes wants community members to run for Congress with 'We the Pueblo' campaign."¹ The story went on to cite on Daniel Diaz, describing him as "an organizer of LUPE."² That same KEVO article said that "the deadline to nominate someone is November 20th and candidates must announce their intent to run by December 13."³ Per Daniel Diaz's LinkedIn page, he is the Director of Organizing with LUPE.⁴

A search of the Internal Revenue Service's Tax-Exempt Organization Database returns no organization with the name LUPE Votes registered at the address provided by the organization on their website.⁵ However, La Union Del Pueblo Entero, Daniel Diaz's employer, is a non-profit organization, registered in Keene, CA with an Employer Identification Number of 93-1029197.

¹ Brice Helms, ValleyCentral.com, *LUPE Votes Wants Community Members to Run for Congress with 'We the Pueblo' Campaign* (Nov. 1, 2021), <https://www.valleycentral.com/news/local-news/lupe-wants-community-members-to-run-for-congress-with-we-the-pueblo-campaign/>.

² *Id.*

³ *Id.*

⁴ Danny Diaz, LinkedIn, <https://www.linkedin.com/in/danny-diaz-80789176> (last accessed Apr. 12, 2022).

⁵ LUPE Votes, Homepage, <https://www.lupevotes.org/> (last accessed Apr. 12, 2022).

On December 9th, 2021 Daniel Diaz, filed a Statement of Organization with the Federal Elections Commission to form LUPE PAC.⁶ According to Federal Election Commission records, Daniel Diaz serves as both the treasurer and custodian of records for the PAC, and gave his address as 416 S Alton Blvd., Suite A Alton, TX 78573. That address houses one of LUPE's offices. This committee's FEC ID is C00797027.⁷

Just three days later, on December 12, 2021 Michelle Vallejo filed her statement of candidacy with the Federal Elections Commission.⁸ Her committee was named Michelle Vallejo for Congress and has the FEC ID number C00797217.

The next day, December 13, 2021, The Monitor (www.myRGV.com) published a story describing LUPE Votes' nomination of Michelle Vallejo to be the Pueblo's candidate for Texas' 15th Congressional District.⁹ In the article, LUPE Votes is described as "the political arm of La Union del Pueblo Entero."¹⁰

Also, on December 13, 2021 Michelle Vallejo filed her candidacy with the Texas Democratic Party Primary Administrators in Austin, Texas.¹¹

On January 4, 2022 LUPE Votes received a \$100,000 contribution from Four Freedoms Fund based in New York City. This was the only disclosed contribution received by the organization during the first quarter of 2022, per their Q1 Federal Elections Commission report.¹²

On January 13, 2022, according to a tweet sent from her official account, Michelle Vallejo attended the Hidalgo County Tejano Democrats Gala with Daniel Diaz, and other individuals affiliated with LUPE.¹³

⁶ LUPE PAC, FEC Form 1, Statement of Organization (Dec. 9, 2021), <https://docquery.fec.gov/cgi-bin/forms/C00797027/1551220/>.

⁷ Federal Election Committee, Campaign Finance Data, Committee Profiles – LUPE PAC, <https://www.fec.gov/data/committee/C00797027/?tab=summary> (last accessed Apr. 18, 2022).

⁸ Michelle Vallejo, FEC Form 2, Statement of Candidacy (Dec. 12, 2021), <https://docquery.fec.gov/cgi-bin/forms/H2TX15203/1551408/>.

⁹ Bernice Garcia, The Monitor, *LUPE Votes Backs Entrepreneur as Progressive Candidate for District 15* (Dec. 13, 2021), <https://myrgv.com/featured/2021/12/13/lupe-votes-backs-entrepreneur-as-progressive-candidate-for-district-15/>.

¹⁰ *Id.*

¹¹ Texas Secretary of State, Qualified Candidate Information, U.S. Representative District 15, <https://candidate.texas-election.com/Elections/getQualifiedCandidatesInfo.do>

¹² Federal Election Committee, Campaign Finance Data – LUPE Votes, <https://docquery.fec.gov/cgi-bin/forms/C90021304/1587772/> (last accessed Apr. 18, 2022).

¹³ Vallejo, Michelle (@MichelleVforTX), Twitter (Jan. 14, 2022 at 3:02 p.m.), https://twitter.com/MichelleVforTX/status/1482080640598216704?s=20&t=SkrvVse6hx7d_PsWuCZoyg

On January 21, 2022 LUPE Votes recorded disbursing \$2,574.95 to Copy Zone in McAllen on “[d]oor hangers” in support of Michelle Vallejo’s campaign for Congress, per their Q1 Federal Elections Commission report.¹⁴

On January 26, 2022 the Michelle Vallejo for Congress Campaign held an education roundtable on Facebook Live featuring local educators and Daniel Diaz.¹⁵ During the course of this roundtable, Daniel Diaz described himself as the Director of Organizing at both LUPE and LUPE Votes.¹⁶

On January 28, 2022 the LUPE Votes Twitter account (@lupevotes) tweeted out a picture of a box of Michelle Vallejo literature with the paid for by disclaimer clearly visible as LUPE Votes.¹⁷ A picture of the tweet, and close up of the attached picture are copied below.



On February 2, 2022 LUPE Votes disbursed \$14,431.97 to Wildfire Mail for Direct Mail in support of Michelle Vallejo’s campaign for Congress, per their Q1 report.¹⁸ This is in excess of the \$10,000 limit on Independent Expenditures which do not need to be disclosed during the calendar year of an election, and should have been disclosed on a Form 5 within 48 hours per 11 C.F.R. § 109.10(c) and (d).

¹⁴ Federal Election Committee, Campaign Finance Data – LUPE Votes, <https://docquery.fec.gov/cgi-bin/forms/C90021304/1587772/> (last accessed Apr. 18, 2022).

¹⁵ Vallejo, Michelle (@MichelleVallejoForCongress), Facebook, *South Texas Education Forum*, <https://www.facebook.com/michellefortx/videos/714530542851518/>

¹⁶ *Id.* at 02:35.

¹⁷ LUPE Votes (@LupeVotes), Twitter (Jan. 28, 2022 at 2:03 p.m.), <https://twitter.com/lupevotes/status/1487139340815847426>.

¹⁸ Federal Election Committee, Campaign Finance Data – LUPE Votes, <https://docquery.fec.gov/cgi-bin/forms/C90021304/1587772/> (last accessed Apr. 18, 2022).

On February 5th, 2022 the LUPE Votes Twitter account (@lupevotes) sent a tweet with pictures of individuals holding the same yellow walk literature on behalf of Ms. Vallejo, and saying “Our team is out all weekend knocking on thousands of doors for [Michelle Vallejo]!”¹⁹ A picture of the tweet is copied below.



On February 10, 2022, the 24-hour reporting period for Independent Expenditures in the Texas primaries began as per § 100.2 Election (52 U.S.C. 30101(1)).

On February 16, 2022 the LUPE Votes Twitter account again tweeted photos of a canvass event with the same walk literature discussing Michelle Vallejo’s candidacy.²⁰ A picture of the tweet is copied below.



¹⁹ LUPE Votes (@LupeVotes), Twitter (Feb. 5, 2022 at 9:15 p.m.), <https://twitter.com/lupevotes/status/1490147028562853892>

²⁰ LUPE Votes (@LupeVotes), Twitter (Feb. 16, 2022 at 7:28 p.m.), <https://twitter.com/lupevotes/status/1494106360144969735>

On February 19, 2022 LUPE Votes' official Twitter account tweeted photos of an event featuring Daniel Diaz leading a block walk for LUPE Votes, carrying the same undisclosed Michelle Vallejo walk literature.²¹ A picture of the tweet and relevant pictures are copied below.

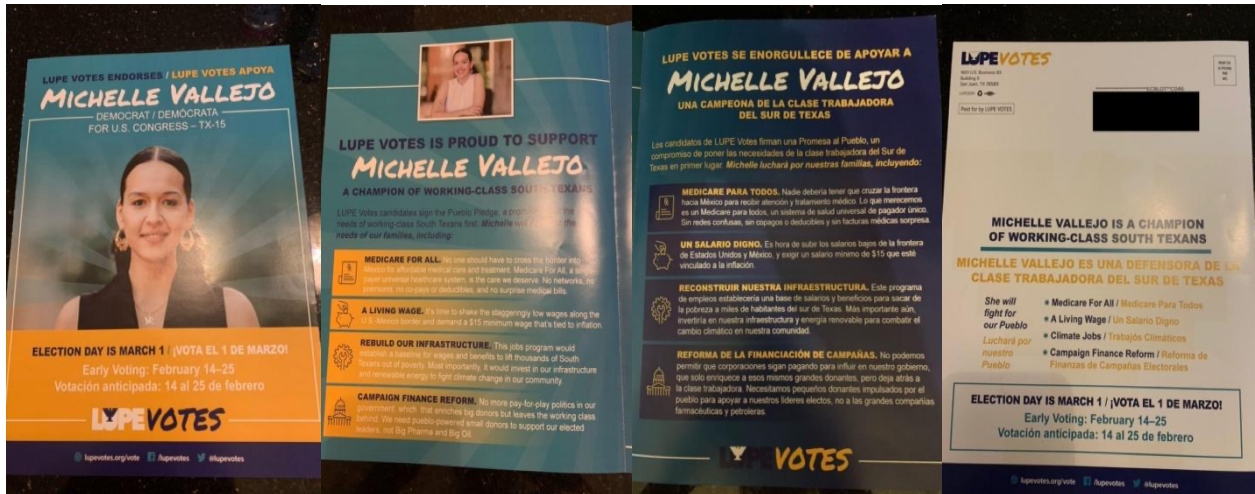


On February 20, 2022 Per tweets from both the Michelle Vallejo for Congress Twitter account,²² and Daniel Diaz's personal Twitter account,²³ Daniel Diaz hosted a fundraiser for Michelle Vallejo's campaign for Congress. Pictures from the event show Mr. Diaz appearing alongside the candidate and giving remarks on her behalf. Pictures of the two tweets are included below.



²¹ LUPE Votes (@LupeVotes), Twitter (Feb. 19, 2022 at 6:06 p.m.), <https://twitter.com/lupevotes/status/1495172948512100353>
²² Vallejo, Michelle (@MichelleVforTX), Twitter (Feb. 21, 2022 at 1:22 p.m.), <https://twitter.com/MichelleVforTX/status/1495826364871725063>
²³ Diaz, Daniel (@DanielDiaz956), Twitter, (Feb. 20, 2022 at 8:20 p.m.), <https://twitter.com/DanielDiaz956/status/1495569474333851650>

The week of February 20, 2022, a piece of mail appeared in mailboxes across the 15th District supporting Michelle Vallejo. The piece had a disclaimer notifying recipients of the mailer that it was paid for by LUPE Votes, but not disclaiming that it was produced without coordination with any candidate or candidate committee. In addition, no in-kind contribution from LUPE Votes was ever declared by Michelle Vallejo’s campaign as may have been required given that this appears to be a fully coordinated communication. Pictures of the mail communication are included below.



On March 1, 2022 Michelle Vallejo barely earned a second place spot to advance to the runoff election for Texas’ 15th Congressional District, beating out third place finisher John Villareal Rigney by only 302 votes, less than a percentage point.²⁴ It is entirely plausible that without the non-disclosed, and illegally coordinated spending on her behalf that she would not have advanced to the runoff at all. Thus, not only did LUPE Votes fail to comply with Federal Election Commission regulations and federal law in failing to disclose their electioneering communications on behalf of Michelle Vallejo in a timely manner and by participating in active conversations with members of the campaign team, that illegal coordination and dark money spending may have proved determinative in buying Michelle Vallejo a second place finish, and allowing her advancement to the runoff election.

On March 3, 2022 LUPE Votes recorded disbursing \$24,250 to seven individuals for canvassing work in support of Michelle Vallejo’s campaign for Congress per their Q1 FEC Report.²⁵ These disbursements should have been reported to the Federal Election Commission within 48 hours on a Form 5 as required by 11 C.F.R. §§ 109.10(c) and (d).

²⁴ <https://www.cnn.com/election/2022/results/texas/democratic-primaries/us-house-district-15>

²⁵ Federal Election Committee, Campaign Finance Data – LUPE Votes, <https://docquery.fec.gov/cgi-bin/forms/C90021304/1587772/> (last accessed Apr. 18, 2022).

On March 10, 2022 LUPE Votes recorded disbursing \$4,044.99 to GetThru based in Oakland, TX for “Peer to Peer Texting and Dialer” services in support of Michelle Vallejo’s campaign for Congress, per their Q1 FEC report.²⁶

On March 24, 2022 Michelle Vallejo for Congress recorded disbursing \$15,037.50 for “Research” to Lake Research Partners per their Q1 FEC Report.²⁷

On March 25, 2022 LUPE Votes recorded disbursing \$6,000 to Daniel Diaz for fieldwork in support of Michelle Vallejo’s campaign for Congress per their Q1 FEC Report.²⁸

On March 31, 2022 LUPE PAC recorded disbursing \$15,037.50 on a poll from Lake Research Partners, per their Q1 FEC Report.²⁹ This demonstrates the Michelle Vallejo for Congress Committee splitting a poll with LUPE PAC, whose treasurer is Daniel Diaz, previously responsible for disbursements classified as Independent Expenditures in support of Michelle Vallejo’s campaign for Congress.

On April 15, 2022, LUPE Votes submitted a Q1 FEC Quarterly report signed by Daniel Diaz, which disclosed their spending on mail, texting, door hangers, and salaries for field work and canvassing totaling \$51,301.91.³⁰ This report also disclosed their one aforementioned donation from Four Freedoms Fund of \$100,000 on January 4, 2022.

²⁶ Federal Election Committee, Campaign Finance Data – LUPE Votes, <https://docquery.fec.gov/cgi-bin/forms/C90021304/1587772/> (last accessed Apr. 18, 2022).

²⁷ Federal Election Committee, Campaign Finance Data – Michelle Vallejo for Congress, <https://docquery.fec.gov/cgi-bin/forms/C00797217/1586475/> (last accessed Apr. 18, 2022).

²⁸ *Id.*

²⁹ Federal Election Committee, Campaign Finance Data – LUPE PAC, <https://docquery.fec.gov/cgi-bin/forms/C00797027/1584347/> (last accessed Apr. 18, 2022).

³⁰ Federal Election Committee, Campaign Finance Data – LUPE Votes, <https://docquery.fec.gov/cgi-bin/forms/C90021304/1587772/> (last accessed Apr. 18, 2022).

DISCUSSION

As evidenced through this plain recitation of the facts, the Respondents engaged in routine and systematic violations of Federal law and Committee regulation.

These violations include (1) that LUPE Votes failed to properly disclaim Independent Expenditures on behalf of Michelle Vallejo's campaign for Congress as required by § 110.11, (2) that LUPE Votes failed to properly disclose Independent Expenditures on behalf of Michelle Vallejo's campaign for Congress in a timely manner as required by 11 C.F.R. § 109.10(c) and (d), (3) that LUPE Votes, Daniel Diaz, Michelle Vallejo, and her campaign illegally coordinated spending – as defined in § 109.21 – to aid her in the March 1st Primary Election in violation of § 109.22 and (4) that if these expenditures were coordinated than this spending represents an illegal and overlimit contribution to support the Michelle Vallejo for Congress committee with funding from one federally impermissible donation, which was never disclosed to the Federal Election Commission as required by federal law and Commission regulations

11 C.F.R. § 109.10(c) and (d) require that Independent Expenditures on behalf of a candidate be disclosed within 48 hours generally, and within 24 hours if disbursed within 20 days of an election. The spending by LUPE Votes on campaign literature supporting Michelle Vallejo as publicized on January 28th, was not disclosed until April 15, 2022 by LUPE Votes, long after the election occurred and in violation of those requirements. Furthermore, the spending by LUPE Votes on a mailer dedicated to supporting Michelle Vallejo's campaign during the week of February 2, 2022 was not disclosed as spending by LUPE Votes until April 15, 2022 after the election occurred and in violation of those requirements.

11 C.F.R. § 109.11 requires that Independent Expenditures on behalf of a candidate be disclaimed as "not authorized by any candidate or candidate committee." The campaign literature supporting Michelle Vallejo purchased by LUPE Votes and publicized on January 28th, was disclosed as purchased by LUPE Votes, but never disclaimed authorization by any candidate or candidate's committee. Furthermore, the mailer dedicated to supporting Michelle Vallejo's campaign which arrived in mailboxes during the week of February 20th was disclaimed as paid for by LUPE Votes but did not disclaim authorization by any candidate or any candidate's committee. This is a clear violation, if the expenditures were truly independent and non-coordinated.

11 C.F.R. § 109.21 defines a three-part test for coordination in campaign materials, which is clearly met by the mailer supporting Michelle Vallejo which arrived in mailboxes during the week of February 20th given the facts above. Thus, the expenditures by LUPE Votes constitute an in-kind contribution directly to the Michelle Vallejo campaign. This is in violation of 11 CFR § 114.2 which prohibits contributions from corporations, including non-profit corporations, to candidate committees. In addition, the in-kind contributions were never reported by the Michelle Vallejo for Congress Committee a further violation of federal law and commission regulations.

Deepening the coordination between Daniel Diaz and Michelle Vallejo for Congress, it is clear from the quarterly reports filed by LUPE PAC and Michelle Vallejo for Congress on April 15, 2022, that the two committees split a poll, with payments to Lake Research Group in the exact same amount during the same week of March. Thus, Daniel Diaz who serves as treasurer of LUPE PAC and as a principal actor for LUPE Votes, was responsible both for Independent Expenditures to influence the March 1st Primary Election and for expenditures which have clearly been directly coordinated with the Michelle Vallejo for Congress campaign. He and the committees he controls cannot remain in compliance with federal law and commission regulations while doing both.

During the period when Daniel Diaz was receiving a salary for “field work” from LUPE Votes, for whom he also acted as treasurer, he was also hosting fundraisers for the Michelle Vallejo for Congress Campaign, and acting as treasurer for a committee which directly coordinated spending with the Michelle Vallejo for Congress campaign.

Throughout the entire period of the primary campaign there is public evidence that LUPE Votes recruited Michelle Vallejo to run, was spending its resources to produce campaign materials specifically supporting only Michelle Vallejo, disbursing funds to pay for mail supporting the same campaign, and had a substantial payroll of field staff and canvassers to support Michelle Vallejo’s campaign for Congress. Michelle Vallejo publicly declared her affiliation with the group, appeared in public and private meetings with a key member of the group Daniel Diaz, and uplifted messages and images directly related to the undisclosed expenditures by LUPE Votes. Then immediately after the election a committee Daniel Diaz serves as the treasurer for directly coordinated on splitting a poll. This satisfies all the prongs of illegal coordination between the campaign and Daniel Diaz and LUPE Votes, which was entirely funded by a single, federally impermissible contribution from a New York City based dark money group. Thus, despite claims of being the only authentic “pueblo powered campaign” and Michelle Vallejo’s assertion that the LUPE Votes endorsement makes her the only candidate endorsed by the district, LUPE Votes appears entirely funded by a single large and federally impermissible donation from a New York City based dark money group.

This outsourcing of campaign activities to dark money organizations with outright coordination and cooperation with the campaign is exactly the sort of dark money campaign that the current federal regulations – and Michelle Vallejo’s own platform on “Campaign Finance Reform” – are designed to prevent.³¹ Illegal campaign spending like this is an avenue for foreign money to enter and influence our elections. Illegal campaign spending like this is an avenue for large donors to circumvent donation limits and attempt to influence elections for their favored candidates. Illegal campaign spending like this renders electoral competition unfair and deprives voters of the opportunity to choose their representatives in a fair contest.

³¹ <https://michellefortx15.com/platform-issues-south-texas/>

REQUESTED ACTION

As detailed herein, Respondents appear to have violated the Act and Commission regulations by failing to properly disclaim and disclose independent expenditures. In addition, LUPE Votes and Michelle Vallejo for Congress appear to have additionally violated the Act and Commission regulations by illegally coordinating electioneering communications, resulting in undisclosed in-kind contributions, and potentially prohibited in-kind campaign contributions. As such, I respectfully request that the Commission immediately investigate these violations, enjoin Respondents from further violations, and fine Respondents the maximum amount permitted by law.

Sincerely,

Alma Espinoza, L.S.S.P.


Hidalgo, Texas 78557

SUBSCRIBED AND SWORN to before me this 19th day of April 2022.

Notary Public

My Commission Expires:
