

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2)
3 In the Matter of) **MUR: 6865**
4 Jose Susumo Azano Matsura)
5 Marc Alan Chase)
6 Ernesto Encinas)
7 Juan Vargas and Vargas for Congress)
8 and Nancy Haley in her official capacity)
9 as treasurer)

10 **SECOND GENERAL COUNSEL'S REPORT**

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12
13 **I. ACTIONS RECOMMENDED**

14 We recommend that the Commission: (1) Find reason to believe that Jose Susumo Azano
15 Matsura ("Azano") knowingly and willfully violated 52 U.S.C. §§ 30121 and 30122; (2) Take no
16 further action as to Marc Alan Chase and Ernesto Encinas; (3) Find no reason to believe Juan
17 Vargas and Vargas for Congress and Nancy Haley in her official capacity as treasurer violated
18 the Act; (4) Approve the appropriate letters; and (5) Close the file as to Marc Alan Chase,
19 Ernesto Encinas, and Juan Vargas and Vargas for Congress and Nancy Haley in her official
20 capacity as treasurer.

21 **II. BACKGROUND**

22 This matter arose from a complaint alleging that Respondents violated the Federal
23 Election Campaign Act of 1971, as amended (the "Act") when Jose Susumo Azano Matsura, a
24 Mexican foreign national, acting through his agents — Ernesto Encinas, the manager of Azano's
25 security detail, and Marc Alan Chase, a business associate — made one \$30,000 federal
26 contribution and almost \$580,000 in direct and in-kind local political donations in the names of
27 other persons. In criminal actions before the United States District Court for the Southern

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1 District of California, Azano, Encinas, Chase, and others were charged with violating or helping
2 Azano to violate 52 U.S.C. §§ 30121 and 30122, among other laws.¹

3 Following criminal indictment, the Commission found reason to believe Azano, Encinas,
4 and Chase violated 52 U.S.C. § 30121 by directly or indirectly making, or by assisting in the
5 making of, a foreign national contribution in connection with a federal election and donations in
6 connection with local elections.² The Commission also found reason to believe Azano, Encinas,
7 and Chase violated 52 U.S.C. § 30122, which prohibits making a contribution in the name of
8 another, permitting one's name to be used to effect such a contribution, or helping or assisting
9 any person in making a contribution in the name of another.³ The Commission found Chase's
10 and Encinas's violations to be "knowing and willful," based on admissions in their respective
11 plea agreements, but refrained at that time from making "knowing and willful" findings as to
12 Azano, who was awaiting his criminal trial.⁴ Additionally, the Commission took no action as to
13 an alleged beneficiary of one of the contributions, Juan Vargas and Vargas for Congress and
14 Nancy Haley in her official capacity as treasurer (the "Committee"), regarding alleged violations
15 of 52 U.S.C. § 30116(f).⁵

¹ See Superseding Indictment, *United States v. Matsura*, 3:14-cr-00388 (S.D. Cal. Aug. 12, 2014) (Dkt. No. 42); Complaint, *United States v. Encinas*, 3:14-cr-00344 (S.D. Cal. Jan. 21, 2014) (Dkt. No. 1); Information, *United States v. Chase*, 3:14-cr-00926 (S.D. Cal. Apr. 10, 2014) (Dkt. No. 1).

² See Certification (Aug. 12, 2015); Azano F&LA at 1; Chase F&LA at 1; Encinas F&LA at 1.

³ Certification (Aug. 12, 2015); Azano F&LA at 1; Chase F&LA at 1; Encinas F&LA at 1.

⁴ Certification (Aug. 12, 2015); Azano F&LA at 9; Chase F&LA at 7; Encinas F&LA at 7-8.

⁵ See Certification (Aug. 12, 2015). On April 28, 2016, following a request from the U.S. Department of Justice, the Commission voted to hold this matter in abeyance until 120 days after the resolution of the Azano federal criminal trial by verdict, plea, or dismissal. See Certification (Apr. 28, 2016).

1 On September 9, 2016, following a jury trial, Azano was found guilty of 37 criminal
2 counts, including conspiracy to make a campaign contribution by a foreign national, aggregating
3 at least \$25,000; making a campaign contribution in the name of another, aggregating at least
4 \$25,000; and falsification of campaign finance records.⁶ Azano filed a Motion for Acquittal or a
5 New Trial and a Motion for a New Trial on April 17, 2017.⁷ On June 2, 2017, Azano's Motions
6 were denied.⁸ On October 27, 2017, Azano was sentenced to serve three years in a federal
7 prison, assessed \$3,700, a standard \$100 fine for each of the 37 criminal counts, and ordered to
8 pay additional restitution of \$560,995.⁹ Azano filed a Notice of Appeal of the Judgment to the
9 Court of Appeals for the Ninth Circuit, which is still pending, on November 9, 2017.¹⁰

10 Chase, who had previously pleaded guilty to an eight count Information charging
11 knowing and willful violations of 52 U.S.C. §§ 30121 and 30122 as well as conspiracy, testified
12 as a witness for the government in Azano's criminal trial. On January 9, 2017, Chase was
13 sentenced to six years of supervised release and fined \$180,000.¹¹ Encinas, who pleaded guilty

⁶ Judgment, *United States v. Matsura*, 3:14-cr-00388 (S.D. Cal. Nov. 3, 2017) (Dkt. No. 870) ("Azano Judgment"); Verdict, *United States v. Matsura*, 3:14-cr-00388 (S.D. Cal. Sept. 9, 2016) (Dkt. No. 472); see also 18 U.S.C. §§ 201(b), 371, and 1519; 52 U.S.C. §§ 30109(d)(1)(A), 30121(A)(1), and 30122. Azano was later found guilty of Alien Possession of a Firearm, a violation of 18 U.S.C. § 922(g)(5)(B), on which the initial jury was deadlocked. Azano Judgment at 1. Prior to the Commission's decision regarding abatement, Respondents Azano, Encinas, and Chase each agreed to toll the statute of limitations in this matter from January 2016 until 120 days following the conclusion of Azano's criminal trial by verdict, plea, or dismissal. Respondents continue to toll the statute of limitations pursuant to requests to engage in pre-probable cause conciliation.

⁷ *United States v. Matsura*, 3:14-cr-00388 (S.D. Cal. Apr. 17, 2017) (Dkt. No. 640).

⁸ *United States v. Matsura*, 3:14-cr-00388 (S.D. Cal. June 2, 2017) (Dkt. No. 720).

⁹ Upon completion of his prison term he has also been ordered to serve 3 years supervised release. Judgment, *United States v. Matsura*, 3:14-cr-00388 (S.D. Cal. Nov. 3, 2017) (Dkt. No. 870).

¹⁰ Notice of Appeal, *United States v. Matsura*, 3:14-cr-00388 (S.D. Cal. Nov. 9, 2017) (Dkt. No. 873).

¹¹ See Plea Agreement, *United States v. Chase*, 3:14-cr-00926 (S.D. Cal. Apr. 10, 2014) (Dkt. No. 10) ("Chase Plea"); Judgment, *United States v. Chase*, 3:14-cr-00926 (S.D. Cal. Jan. 19, 2017) (Dkt. No. 43). Chase also paid an \$80,000 fine to the San Diego Ethics Commission for violations of the San Diego Municipal Code for

1 to conspiracy to knowingly and willfully violate Sections 30121 and 30122 and to filing a false
2 tax return, was sentenced on February 15, 2018, to three years unsupervised release and ordered
3 to pay restitution in the amount of \$69,394 (which totaled \$130,000 with interest and fees).¹²

4 For the reasons set forth below, we recommend that the Commission find reason to
5 believe that Jose Susumo Azano Matsura knowingly and willfully violated 52 U.S.C. §§ 30121
6 and 30122. We also recommend that the Commission take no further action as to Marc Alan
7 Chase and Ernesto Encinas, and close the file as to them. Further, we recommend that the
8 Commission find no reason to believe Juan Vargas and Vargas for Congress and Nancy Haley in
9 her official capacity as treasurer knowingly accepted prohibited contributions in violation of
10 52 U.S.C. § 30116(f), and close the file as to them.

11 III. RESULTS OF THE INVESTIGATION

12 The purpose of the investigation was to determine the amount of, and other relevant
13 information concerning, the contributions and donations made by Respondents.¹³ The
14 information gathered during the investigation came primarily from the Superseding Indictments
15 of Azano, testimony provided under oath by Chase, other evidence presented during the Azano
16 criminal trial, and the sworn statements provided in plea agreements by Chase and Encinas.

the same conduct that was the subject of the criminal matter. San Diego Ethics Comm'n, Stipulation, Decision, and Order, *In re Matter of Marc Chase*, No. 2013-26(MC) (Apr. 10, 2014), available at <http://www.sandiego.gov/ethics/pdf/stips/stip13-26.MC.pdf> ("Chase Ethics Commission Order"). Chase was also ordered to pay a \$40,000 penalty to the California Department of Motor Vehicles and to forfeit his Cadillac franchise and license to sell new cars.

¹² Plea Agreement, *United States v. Encinas*, 3:14-cr-00344 (S.D. Cal. Mar. 18, 2014) (Dkt. No. 34) ("Encinas Plea"); Judgment, *United States v. Encinas*, 3:14-cr-00344 (S.D. Cal. Feb. 15, 2018) (Dkt. No. 70). Encinas was scheduled to testify for the government but was never called as a witness in the Azano criminal trial.

¹³ See Certification (Aug. 12, 2015); Azano F&LA at 1; Chase F&LA at 1; Encinas F&LA at 1.

1 The investigation confirmed that Azano, Chase, and Encinas violated 52 U.S.C. §§ 30121
2 and 30122 by using Azano's funds to make a prohibited contribution to the Democratic
3 Congressional Campaign Committee ("DCCC")¹⁴ and prohibited donations to: 1) Bonnie
4 Dumanis and Robert Filner, two candidates in the 2012 San Diego mayoral race; 2) the San
5 Diego County Democratic Party; and 3) San Diegans for Bonnie Dumanis for Mayor and San
6 Diegans in Support of Bob Filner for Mayor, two local independent expenditure committees
7 supporting the campaigns of Dumanis and Filner, respectively. The investigation also
8 established that Azano violated the Act and Commission regulations by making an in-kind
9 donation to Filner by paying for social media services provided to Filner's campaign by
10 Electionmall, Inc. ("Electionmall"), using funds from one of his Mexican companies. The
11 investigation did not uncover any information indicating that either Vargas or the Committee
12 knew that Azano was the true source of Chase's contribution to the DCCC, or that either Vargas
13 or the Committee assisted in making the contribution or received any benefit from the
14 contribution.

15 **A. Conduit Contributions and Donations**

16 The investigation established that Azano made foreign national contributions and
17 donations, using conduits, to the mayoral campaigns of Bonnie Dumanis and Bob Filner, the San
18 Diego County Democratic Party, and the DCCC. In late December 2011, Azano gave Chase
19 \$10,000 in cash and instructed him to recruit employees and friends to act as straw donors for

¹⁴ Azano's single federal contribution, \$30,000 to the Democratic Congressional Campaign Committee ("DCCC"), made in Chase's name on or about September 30, 2012, was alleged by the Complaint in this matter to have been for the benefit of Juan Vargas, the U.S. Representative for California's 51st Congressional District. The DCCC — which disgorged the \$30,000 contribution made in Chase's name to the United States Treasury on January 28, 2014, apparently after learning that the true source of the contribution was in question, *see* DCCC, Amend. 2014 Feb. Monthly Rpt. at 1488 (May 7, 2014) — is not a respondent in this matter.

1 donations to Dumanis's campaign.¹⁵ From December 2011 to January 2012, Chase and over a
2 dozen other individuals made donations in \$500 and \$1,000 increments to Bonnie Dumanis for
3 Mayor 2012, using the cash that Azano had provided to Chase.¹⁶ Chase told many of the
4 recruited straw donors that Azano was the source of the funds.¹⁷

5 Chase also served as a conduit for Azano by making, in his own name, contributions and
6 donations as instructed by Azano or Encinas, who was relaying Azano's instructions, and for
7 which he was later reimbursed by Azano. On September 24, 2012, Chase wrote a \$30,000 check
8 at Azano's direction to the DCCC.¹⁸ On September 27, 2012, he wrote another \$30,000 check to
9 the San Diego County Democratic Party, which then made disbursements to support the mayoral
10 candidacy of Bob Filner, then U.S. Representative for California's 51st District.¹⁹ Also on

¹⁵ Transcript of Marc Chase Trial Testimony ("Tr. Chase Testimony") at 29-40 (Aug. 11, 2016); Superseding Indictment ¶¶ 22.a.-b.; Chase Plea ¶¶ B.5.-7.

¹⁶ Tr. Chase Testimony at 29-40; *see also* Superseding Indictment ¶¶ 22.c., 31; Chase Plea ¶ B.7.; Chase Ethics Comm'n Order ¶¶ 11, 14-16.

¹⁷ Tr. Chase Testimony at 29-40; *see also* Superseding Indictment ¶¶ 22.c., 31; *see also* Chase Plea ¶ B.7.; Chase Ethics Comm'n Order ¶ 15.

¹⁸ Tr. Chase Testimony at 67-68; *see also* Superseding Indictment ¶¶ 22.o., 25.e., 27.c., 29, 31; Chase Plea ¶ B.11.; Encinas Plea ¶¶ B.14.-16., 20.a. (describing Encinas's participation in arranging Chase's contribution to the DCCC, including Encinas's knowledge that contributions made by foreign nationals or in the name of another are prohibited under the Act, based on his discussions with Marco Polo Cortes — a San Diego-based lobbyist also named in the Superseding Indictment — and a representative of the Committee); DCCC, Third Amend. 2012 Oct. Monthly Rpt. at 2217 (July 19, 2013) (disclosing receipt on Sept. 30, 2012 of \$30,000 contribution from Marc Chase). Although Azano, Encinas, Chase, and others intended for this contribution to the DCCC to benefit Vargas and the Committee, *see* Superseding Indictment ¶¶ 22.m.-o.; Chase Plea ¶¶ B.9., B.11.; Encinas Plea ¶¶ B.14.-15., B.20.a., the investigation did not yield information to indicate that Vargas or the Committee received any benefit from the DCCC, or that Vargas or the DCCC knew that the contribution was illegal because Azano was its true source, as alleged in the Complaint.

¹⁹ Tr. Chase Testimony at 68-72; *see also* Superseding Indictment ¶¶ 22.q., 27.e.; Chase Plea ¶ B.11.; Encinas Plea ¶¶ B.17.-18.; Chase Ethics Comm'n Order ¶ 13; San Diego County Democratic Party, Pre-Election Stmt. (filed Oct. 24, 2012), *available at* <http://cal-access.sos.ca.gov/PDFGen/pdfgen.prg?filingid=1702439&amend=0> ("San Diego County Democratic Party Pre-Election Statement") at 11, 15, 18-22, 24-29 (showing receipts totaling \$30,000 from West Coast Acquisitions, LLC, one of Chase's companies, on October 4, 2012, and disbursements made on behalf of Filner).

1 September 27, 2012, Chase wrote a \$120,000 check to San Diegans in Support of Bob Filner for
2 Mayor, a local independent expenditure committee supporting Filner.²⁰ On October 2, 2018,
3 Azano reimbursed Chase for the \$180,000 contributions and donations he had made to the
4 DCCC, the San Diego County Democratic Party, and San Diegans in Support of Bob Filner for
5 Mayor.²¹ At all times, Chase understood the reason Azano was using him and other conduits to
6 make contributions, for which Azano would later reimburse them, was to disguise the fact that
7 Azano was the true source of the funds because, as a foreign national, Azano was prohibited
8 from making such contributions and donations.²²

9 **B. In-Kind and Direct Donations**

10 The investigation also revealed that Azano made various in-kind and direct donations to
11 support Dumanis and Filner. Specifically, Azano made a \$100,000 direct donation to a local
12 independent-expenditure-only committee that he established on or about May 2, 2012, to support
13 Dumanis.²³ In addition, Azano made approximately \$319,000 in in-kind donations to Dumanis's
14 and Filner's mayoral campaigns by paying a third party, Electionmall, to provide social media

²⁰ Tr. Chase Testimony at 63-64; *see also* Superseding Indictment ¶¶ 22.p.-r., 27.d., 31; Chase Plea ¶ B.11.; Encinas Plea ¶ B.20.b.; Chase Ethics Comm'n Order ¶ 12; San Diegans in Support of Bob Filner for Mayor – 2012, Pre-Election Stmt. at 5 (filed Oct. 25, 2012), at 5 (reporting Sept. 27, 2012 receipt of \$120,000 from South Beach Acquisitions).

²¹ Tr. Chase Testimony at 73-74; *see also* Superseding Indictment ¶¶ 22.s.-t. (stating that on or about Oct. 2, 2012, Azano paid Chase \$380,000, of which \$180,000 involved reimbursement for campaign contributions and donations); Chase Plea ¶¶ B.13.-14. (same).

²² Tr. Chase Testimony at 39-40, 59.

²³ Superseding Indictment ¶¶ 22.e.-f., 27.a., 31; Encinas Plea ¶ B.11.; *see also* San Diegans for Bonnie Dumanis for Mayor 2012, Pre-Election Stmt. at 4 (filed May 24, 2012) ("San Diegans for Dumanis Pre-Election Statement") (reporting May 9, 2012 receipt of \$100,000 from Airsam N492RM, LLC). Airsam N492RM, LLC appears to be one of Azano's United States-based companies. Encinas also donated \$3,000 to San Diegans for Bonnie Dumanis for Mayor on or about May 16, 2012. San Diegans for Dumanis Pre-Election Stmt. at 4; Encinas Plea ¶ B.11.

1 services to both mayoral campaigns.²⁴ For example, in February 2012, Azano paid Electionmall
2 \$128,000, and in October 2012, one of Azano's Mexico-based companies made additional
3 disbursements to Electionmall for \$96,980 and \$94,975 to provide social media services for the
4 Filner campaign.²⁵

5 In sum, with the assistance of Chase, Encinas, and others, Azano made prohibited
6 contributions and donations totaling \$609,955, as reflected in the chart below.

Azano's Prohibited Contributions and Donations			
Type of Contribution or Donation	Recipient	Date of Contribution or Donation	Dollar Amount
Conduit non-federal donations by Chase and Others for Azano	Dumanis mayoral campaign	Dec. 2011-Jan. 2012	\$10,000
Conduit federal contribution by Chase for Azano	Democratic Congressional Campaign Committee	Sept. 24, 2012	\$30,000
Conduit non-federal donation by Chase for Azano	San Diego County Democratic Party	Sept. 27, 2012	\$30,000
Conduit non-federal donation by Chase for Azano	San Diegans in Support of Bob Filner for Mayor	Sept. 27, 2012	\$120,000
Direct non-federal donation by Azano	San Diegans for Bonnie Dumanis for Mayor 2012	May 2, 2012	\$100,000
In-kind non-federal donation by Azano (payment for services provided by Electionmall)	Dumanis and Filner mayoral campaigns	Feb. 2012 Oct. 15, 2012 Oct. 2012	\$128,000 \$96,980 \$94,975 (total=\$191,955)
		TOTAL	\$609,955

7 **C. Knowing and Willful Violations**

8 The investigation confirmed that Encinas's and Chase's violations of the Act were
9 knowing and willful and established that Azano's violations of the Act were knowing and willful

²⁴ Superseding Indictment ¶¶ 6, 22.g.-h.

²⁵ *Id.* ¶¶ 22.x.-y., 31; Encinas Plea ¶¶ B.22.-23.

1 as well. Chase testified that Azano, Encinas, and others who participated in helping Azano make
2 campaign contributions and donations knew that Azano, as a foreign national, was prohibited
3 from contributing or donating funds in federal, state, or local elections in the United States, and
4 structured their activities to hide the fact that Azano was the true source of the funds.²⁶ Further,
5 Chase admitted that he, Azano, Encinas, and others knowingly and willingly used conduit
6 contributors or "straw donors" to facilitate illegal donations, contributions, and disbursements by
7 Azano to federal and local campaigns.²⁷ Azano, Encinas, Chase, and others sought to "hid[e] the
8 source of their illegal campaign financing. In particular, [they] ensured that Azano's name did
9 not appear on public filings concerning their illegal donations, contributions and expenditures."²⁸
10 Encinas admitted that he, Azano, and Chase knew that they were acting in violation of federal
11 law when they assisted Azano in making the conduit and in-kind contributions to the mayoral
12 candidates and the DCCC.²⁹ Accordingly, the investigation provided sufficient information to
13 support a finding that Azano knowingly and willfully violated the Act, as well as confirm the
14 Commission's previous finding that Encinas's and Chase's violations of the Act were knowing
15 and willful.³⁰ Therefore, we recommend that the Commission find reason to believe that Jose
16 Susumo Azano Matura knowingly and willfully violated 52 U.S.C. §§ 30121 and 30122.

²⁶ Tr. Chase Testimony at 31-35, 39-40, 68-72.

²⁷ *Id.* at 31-37; Chase Plea ¶ B.4.(1).

²⁸ Chase Plea ¶ B.4.(2).

²⁹ Encinas Plea ¶¶ B.14.-16., 20.a.

³⁰ Tr. Chase Testimony at 33, 39-40, 59, 68, 70; *see also* Chase Plea ¶ B.11.; Encinas Plea ¶¶ B.14.-16., 20.a.

1 **IV. DISCUSSION**

2 Consistent with the Commission's treatment of similar matters, we believe the criminal
3 convictions and punishment already imposed by the District Court on Chase and Encinas,
4 concerning the same conduct at issue here, adequately resolves the violations of the Act. As
5 explained further below, under these specific circumstances, and in light of the Commission's
6 limited resources, we recommend that the Commission take no further action as to Chase and
7 Encinas.

8 The Commission has previously exercised its prosecutorial discretion and declined to
9 pursue matters where it determined that a related criminal conviction adequately vindicated its
10 civil enforcement interests under the Act. The Commission has taken this approach in a few
11 matters within the following parameters: the respondent pled guilty or was convicted of at least
12 one criminal count directly relating to a federal campaign finance law violation; the facts in the
13 civil matter under review relate to the count(s) to which the respondent pled guilty in the
14 criminal matter; and the respondent experienced substantial criminal punishment.³¹ By contrast,
15 the Commission has taken further action, notwithstanding a criminal conviction, when the

³¹ See MUR 6761 (Kenneth A. Barfield) (declining, after RTB finding of Barfield's knowing and willful violation of 52 U.S.C. §§ 30102(b), 30102(c), 30114, 30116, 30122, and 30125(e), to further pursue action against Barfield, who had pleaded guilty to three criminal counts, including "Embezzlement of Funds Contributed to a Federal Candidate," was sentenced to 87 months in federal prison, and was ordered to pay \$2,940,821 in restitution); F&LA at 1-2, MUR 7072 (Babulal Bera) (Jan. 4, 2017) (declining to further pursue action against perpetrator of conduit scheme "among the largest [ever] considered" after Bera pleaded guilty to one criminal count each under 52 U.S.C. §§ 30116(a)(1)(A) and 30122 and was sentenced to a prison term of one year and one day, supervised release for a term of 36 months, and a criminal fine of \$100,000, while also noting statute of limitations concerns and respondent's advanced age); F&LA at 2, 5, MUR 6231 (Glenn Marshall) (Nov. 17, 2009) (declining to further pursue action against Marshall, who had pleaded guilty to five criminal counts for knowing and willful violations of provisions now codified at 52 U.S.C. §§ 30118 and 30122 and was sentenced to 41 months in federal prison and ordered to pay restitution of \$467,612.62); F&LA at 1, MUR 6232 (Gladwin Gill) (Nov. 17, 2009) (declining to further pursue action against Gill who had pleaded guilty to one criminal count of making contributions in the name of another in violation of the provision now codified at 52 U.S.C. § 30122 and was sentenced to one year and one day in federal prison, followed by three years of supervised release, and was fined \$200,100).

1 criminal conviction or plea did not specifically vindicate the Act's discrete civil enforcement
2 interests, *i.e.*, where the criminal count(s) to which the respondent pled guilty or was convicted
3 of did not directly relate to the facts of the civil matter under review, or did not directly relate to
4 a federal campaign finance law violation.³²

5 Under the circumstances presented in this matter and consistent with Commission
6 precedent, we do not believe that pursuing further action against Chase or Encinas is necessary to
7 adequately vindicate the Commission's civil enforcement interests under the Act. As in prior
8 matters where the Commission has declined to pursue further action against a respondent who
9 was also a defendant in a parallel criminal matter, Chase and Encinas have already been
10 convicted before a federal court for violations of the Act resulting from the same conduit scheme
11 at issue in this matter, and ordered to pay substantial criminal penalties and restitution. Chase, as
12 a result of his participation in the conduit scheme, pleaded guilty to seven counts that included
13 violations of 52 U.S.C. §§ 30121 and 30122. He also served as a witness for the government in
14 Azano's trial, is serving a six year sentence of supervised release, and, according to his counsel,
15 has already paid a total of \$300,000 in restitution for his violations of the Act to federal, state,

³² See Conciliation Agreement, MUR 6465 (John Junker) (Nov. 7, 2013) (conciliating penalties, including \$25,000 civil penalty, after RTB finding of knowing and willful violation of provisions now codified at 52 U.S.C. §§ 30118(a), 30122 with respondent who would later plead guilty to one count of criminal conspiracy under 18 U.S.C. § 371, rather than campaign finance violation); Conciliation Agreement at 1, MUR 6179 (Christopher Ward) (Nov. 29, 2010) (conciliating after RTB finding of knowing and willful violation of provisions now codified at §§ 30102(b)(3), (c), (d), (h)(1), and 30104(b), as well as 11 C.F.R. § 104.14(d), with respondent who pleaded guilty to one count of criminal "Interstate Transportation of Stolen Property" in violation of 18 U.S.C. § 2314, rather than campaign finance violation); Conciliation Agreement at 1, MUR 5971 (Mary Jennifer Adams) (Feb. 13, 2009) (conciliating after RTB finding of knowing and willful violation of provisions now codified at 52 U.S.C. §§ 30102(b)-(c), 30104(b), and 30114 with respondent who pleaded guilty to five counts of "Breach of Trust with Fraudulent Intent" and one count of "Financial Identity Fraud" in violation of state law, S.C. Code Ann. §§ 16-13-230 and 16-13-510 (1976), rather than federal campaign finance violation).

1 and local agencies.³³ Encinas also pleaded guilty to one count of conspiracy to violate 52 U.S.C.
2 §§ 30121 and 30122 as a result of his participation in the conduit scheme. He cooperated with
3 the government, has been sentenced to three years of unsupervised release, and has paid \$69,394
4 in restitution for his conduct that was ordered by the Court.³⁴ Based on these facts, we
5 recommend the Commission take no further action as to Marc Alan Chase and Ernesto Encinas,
6 and close the file as to them.

7 As to Azano, he was convicted of 37 criminal counts during his federal criminal trial,
8 including violations of 52 U.S.C. §§ 30121 and 30122 that resulted from his participation in the
9 conduit scheme.³⁵ Further, he has already been sentenced to 36 months in federal prison,
10 ordered to pay a fine and restitution, and has started serving his sentence. However, as noted
11 above, he is currently appealing his criminal conviction in the Ninth Circuit. Until we know the
12 final outcome of Azano's appeal, we cannot fully evaluate whether the Commission's interests
13 under the Act have been adequately vindicated. As a result, we make no recommendation at this
14 time regarding the appropriate resolution of Azano's civil liability.³⁶ We will forward a
15 recommendation to the Commission upon conclusion of the appeals process.³⁷

³³ Chase was ordered by the District Court to pay \$180,000 in restitution for his participation in the conduit scheme. In addition, he paid restitution of \$80,000 to the San Diego Ethics Commission and \$40,000 to the Department of Motor Vehicles, his license to sell new cars in the state of California was revoked, and he lost his Cadillac franchise.

³⁴ Encinas is a retired police officer whose pension and social security are his only sources of income.

³⁵ *Supra* at 3.

³⁶ We intend to ask Azano to continue to toll the statute of limitations while the appeals process is pending.

³⁷ If Azano's appeal is denied, we anticipate circulating a summary recommendation that the Commission take no further action as to Azano and close the file, based on the analysis contained in this report. If the appeal is successful, we will provide the Commission with further analysis of the appropriate resolution of Azano's liability.

1 Finally, because the investigation did not find a basis to conclude that either Vargas or
2 the Committee knew that Azano was the true source of Chase's contribution to the DCCC, or
3 that either Vargas or the Committee assisted in making the contribution or received any benefit
4 from the contribution, we further recommend that the Commission find no reason to believe Juan
5 Vargas and Vargas for Congress and Nancy Haley in her official capacity as treasurer violated
6 52 U.S.C. § 30116(f), and close the file as to them.

7 **V. RECOMMENDATIONS**

- 8 1. Find reason to believe that Jose Susumo Azano Matsura knowingly and willfully
9 violated 52 U.S.C. §§ 30121 and 30122.
- 10 2. Take no further action as to Marc Alan Chase and Ernesto Encinas.
- 11 3. Find no reason to believe Juan Vargas and Vargas for Congress and Nancy Haley in
12 her official capacity as treasurer violated 52 U.S.C. § 30116(f) of the Act.
- 13 4. Approve the appropriate letters; and
- 14 5. Close the file as to Marc Alan Chase, Ernesto Encinas, and Juan Vargas and Vargas
15 for Congress and Nancy Haley in her official capacity as treasurer.

16 Lisa J. Stevenson
17 Acting General Counsel

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19
20 4/27/18
21 Date

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