

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

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3  
4 In the Matter of )  
5 )  
6 Cal Voters for Honest Government and )  
7 Johnny Diaz, Jr. in his official capacity ) MUR 6828  
8 as treasurer )  
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10 **SECOND GENERAL COUNSEL'S REPORT**

11 **I. ACTIONS RECOMMENDED**

12 We recommend that the Commission: (1) take no further action against Cal Voters for  
13 Honest Government and Johnny Diaz, Jr. in his official capacity as treasurer ("Cal Voters")  
14 except for issuing a letter of admonishment; (2) instruct the Reports Analysis Division ("RAD")  
15 to administratively terminate Cal Voters as a federal political committee; and (3) close the entire  
16 file and send the appropriate letters.

17 **II. BACKGROUND**

18 This matter concerns 2014 activity by Cal Voters, an independent expenditure-only  
19 political committee ("IEOPC") supporting Joe Baca, an unsuccessful candidate in the June 3,  
20 2014 primary for California's 31st Congressional District.<sup>1</sup> On February 4, 2015, we circulated  
21 the First General Counsel's Report ("FGCR") and the Commission issued reason to believe  
22 findings on March 19, 2019.<sup>2</sup> Specifically, the Commission found reason to believe that Cal  
23 Voters failed to include proper disclaimers on a website and billboards and solicited funds

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<sup>1</sup> See *Official Election Results for United States House of Representatives* at 43 (2014), FEC, <https://www.fec.gov/resources/cms-content/documents/2014house.pdf>.

<sup>2</sup> We received the Complaint in this matter on May 21, 2014, and the matter was activated on October 27, 2014. After the FGCR circulated to the Commission, the matter was included on the Executive Session agendas for June 28, 2016, January 24, 2017, August 7, 2018, September 6, 2018, and March 19, 2019, but was held over pending the results of the ongoing litigation in *Pursuing America's Greatness v. FEC* concerning the naming regulation at 11 C.F.R. § 102.14(a). The FGCR included recommendations based in part on the use of a candidate's name in the title or name of a special project.

1 through its website in a manner that misrepresented itself as speaking on behalf of Baca in  
2 violation of 52 U.S.C. §§ 30120 and 30124(b), and dismissed various other allegations.<sup>3</sup> During  
3 the investigation of this matter the Office of General Counsel (this “Office”) sought to determine  
4 who operated Cal Voters, to identify the level of financial activity that may have stemmed from  
5 its fraudulent misrepresentation, and to identify the scope of the communications that may have  
6 lacked proper disclaimers.

7         During 2019, Cal Voters, which had been dormant since mid-2014, agreed – for a time -  
8 to toll the statute of limitations in order to allow the Commission time to conduct discovery and  
9 complete the record.<sup>4</sup> Other potential new respondents, including the individuals that funded and  
10 controlled Cal Voters, who were identified during the investigation never signed tolling. Cal  
11 Voters, however, ceased tolling after the Commission lost its quorum in August 2019, and  
12 consequently, the statute of limitations, even as extended by the tolling, expired for all of Cal  
13 Voters’ violations in mid-2020. Given the expiration of the statute of limitations, the age of the  
14 activity, in light of the findings of the investigation discussed below indicating that only a single  
15 contribution was received via the website containing fraudulent misrepresentation as to the  
16 group’s connection with Joe Baca and given that the disclaimer violations were limited in scope,  
17 along with the ordering of the Commission’s priorities on its docket, we recommend that the  
18 Commission take no further action as to Cal Voters other than issuing a letter of admonishment,

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<sup>3</sup> See Certification ¶ 2.a (Mar. 29, 2019).

<sup>4</sup> See Signed Tolling Agreements (May 16, 2019, 60 days), (June 13, 2019, 30 days), and (July 17, 2019, 120 days). Additional tolling agreements were not obtained after the Commission lost its quorum in 2019. Cal Voters was initially represented by counsel who withdrew after he was unable to contact the treasurer. See Email from Troy Aykan (May 3, 2019, 5:17 pm EST).

1 instruct RAD to terminate Cal Voters as a federal political committee, and close the file in this  
2 matter.

### 3 **III. RESULTS OF INVESTIGATION**

4 During the investigation, in order to identify the principals of Cal Voters and to examine  
5 the organization's financial activity, we interviewed witnesses, analyzed bank records and  
6 vendor records obtained through subpoenas, and reviewed other documents provided by the  
7 committee treasurer.<sup>5</sup> While Cal Voters' treasurer, John Diaz, was cooperative during the  
8 investigation and signed three tolling agreements, the two persons principally responsible for,  
9 and most knowledgeable about, Cal Voters' activities were not forthcoming with details  
10 regarding the formation of the committee and the source of the committee's funds. We were  
11 able, however, to confirm that Cal Voters' communications lacked proper disclaimers and that its  
12 fundraising communications were designed to mislead contributors about the committee's links  
13 to Baca. We also were able to obtain sufficient information regarding the payments disbursed  
14 for committee expenses. Details of the committee's activities uncovered during the investigation  
15 are described below, including our findings that despite mistakes in how the Committee handled  
16 its finances, it appears that Cal Voters nevertheless disclosed most of its activity to the  
17 Commission.

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<sup>5</sup> The Commission issued ten subpoenas: one to Cal Voters and its treasurer; two bank subpoenas; one subpoena to a payment processing vendor; three to billboard vendors; and three to individual witnesses. *See* Certifications (Apr. 18, 2019 and June 26, 2019), MUR 6828.

1           The investigation revealed that Cal Voters was formed by Richard Mayer,<sup>6</sup> a principal at  
2 Golden State Consultants (“Golden State”), which was a business providing political consulting  
3 services focusing on redistricting issues as well advertising and messaging for political  
4 campaigns.<sup>7</sup> Mayer hired Diaz to handle Cal Voters’ filings with the Commission,<sup>8</sup> but Diaz  
5 depended on Mayer for information regarding the disclosure report filings and, despite being the  
6 treasurer, never had access to the Committee’s bank account.<sup>9</sup> Mayer controlled the  
7 Committee’s finances, processed all of its receipts and disbursements, and conducted Committee  
8 business by primarily using the Golden State business accounts instead of the Cal Voters

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<sup>6</sup> Mayer’s primary line of work appears to be in construction project management under the names “Golden State Contractors” and “Alert One, Inc.” See <https://www.alert1cal.com/about-us/our-team/>. Mayer also operated another consulting company named “R&M Associates,” which received payments from Cal Voters. See Report of Investigation for John Diaz and Richard Mayer at 1 (Aug. 9, 2019) (“Diaz and Mayer ROI”).

<sup>7</sup> Report of Investigation for Richard Mayer (“Mayer ROI”) at 1 (May 30, 2019) (noting that Golden State registered Cal Voters). Mayer explained that former Congressman Mervyn Dymally was the principal of Golden State until his death in 2012, and it appears that Mayer continued to operate the firm through 2014. *Id.* at 1-3 (explaining that the firm carried 60-70 different accounts at one time but that it shut down in 2014 and that the firm’s records were no longer available). Mayer’s business cards at the time listed his title as a “Senior Associate” of Golden State. See Mentone Investments Advertising, LLC Subpoena Resp. at 12 (May 8, 2019) (including copy of Mayer’s business card); General Outdoor and Rialto Subpoena Resp. at 2 (Apr. 24, 2019) (“General Outdoor/Rialto Subpoena Resp.”) (same).

Mayer was previously a political candidate himself; he attempted to run for the South Gate City Council (CA) but filed candidacy paperwork containing false information, for which he was criminally convicted following a jury trial. See *People v. Richard Mayer*, 108 Cal. App. 4th 403 (Cal. Ct.App. Apr. 30, 2003), review denied July 23, 2003 (affirming conviction of three counts of submitting a false nomination paper or declaration of candidacy, three counts of perjury, and one count of solicitation of perjury); see also Richard Marosi, *Legislator’s Aide Broke Campaign Laws* (May 1, 2003), LOS ANGELES TIMES, <https://www.latimes.com/archives/la-xpm-2003-may-01-me-dymally1-story.html>.

<sup>8</sup> See Cal Voters Statement of Organization (Feb. 10, 2014) (designating Diaz as treasurer).

<sup>9</sup> Report of Investigation for John Diaz at 1 (June 11, 2019) (“Diaz ROI”) (explaining that he was not familiar with Cal Voters’ activities, never met anyone else associated with the Committee besides Mayer, and did not work with the Committee’s vendors).

1 designated account.<sup>10</sup> He was also responsible for Cal Voters' communications that lacked  
2 proper disclaimers or fraudulently misrepresented Cal Voter's authority.

3 Evidence derived from witnesses and bank records shows that, with the exception of a  
4 \$25 contribution made via its website that was never cashed and two checks totaling \$5,600 that  
5 were deposited into the Committee's account, Cal Voters was funded entirely by Dr. Robert  
6 Yang, the Owner and President of various California healthcare companies (specifically, various  
7 Suncor LLCs and Yanrob's Medical, Inc.). Claudia Kano, who served as a Senior Vice  
8 President and Manager of Yang's entities, also appears to have played some limited role in the  
9 management of Cal Voters in that she hired at least one of the Committee's vendors.<sup>11</sup> In an  
10 interview with this Office, Mayer stated that he was approached by a group of individuals to  
11 perform work for Cal Voters in 2014 but initially claimed he could not recall the names of the  
12 individuals involved.<sup>12</sup> In a later interview, however, Mayer acknowledged being familiar with

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<sup>10</sup> Diaz states that he did not receive Cal Voters' bank statements, but instead relied on information that Mayer provided to him in order to complete the Committee's disclosure reports. *See* Diaz ROI at 1; Cal Voters/Diaz Subpoena Resp. (June 13, 2019) (attaching spreadsheet Diaz received from Mayer listing receipt and disbursement information). *See also* Bank of the West Subpoena Resp. (May 10, 2019) ("Cal Voters Bank Records") (reflecting little activity); Bank of the West Subpoena Resp. (July 29, 2019) ("Golden State Bank Records") (showing a mixture of what appear to be personal and business transactions in Mayer's business accounts, such as payments for construction related expenses as well as meals and restaurants).

<sup>11</sup> The various Suncor LLCs included Suncor Fontana, LLC, Suncor Hesperia LLC, and Suncor Care Lynwood, LLC. Separate from the Commission's matter, Yang, Kano, Yanrob's Medical, Inc., the Suncor LLCs, and other entities owned by Yang were alleged to have engaged in "fraudulent misrepresentations and a fraudulent scheme" from 2012 through 2014 in connection with raising money from investors in the U.S. EB-5 visa program. *See* Complaint, *SEC v. Robert Yang, et al.*, No.5:15-cv-02387 (C. D. CA. Nov. 19, 2015); *see also* Final Judgment at 2-4, *SEC v. Robert Yang, et al.*, No.5:15-cv-02387 (C. D. CA. March 30, 2021) (after a remand from the Ninth Circuit, the District Court imposed a revised final judgment requiring Yang to disgorge \$1,414,250 plus prejudgment interest in the amount of \$166,425.19 and pay a civil penalty of \$1,938,600, required Kano to disgorge \$101,843 plus interest in the amount of \$11,985 and pay a civil penalty of \$101,843, and imposed additional disgorgement and penalty amounts for Suncor and other companies owned by Yang).

<sup>12</sup> Mayer ROI at 1. One of the Committee's vendors, Tony Inocentes, confirmed that he was hired by a woman who worked for a doctor. Report of Investigation for Tony Inocentes at 1 (June 5, 2019) ("Inocentes ROI").

1 Yang and Kano and having received funding for Cal Voters from Yang's companies.<sup>13</sup> Yang  
2 and Kano refused to cooperate with our investigation.<sup>14</sup>

3 Bank records show that Yang provided funds for Cal Voters through checks issued from  
4 the various Suncor company accounts, but the total amounts intended for use by Cal Voters is  
5 unclear because of Mayer's mixed use of the Golden State bank accounts.<sup>15</sup> None of the  
6 payments were deposited into Cal Voters' designated bank account.<sup>16</sup> In 2014, Golden State's  
7 bank accounts show \$295,504.94 in checks received from Suncor Fontana, LLC, Suncor  
8 Hesperia, LLC, and Suncor Lynwood, LLC; these checks were written out to "Golden State  
9 Consultants" and "Golden State Contractors, Inc."<sup>17</sup> Mayer believes that approximately  
10 \$175,000 of that amount was intended for Cal Voters, but was not certain at the time as some of  
11 the payments were intended to benefit both Cal Voters and Mayer's construction consulting  
12 business as part of one check.<sup>18</sup> The Suncor checks consisted of the following:

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<sup>13</sup> Golden State also provided consulting and services on construction projects for Yang's various health care facilities. *See* Diaz and Mayer ROI at 1-2; *see also* Schedules Required by the Court's Temporary Restraining Order, *SEC v. Robert Yang, et al.*, No.5:15-cv-02387 (C.D. CA Dec. 1, 2015) (including Golden State on financial ledgers listing payments made by Suncor and/or Yanrob's Medical), [https://www.fedreceiver.com/wp-content/uploads/2016/03/160127\\_1453930191\\_120115\\_Schedules\\_Required\\_by\\_TRO.pdf](https://www.fedreceiver.com/wp-content/uploads/2016/03/160127_1453930191_120115_Schedules_Required_by_TRO.pdf).

<sup>14</sup> The Commission issued subpoenas to Yang and Kano to obtain further information on the amounts contributed to Cal Voters; although we sent the subpoenas by overnight mail requiring signature confirmation for each mailing, neither individual responded to the subpoenas despite their receipt of the documents. *See* Subpoena to Dr. Robert Yang (June 27, 2019); Subpoena to Claudia Kano (June 27, 2019). We also reached out to Yang and Kano by phone at Yang's various businesses and through email addresses that we located but received no response. We were unable to seek enforcement of the subpoenas during the time that the Commission lacked a quorum.

<sup>15</sup> *See* Golden State Bank Records.

<sup>16</sup> *See* Cal Voters Bank Records at 000003 (showing only \$5,600 in receipts, including a \$5,100 check from Golden State and a \$500 check from Del Mar Auto Center).

<sup>17</sup> *See* Golden State Bank Records at BOTW000170-171, 000173-174, and 000177.

<sup>18</sup> Mayer could not explain why some of the contributions were combined with payments for his construction consulting work, except to state that two temporary office workers made "major mistakes." Diaz and Mayer ROI at 1. The Committee also used ActBlue for contributions made through its website, but it only processed one contribution in the amount of \$25 and it appears that Cal Voters never cashed the check that ActBlue sent to disburse the proceeds of the contribution. *See* ActBlue Subpoena Resp. at 2, 4, 6 (May 14, 2019).

DATE	AMOUNT	PAYOR	PAYEE	NOTATION ON CHECK	CAL VOTERS RELATED AMOUNT PER RICHARD MAYER
1/25/2014	\$50,000	Suncor Hesperia, LLC	Golden State Consultants	Construction progress payment	Unclear <sup>19</sup>
2/27/2014	\$100,000	Suncor Hesperia, LLC	Golden State Consultants	No notation	\$100,000
4/14/2014	\$112,500	Suncor Care Lynwood, LLC	Golden State Contractors, Inc.	Construction progress	\$50,000 for Cal Voters, the rest for consulting
5/22/2014	\$25,000	Suncor Care Lynwood, LLC	Golden State Contractors, Inc.	No notation	\$25,000
10/8/2014	\$8,004.94	Suncor Fontana, LLC	Golden State Contractors, Inc.	7227 Oleandor Ave	No

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 2 Cal Voters made between \$166,535 and \$190,442 in total disbursements in 2014, using a  
 3 mixture of funds from the Committee's and Golden State's bank accounts: the Cal Voters bank  
 4 account shows that \$5,535 in disbursements were made from February 2014 through September  
 5 2014,<sup>20</sup> while Mayer states that between \$161,000 and \$184,907 in additional payments may  
 6 have been made using the Golden State accounts.<sup>21</sup> The only disbursements issued from the

<sup>19</sup> Mayer stated to us that Golden State did not start doing work for Cal Voters until March 2014, so he believed that the check from January 2014 may not have been committee related. Diaz and Mayer ROI at 1-2. However, this appears to contradict other evidence pointing to earlier dates, including the bank account records showing that the Cal Voters' account for the federal committee was opened on January 22, 2014 and that Cal Voters filed its Statement of Organization with the Commission on February 10, 2014.

<sup>20</sup> See Cal Voters Bank Records at 000004. There was also an additional \$105 in bank fees that were paid from the account.

<sup>21</sup> See Golden State Bank Records; Diaz and Mayer ROI at 2 (noting that it was unclear what portion of the \$23,907 in additional payments issued from the Golden State accounts was related to Cal Voter). Mayer explained that certain office staff performed work for both Golden State and Cal Voters but could not specify what portion of their pay related to Cal Voters work. Diaz and Mayer ROI at 2. Similarly, he could not recall whether some payments to his firm R&M Associates were related to Cal Voters. *Id.*

1 Committee's designated bank account were payments to Diaz, one payment to CBS radio for  
2 airtime, and payments for various bank fees.<sup>22</sup>

3 Funds from the Golden State accounts were used to pay committee vendors including the  
4 companies hired to produce mailers and billboard advertisements, and for a consultant who was  
5 responsible for creating and maintaining the Committee's website and social media pages.<sup>23</sup> In  
6 addition to paying other consultants, it appears that Cal Voters paid Mayer up to \$16,000 in  
7 consulting fees.<sup>24</sup>

8 Between January and May 2014, Cal Voters spent \$62,615 for seven static billboards and  
9 six digital billboard advertisements that ran thousands of times,<sup>25</sup> which were all paid using  
10 checks issued on the Golden State bank accounts.<sup>26</sup> Indeed, Mayer signed the contracts with  
11 three vendors (Lamar Central Outdoor, LLC, Mentone Investments Advertising, LLC, and  
12 General Outdoor Advertising/Rialto Gateway Display, LLC) on behalf of Cal Voters, approved

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<sup>22</sup> See Cal Voters Bank Records.

<sup>23</sup> Golden State Bank Records; Inocentes ROI at 1 (explaining that he created and maintained Cal Voters' website and billed his services under the names Chemeria Consulting and Matson Capital, but that Cal Voters failed to make full payment for all his services).

<sup>24</sup> Most of those payments were made to Mayer's firm named "R&M Associates" and one was a check made out personally to him, but Mayer was unsure whether they were all for work related to Cal Voters. Diaz and Mayer ROI at 2.

<sup>25</sup> See Golden State Bank Records; Lamar Central Outdoor, LLC Subpoena Resp. at 2 (May 24, 2019) ("Lamar Subpoena Resp."); Mentone Investments Advertising, LLC Subpoena Resp. at 1 (May 8, 2019) ("Mentone Subpoena Resp."); General Outdoor/Rialto Subpoena Resp. at 3-9. Each digital billboard contract with General Outdoor/Rialto was for one 8-second slot per minute for an average of 43,200 slots per month, while Lamar Central Outdoor's digital billboards were for 6-second ad spots that were played over 166,000 times. See General Outdoor/Rialto Subpoena Resp. at 3-9; Lamar Subpoena Resp. at L0014 – L0024.

<sup>26</sup> See Golden State Bank Records; Lamar Subpoena Resp. at 14-15, 21; Mentone Subpoena Resp. at 11.



1 the design and artwork for the billboard advertisements, and signed the checks issued as  
2 payments for them.<sup>27</sup>

3 The billboards that Mayer paid for on behalf of Cal Voters were supportive of Baca's  
4 2014 candidacy. We verified that the static billboard subject of the Complaint in this matter,  
5 which featured a large image of Baca and the statement "Vote Veteran Joe Baca for Congress,"  
6 was indeed paid for by Mayer, on behalf of Cal Voters.<sup>28</sup> Cal Voters' other static and digital  
7 billboard advertisements also featured images of Baca alongside his name, referenced his status  
8 as a veteran, touted his "Experienced Leadership," "Veteran Leadership" or used other similar  
9 language, and clearly identified him as a candidate for Congress.<sup>29</sup> While most of the designs  
10 expressed support for Baca's candidacy, one in particular stated "Joe Baca Invites You to Vote  
11 Joe Baca for Congress," suggesting to the viewer that the ad had been placed by the Baca  
12 campaign.<sup>30</sup> That particular design ran as a digital ad that was played almost 10,000 times.<sup>31</sup>

13 Examples of some of the static and digital billboard ads that Cal Voters paid for appear  
14 below. While it is difficult to discern on all of the images, some of the billboard ads appear to

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<sup>27</sup> See Golden State Bank Records; Lamar Subpoena Resp. at L0001 – L0013 (providing copies of contracts and checks signed by Mayer); Mentone Subpoena Resp. at 1-5, 9-12 (providing copies of contracts signed by Mayer, emails between Mayer and Mentone, and checks issued by Mayer from the Golden State accounts); General Outdoor/Rialto Subpoena Resp. at 3-9 (providing copies of emails between Mayer and the billboard vendor and copies of contracts signed by Mayer).

<sup>28</sup> See Compl., Attach. A (May 21, 2014); Lamar Subpoena Resp. at L0025. See also Lamar Subpoena Resp. at L0006-L0007, L0013 (including copies of checks signed by Mayer from Golden State Consultants).

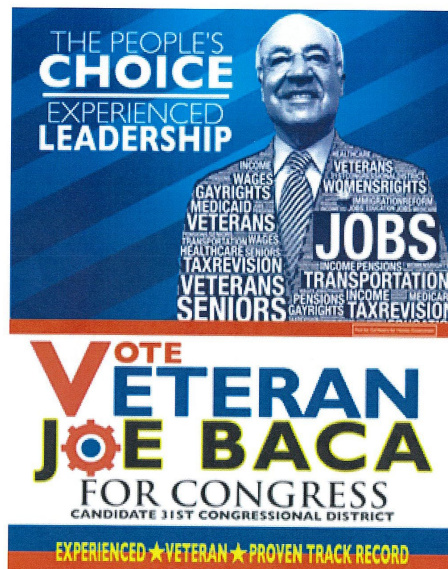
<sup>29</sup> Lamar Subpoena Resp. at L0014- L0024; General Outdoor/Rialto Subpoena Resp. at 10-13; Mentone Subpoena Resp. at 3.

<sup>30</sup> Lamar Subpoena Resp. at L0015, L0017-18. Although most of the ads that Cal Voters paid for supported Joe Baca, it appears the Committee also paid for one digital ad advertising an immigration forum presented by "Volunteers for Joe Baca." *Id.* at L0017.

<sup>31</sup> *Id.* at L0015, L0017-18. Although this communication was misleading, it did not appear to fraudulently solicit contributions in violation of 52 U.S.C. § 30124(b).

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- 1 contain only a partial disclaimer stating that they were “Paid for [sic] Cal Voters for Honest
- 2 Government,” without any additional language.<sup>32</sup>



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<sup>32</sup> See Lamar Subpoena Resp. at L0014 – L0025; Mentone Subpoena Resp. at 3; General Outdoor/Rialto Subpoena Resp. at 10-13.

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4 Cal Voters' reports filed with the Commission disclosed \$175,000 in contributions in the  
 5 form of three contributions totaling \$169,900 from "Yanrob's Medical, Inc." and one \$5,100  
 6 contribution from "Suncor Inc."<sup>33</sup> It also disclosed \$188,686 in payments, consisting of  
 7 \$85,071.00 in disbursements listed on its quarterly reports and \$103,615 in independent  
 8 expenditures disclosed on 48-hour reports.<sup>34</sup> These figures are close to the amounts identified by

<sup>33</sup> See 2014 April and July Quarterly Reports, Cal Voters. Because, the July Quarterly Report was not filed electronically, it is listed as a Miscellaneous Report on the Committee's filings page on the Commission's website. See <https://www.fec.gov/data/committee/C00557157/?tab=filings&cycle=2014>. The only \$5,100 deposit into the Cal Voters account was a contribution check from Golden State. See Cal Voters Bank Records at 000003.

<sup>34</sup> See 2014 April and July Quarterly Reports, Cal Voters.; 48-hour Reports of Independent Expenditures (May 20, 2014 and May 30, 2014).

1 Mayer in interviews with this Office; it appears that the discrepancy between the amount of  
2 disbursements that Cal Voters reported to the Commission and the actual amount would range  
3 between \$1,756 (underreported) and \$22,151 (over reported) depending on what portion of the  
4 \$23,907 in payments that Mayer identified as a being for a mix of Golden State and Cal Voters  
5 expenses were actually attributable to Cal Voters activity.<sup>35</sup>

6 Most of the vendors identified through the bank records appear to have been disclosed on  
7 Cal Voters' reports filed with the Commission, though the exact payment dates do not all appear  
8 to be accurate.<sup>36</sup> The treasurer's only explanation for any inaccuracies was that he did not  
9 receive copies of the bank statements and thus completed the Committee's disclosure reports  
10 based only on information provided by Mayer through a spreadsheet and his verbal  
11 representations.<sup>37</sup>

12 Additionally, Diaz provided copies of mailers supporting Joe Baca that appear to include  
13 only a partial disclaimer that identifies Cal Voters as having paid for the piece and list a mailing  
14 address.<sup>38</sup> Mayer explained that the lack of disclaimer on the mailers and on the billboards was  
15 due to vendor error.<sup>39</sup>

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<sup>35</sup> See Diaz and Mayer ROI at 2.

<sup>36</sup> Payments to one particular vendor were reported under the vendor's business name, although the checks were issued to the individual. Two office staff who performed work for both Golden State and Cal Voters were not disclosed on the Committee's reports.

<sup>37</sup> Diaz provided us with a copy of the spreadsheet he received from Mayer that he relied on to complete the disclosure reports, which contained some highlighted and handwritten annotations. See Cal Voters/Diaz Subpoena Resp. at 4. The top of the spreadsheet listed the title "Suncor Hesperia, LLC" but the individual deposit listings on the spreadsheet did not identify the source of the contribution. *Id.* Diaz believed, from being told by Mayer, that most of the contribution deposits listed on the spreadsheet originated from Yanrob's Medical, Inc. Diaz ROI at 1.

<sup>38</sup> Cal Voters/Diaz Subpoena Resp. at 6-8. These were some of the same mailers that had been attached to the Complaint in this matter. Compl., Attach D, E.

<sup>39</sup> Diaz and Mayer ROI at 3.

1           Finally, although Diaz denied knowledge about the existence of the Cal Voters'  
2 website,<sup>40</sup> the investigation revealed that a vendor (Tony Inocentes) was hired to create and  
3 maintain the site along with the Committee's Facebook page and other social media pages;  
4 Inocentes appears to have been hired by Kano and he believed he was hired on behalf of Cal  
5 Voters.<sup>41</sup> Mayer issued payments for the work to Inocentes' company, Chemeria Consultants,  
6 through the Golden State bank accounts.<sup>42</sup> Inocentes explained that his company created the  
7 "Veteran Joe Baca" slogan and designed the Cal Voters website, but when we asked about the  
8 similarities between the Cal Voters and the Baca campaign website he denied working with  
9 Baca's official campaign in connection with the website in any way.<sup>43</sup>

#### 10 **IV. LEGAL ANALYSIS**

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##### 12 **A. Fraudulent Misrepresentation and Disclaimer Violations**

13           The investigation confirmed the Commission's reason to believe findings that Cal Voters  
14 used Baca's name to solicit contributions and that its communications, including the  
15 Committee's website, billboards, and mailers, failed to include complete disclaimers. However,  
16 as discussed below, the available information shows that most of Cal Voters' contributions came  
17 from the individuals who established the Committee and thus few donors were deceived by Cal

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<sup>40</sup> See Cal Voters Resp. to Compl. at 2 (stating that the website "has nothing to do with" Cal Voters); Diaz ROI at 2 (also denying knowledge about the Committee's ActBlue account).

<sup>41</sup> Inocentes ROI at 1-2. Inocentes also set up the Committee's ActBlue account in order to process contributions through the website. Inocentes ROI at 1; ActBlue Subpoena Resp. at 1.

<sup>42</sup> Golden State Bank Records at BOTW000185-186, 000191, 000194-195 (showing checks totaling approximately \$20,000 to Chemeria Consultants).

<sup>43</sup> Inocentes ROI at 1-2.

1 Voters' solicitations. Further, it appears that the majority of the Committees' funds were used to  
2 pay for expenses to independently support candidate Joe Baca.

3         The Act provides that no person shall fraudulently misrepresent the person as speaking,  
4 writing, or otherwise acting for, or on behalf of, any candidate or agent thereof for the purpose of  
5 soliciting contributions or donations.<sup>44</sup> The Commission previously found reason to believe that  
6 Cal Voters' website violated the fraudulent misrepresentation provisions of the Act based on the  
7 "lack of clarity" that the site provided when it asked visitors to "Join the Campaign for  
8 Congressional Veteran Joe Baca" and make contributions, as well as through its mimicry of a  
9 distinctive logo from official Baca campaign materials.<sup>45</sup> At the reason to believe stage, Cal  
10 Voters had denied any connection to the website [www.veteranjoebaca.com](http://www.veteranjoebaca.com),<sup>46</sup> but the  
11 investigation uncovered evidence that Cal Voters owned the site. Tony Inocentes, of Chemeria  
12 Consulting, advised that he was hired by Kano on behalf of Cal Voters to create and maintain the  
13 site, as well as to set up an ActBlue account in order to process contributions submitted through  
14 the website.<sup>47</sup> Indeed, the ActBlue application listed contact information for Inocentes, Diaz,  
15 and Mayer.<sup>48</sup>

16         Based on information confirming that the Committee paid for the creation and operation  
17 of [www.veteranjoebaca.com](http://www.veteranjoebaca.com), it appears that Cal Voters violated 52 U.S.C. § 30124(b) by

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<sup>44</sup> 52 U.S.C. § 30124(b)(1); *see also* 11 C.F.R. § 110.16(b)(1). Further, the Act provides that no person shall willfully and knowingly participate in or conspire to participate in any plan or scheme to engage in such behavior. 52 U.S.C. § 30124(b)(2); *see also* 11 C.F.R. § 110.16(b)(2).

<sup>45</sup> Factual and Legal Analysis at 7-8, MUR 6828.

<sup>46</sup> *Id.* at 4.

<sup>47</sup> *See* Inocentes ROI at 1; ActBlue Subpoena Resp. at 1. *See also* Mayer ROI at 2 (confirming that Inocentes' company Chemeria Consulting was responsible for the committee's website).

<sup>48</sup> ActBlue Subpoena Resp. at 1.

1 operating a website and social media accounts that solicited contributions by representing  
2 themselves as acting on behalf of federal candidate Joe Baca. However, the scope of this  
3 violation appears to have been limited. The website was active and solicited contributions from  
4 early 2014 until the primary election in June 2014, but only processed one \$25 contribution  
5 during that time period.<sup>49</sup> Moreover, except for a small number of discrepancies, it appears that  
6 Cal Voters disclosed the majority of its activity on its reports filed with the Commission.<sup>50</sup>

7 The available evidence also supports the Commission's reason to believe finding that Cal  
8 Voters failed to include complete disclaimers on its communications. All public  
9 communications made by a political committee and all public communications made "by any  
10 person that expressly advocate the election or defeat of a clearly identified candidate" are  
11 required to include a disclaimer.<sup>51</sup> Disclaimers are required on "all Internet websites of political  
12 committees available to the general public."<sup>52</sup> "If the communication, including any solicitation,  
13 is not authorized by a candidate, authorized committee of a candidate, or an agent of either, the  
14 disclaimer must clearly state the full name and permanent street address, telephone number, or  
15 World Wide Web address of the person who paid for the communication, and that the  
16 communication is not authorized by any candidate or candidate's committee."<sup>53</sup> The disclaimer

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<sup>49</sup> ActBlue Subpoena Resp. at 2, 4-6. Cal Voters also appears to have received one contribution that might have been intended for the Baca campaign. *See* Cal Voters Bank Records at 000003 (check from Del Mar Auto Center was payable to "Cal Voters for Honest Government" but included a memo line notation stating "Donation Joe Baca Campaign").

<sup>50</sup> As discussed *supra*, Cal Voters' reports inaccurately reported the source of its contributions as coming from Yanrob's Medical, Inc., rather than Suncor, both of which are companies owned and operated by the same individual. Additionally, the dates of some of its disbursements were inaccurately reported.

<sup>51</sup> 52 U.S.C. § 30120(a); 11 C.F.R. § 110.11(a)(1), (a)(2).

<sup>52</sup> 52 U.S.C. § 30120; 11 C.F.R. § 110.11(a)(1).

<sup>53</sup> 11 C.F.R. § 110.11(b)(3).

1 “must be presented in a clear and conspicuous manner,” and a disclaimer that appears on any  
2 printed public communication must be of sufficient type size to be clearly readable by the  
3 recipient of the communication, in a printed box, and with a reasonable degree of color contrast  
4 between the background and the printed statement.<sup>54</sup>

5 Cal Voters did not address ownership of the billboard advertisements in its response to  
6 the Complaint in this matter and denied any involvement with the website.<sup>55</sup> The investigation,  
7 however, reveals that Cal Voters was responsible for eleven billboard ads supporting Joe Baca  
8 and that the website at issue in the Complaint, [www.veteranjoebaca.com](http://www.veteranjoebaca.com), was being operated on  
9 behalf of Cal Voters. The website asked visitors to “Contribute, send Joe Baca to the Top 100 of  
10 Congress” and to “Vote Veteran Joe Baca for Congress, Candidate 31st Congressional District,  
11 June 3rd 2014,”<sup>56</sup> while the billboards included statements such as “Vote Veteran Joe Baca for  
12 Congress, Candidate 31st Congressional District; Experienced, Veteran, Proven Track Record”<sup>57</sup>  
13 and “Vote Veteran Joe Baca for Congress, The Reliable Skilled Choice.”<sup>58</sup> Likewise, the  
14 mailers urged recipients to “Vote Veteran Joe Baca for Congress.”<sup>59</sup> As discussed *supra*, Cal  
15 Voters’ mailers, billboards, and website included only a partial disclaimer that identified that Cal

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<sup>54</sup> *Id.* § 110.11(c).

<sup>55</sup> Cal Voters Resp. to Compl. at 1-2.

<sup>56</sup> Factual and Legal Analysis at 5-7; Compl. at 1-2, 4-5.

<sup>57</sup> Lamar Outdoor Subpoena Resp. at L0018, L0025; General Outdoor/Rialto Subpoena Resp. at 10-13.

<sup>58</sup> Mentone Outdoor Subpoena Resp. at 3.

<sup>59</sup> *See, e.g.*, Compl., Attachs. B, D, and E; Cal Voters/Diaz Subpoena Resp. at 7.



1 Voters paid for the communications but failed to state whether they were authorized by a  
2 candidate or candidate committee, in violation of 52 U.S.C. § 30120.<sup>60</sup>

3 **B. Additional Potential Violations Discovered During the Investigation**

4 The investigation uncovered information pointing to additional violations of the Act.  
5 Specifically, the investigation found that Cal Voters failed to use its designated bank account or  
6 disclose all depository accounts with the Commission; representative, Richard Mayer,  
7 commingled committee funds by conducting Cal Voters' activities using accounts belonging to  
8 businesses he owned; and, Cal Voters may have failed to disclose correct attribution information  
9 for the Suncor contributions.

10 The Act requires that political committees designate a bank account on its Statement of  
11 Organization, that all receipts be deposited into that account, that all disbursements, except petty  
12 cash disbursements, be issued by check drawn on that account, and that any changes to its  
13 campaign depository should be reported to the Commission no later than ten days following the  
14 change.<sup>61</sup> Additionally, under the Act, Cal Voters was required to ensure that all campaign funds  
15 are "segregated from, and may not be commingled with the personal funds of any individual."<sup>62</sup>  
16 Cal Voters failed to use its designated bank account for the majority of its financial activity and  
17 should have filed a new statement of organization with the Commission providing updated  
18 information on the depository accounts that it was actually utilizing. Additionally, Mayer used  
19 his Golden State business accounts to conduct committee business on behalf of Cal Voters, in

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<sup>60</sup> *Supra* at 10-12; *see* Factual and Legal Analysis at 5-6 (noting that the website appeared to only contain a copyright notice and not a full disclaimer as required by the Act).

<sup>61</sup> 52 U.S.C. §§ 30102(h), 30103(b),(c); 11 C.F.R. § 102.2 (a)(2).

<sup>62</sup> 52 U.S.C. § 30102(b)(3); 11 C.F.R. § 102.15.

1 violation of the Act's commingling provision. Mayer appeared to use the various Golden State  
2 accounts for business and personal purposes.<sup>63</sup>

3 Finally, Cal Voters violated the Act's reporting provisions by failing to file accurate  
4 reports of its receipts and disbursements.<sup>64</sup> While it appears to have reported most of its activity,  
5 Cal Voters misreported the source of its contributions as coming from Yanrob's Medical, Inc.  
6 instead of the various Suncor LLCs that actually provided the committee's funding, albeit both  
7 businesses were owned by the same individual (*i.e.*, Dr. Robert Yang).

8 Additionally, Cal Voters failed to provide attribution information on its reports with the  
9 Commission. Commission regulations state that a "contribution by an LLC with a single *natural*  
10 *person* member that does not elect to be treated a corporation by the Internal Revenue Service . .  
11 . shall be attributed only to that single member."<sup>65</sup> When such an LLC makes a contribution, it  
12 must affirm to the recipient, at the time the LLC makes the contribution, that the LLC is eligible  
13 to make a contribution and indicate how the contribution is to be attributed.<sup>66</sup> Here, depending  
14 on their tax election, the Suncor LLCs may have been required to provide attribution information  
15 when they made contributions to Cal Voters and Cal Voters would have then been required to  
16 attribute those contributions to Suncor's members. Because Yang was a managing member of

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<sup>63</sup> *Supra* note 10.

<sup>64</sup> 52 U.S.C. § 30104(b).

<sup>65</sup> 11 C.F.R. § 110.1(g)(4) (emphasis added); *see also id.* § 110.1(g)(3) (governing contributions by LLCs electing IRS treatment as corporations and LLCs with publicly-traded shares). The regulations further specify that "[a] contribution by an LLC that elects to be treated as a partnership by the Internal Revenue Service pursuant to 26 CFR 301.7701-3, or does not elect treatment as either a partnership or a corporation, pursuant to that section, shall be considered a contribution from a partnership pursuant to 11 CFR 110.1(e)." 11 C.F.R. § 110.1(g)(2).

<sup>66</sup> 11 C.F.R. § 110.1(g)(5).

1 the three Suncor LLCs that provided funding to Cal Voters, Suncor's contributions may have  
2 been required to be attributed to him, as well as to any other members of the Suncor LLCs.<sup>67</sup>

3 The Commission has not issued reason to believe findings as to these violations.  
4 However, as discussed below, we do not recommend that the Commission commit further  
5 resources to this matter.

## 6 **V. DISPOSITION**

7 The statute of limitations has expired on all of Cal Voters' activity during the period in  
8 which the Commission lacked a quorum. Additionally, the Committee's activity seems to have  
9 been confined to the first half of 2014, before the June 3, 2014 primary election in California and  
10 the scope of the violations appears to have been limited. The Committee collected only one \$25  
11 contribution through its website solicitations and most of the Committee's communications  
12 included partial disclaimers that identified Cal Voters by name, albeit without stating that it had  
13 not been authorized by the candidate. Finally, despite Mayer's commingling of Committee  
14 funds, Cal Voters nevertheless disclosed the majority of its activity on its disclosure reports filed  
15 with the Commission, though with some inaccuracies as described above. In light of the  
16 expiration of the statute of limitations and the age of the activity, the low amount and limited  
17 scope of the violations, as well as the ordering of the Commission's priorities on its docket, we

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<sup>67</sup> Filings with the state of California indicate that Yang was the only managing member for the Suncor LLCs and that Kano was the registered agent for each, but do not indicate whether there were other LLC members. *See Articles of Organization for Suncor Lynwood, LLC* (Feb. 11, 2013), Cal. Sec. of State, <https://businesssearch.sos.ca.gov/Document/RetrievePDF?Id=201304210330-15966854> (including letter signed by Yang stating that he was the "manager" for Suncor Fontana, LLC, Suncor Hesperia, LLC, and Suncor Care, Inc.); *see also Articles of Organization for Suncor Fontana, LLC* (Mar. 21, 2012), Cal. Sec. of State, <https://businesssearch.sos.ca.gov/Document/RetrievePDF?Id=201208210081-14805435>; *Articles of Organization for Suncor Hesperia, LLC* (Jan. 6, 2014), Cal. Sec. of State, <https://businesssearch.sos.ca.gov/Document/RetrievePDF?Id=201400710166-17243470>; *Articles of Organization for Suncor Care Lynwood, LLC* (Feb. 11, 2013), Cal. Sec. of State, <https://businesssearch.sos.ca.gov/Document/RetrievePDF?Id=201304210329-15966853>.

1 recommend the Commission exercise its prosecutorial discretion and take no further enforcement  
2 action other than admonishing Cal Voters and directing RAD to administratively terminate Cal  
3 Voters.<sup>68</sup>

#### 4 **VI. RECOMMENDATIONS**

- 5 1. Take no further action against Cal Voters for Honest Government and Johnny Diaz  
6 Jr. in his official capacity as treasurer and issue an admonishment letter;  
7
- 8 2. Instruct the Reports Analysis Division to administratively terminate Cal Voters for  
9 Honest Government;  
10
- 11 3. Approve the appropriate letters; and

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<sup>68</sup> *Heckler v. Chaney*, 470 U.S. 821, 831 (1985). *See, e.g.*, Certification ¶ 1 (May 11, 2021) and Closing Ltr. to Cary Lee Peterson and Americans Socially United (May 12, 2021) (admonishing Respondents for apparent violations of the Act's recordkeeping, reporting and fraudulent misrepresentation provisions); Certification ¶ 1 (July 20, 2020) and Closing Ltrs. to Kyle Prall, HC4President and Socially Responsible Government (July 22, 2020) (admonishing respondents for fraudulent misrepresentation violations after pleading guilty to related violations in federal court); Certification ¶ 3 (Dec. 9, 2016) and Closing Ltrs. to Babulal Bera (Dec. 13, 2016 and Jan. 4, 2017), MUR 7072 (admonishing Bera for making excessive contributions and contributions in the name of another, for which he pleaded guilty in federal court).

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4. Close the entire file.

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Acting Associate General Counsel  
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06/07/2021  
Date

BY:

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