



**FEDERAL ELECTION COMMISSION**  
Washington, D.C. 20463

September 6, 2022

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

Saurav Ghosh, Esq.  
Director, Federal Campaign Finance Reform  
Campaign Legal Center  
1101 14th Street NW, Suite 400  
Washington, DC 20005

RE: MUR 7473

Dear Mr. Ghosh:

This is in reference to the complaint filed by Campaign Legal Center with the Federal Election Commission on August 9, 2018, concerning Keep El Paso Honest. Based on that complaint, on June 3, 2019, the Commission found that there was reason to believe that Keep El Paso Honest and Lindsey Workman in her official capacity as treasurer (the “Committee”) violated 52 U.S.C. § 30104(a), (b), and (g), and 11 C.F.R. §§ 104.4 and 109.10(d) by failing to file reports of receipts and disbursements and independent expenditures with the Commission and initiated an investigation into this matter. However, after considering the circumstances of this matter, the Commission was equally divided on whether to take no further action as to the Committee and closed the file on August 30, 2022. The Factual and Legal Analysis, which more fully explains the Commission’s June 3, 2019, reason to believe finding is enclosed.

Documents related to the case will be placed on the public record within 30 days. *See Disclosure of Certain Documents in Enforcement and Other Matters*, 81 Fed. Reg. 50,702 (Aug. 2, 2016).

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8). If you have any questions, please contact Ray Wolcott, the attorney assigned to this matter, at (202) 694-1302 or [rwcott@fec.gov](mailto:rwcott@fec.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Ray Wolcott".

Ray Wolcott  
Staff Attorney

Enclosure  
Factual and Legal Analysis

## FEDERAL ELECTION COMMISSION

## FACTUAL AND LEGAL ANALYSIS

**RESPONDENTS:** Keep El Paso Honest and  
Lindsey Workman  
**MURs:** 7321, 7335, 7359 and 7473  
in her official capacity as treasurer

## I. INTRODUCTION

10 This matter was generated by complaints filed with the Federal Election Commission (the  
11 “Commission”) by Susannah Boyd, Veronica Escobar, Jason Chapman, and Margaret Christ,  
12 Campaign Legal Center. *See* 52 U.S.C. § 30109(a)(1). The Complaints in these matters allege  
13 violations of the reporting requirements of the Federal Election Campaign Act of 1971, as  
14 amended (the “Act”), by Keep El Paso Honest and Lindsey Workman in her official capacity as  
15 treasurer (the “Committee”) in connection with the Committee’s failure to file independent  
16 expenditure reports and periodic disclosure reports with the Commission. The Committee did  
17 not respond to notifications of these complaints.

18 Based on the information in the record, it appears that the Committee violated the Act's  
19 reporting requirements when it failed to file disclosure reports and reports of its independent  
20 expenditures. Accordingly, the Commission finds reason to believe that the Committee violated  
21 52 U.S.C. § 30104(a), (b), and (g) and 11 C.F.R. §§ 104.4 and 109.10(d).

## II. FACTUAL AND LEGAL ANALYSIS

## A. Factual Background

24 The Committee registered with the Commission as an independent expenditure-only  
25 committee in late 2017.<sup>1</sup> Since its registration, the Committee has filed only one report with the

<sup>1</sup> FEC Form 1, *Statement of Organization*, Keep El Paso Honest at <http://docquery.fec.gov/pdf/374/201711079086615374/201711079086615374.pdf> (Nov. 11, 2017); see also FEC Form 99, *Miscellaneous Text*, Keep El Paso Honest at <http://docquery.fec.gov/pdf/747/201712139089185747/201712139089185747.pdf> (Dec. 13, 2017) (noting the Committee's intention to raise unlimited funds for the purpose of making independent expenditures).

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1 Commission—its 2017 Year-End Report, which disclosed a \$250 in-kind contribution and \$398  
 2 in disbursements for operating expenses, and showed a negative cash-on-hand balance.<sup>2</sup>

3 The Commission’s Reports Analysis Division (“RAD”) sent the Committee Requests for  
 4 Additional Information (“RFAs”) regarding its failure to file its 2018 April and July Quarterly  
 5 Reports.<sup>3</sup> The Committee did not respond to the RFAs, and did not respond to the notifications  
 6 of the complaints in these matters.

7 **1. MUR 7321**

8 The MUR 7321 Complaint alleges that as of January 28, 2018, the Committee paid for  
 9 over \$10,000 in broadcast advertising, thereby triggering the Act’s independent expenditure  
 10 reporting requirements, but failed to file reports of independent expenditures.<sup>4</sup> Further, the  
 11 Complaint asserts that as of February 14, 2018, the Committee had purchased advertising  
 12 totaling \$20,245 from four separate television stations, but had not filed reports of independent  
 13 expenditures.<sup>5</sup>

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<sup>2</sup> FEC Form 3X, Keep El Paso Honest, 2017 Year-End Report of Receipts and Disbursements at <http://docquery.fec.gov/pdf/696/201802069094247696/201802069094247696.pdf> (Feb. 6, 2018).

<sup>3</sup> RFAI referencing 2018 April Quarterly Report at <http://docquery.fec.gov/pdf/031/201805010300009031/201805010300009031.pdf> (May 1, 2018); RFAI referencing 2018 July Quarterly Report at <http://docquery.fec.gov/pdf/267/201808020300016267/201808020300016267.pdf> (Aug. 2, 2018).

<sup>4</sup> MUR 7321 Compl. at 1 (Feb. 14, 2018). The Complaint, which was filed on Feb. 14, 2018, alleges that the Committee failed to file its 2017 Year-End Report with the Commission. As noted above, the Committee filed its 2017 Year-End Report on February 6, 2018.

<sup>5</sup> *Id.* The Complaint includes copies of media invoices from the television stations which show the Committee purchased at least \$14,105 television advertising. *See* Compl. Attach. The Complaint does not explain the discrepancy between the \$20,245 total set forth in the text of the Complaint and the total set forth in the attachments.

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1                   **2. MUR 7335**

2                   The MUR 7335 Complaint and its supplements allege that the Committee failed to file its

3                   2017 Year-End Report, 2018 12-Day Pre-Primary Report, and 2018 April Quarterly Report.<sup>6</sup>

4                   This Complaint also contends that the Committee failed to disclose aggregate independent

5                   expenditures in excess of \$10,000, and that the Committee had purchased advertising totaling

6                   \$20,245 from four separate television stations, but had not filed the corresponding independent

7                   expenditure reports.<sup>7</sup>

8                   The MUR 7335 Complaint also includes a news article in which “Committee

9                   spokesperson” Carlos Sierra reportedly says that the Committee raised about \$125,000 and spent

10                  over \$10,000.<sup>8</sup> In response to a question about filing reports with the Commission, Sierra also

11                  declares “[m]y attorneys handle that” and “[t]hat’s not what I personally do. I just buy

12                  everything, design everything and run the PAC. I don’t do the filings, the reporting. That’s not

13                  what I do. My attorney can answer anything having to do with FEC and the filings.”<sup>9</sup> The news

14                  article reports that the attorney identified by Sierra would not confirm that he represented the

15                  Committee.<sup>10</sup> Another news article attached to the April 23, 2018, complaint supplement quotes

16                  Sierra as saying that “voters aren’t concerned with whether his PAC is following federal

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<sup>6</sup>                  MUR 7335 Compl. at 1 (Feb. 28, 2018); *see also* Compl. Suppls. (Apr. 2, 2018, and Apr. 28, 2018).

<sup>7</sup>                  *Id.*

<sup>8</sup>                  MUR 7335 Compl. (attaching Madlin Mekelburg, *Anti-Escobar PAC Fails to Report Campaign Spending on Advertisements*, EL PASO TIMES (Feb. 16, 2018)). In the article, Sierra also mentions that he paid for a Committee website. *Id.* Attached to the Complaint were screenshots of the Committee’s website, which advocated for voters to “say yes” to candidate Dori Fenenbock and “say no” to candidate Veronica Escobar. *Id.*

<sup>9</sup>                  *Id.*

<sup>10</sup>                *Id.*

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1 guidelines.”<sup>11</sup> Sierra further states, “Since Jan. 1 . . . we have spent more than \$10,000.”<sup>12</sup> The  
 2 article further asserts that the Committee “has aired television ads, sent flyers through the mail,  
 3 and rented billboards in different parts of the city . . .”.<sup>13</sup>

4 **3. MUR 7359**

5 The MUR 7359 Complaint alleges that the Committee paid for billboards and television  
 6 advertisements advocating against the election of Texas Congressional candidate Veronica  
 7 Escobar, but did not disclose these expenditures in a Pre-Primary Report before the March 6,  
 8 2018, Texas primary.<sup>14</sup> The Complaint also includes the media buy invoices, which indicate that  
 9 the Committee purchased at least \$14,000 in advertising time.<sup>15</sup> A supplement to the complaint  
 10 includes printed Facebook pages, which include links to purported websites,<sup>16</sup> and a post asking  
 11 for “likes” from individuals that voted against Veronica Escobar.<sup>17</sup>

12 **4. MUR 7473**

13 The MUR 7473 Complaint alleges that the Committee made expenditures opposing  
 14 Texas Congressional candidate Veronica Escobar in the March 2018 Texas primary, but did not

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<sup>11</sup> MUR 7335 Supp. Compl.(Apr. 23, 2018) (attaching Madlin Mekelburg, *Congressional Candidate Veronica Escobar Files Complaint against Keep El Paso Honest PAC*, EL PASO TIMES (Feb. 26, 2018)).

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

<sup>13</sup> *Id.*

<sup>14</sup> MUR 7359 Compl. at 1 (Apr. 4, 2018). The Complaint includes numerous invoices for television media buys. A supplement to the Complaint includes additional materials, including printed copies of the Committee’s Facebook page and an article that was included with the Complaint in MUR 7335.

<sup>15</sup> *Id.* Most of the invoices appear to be the same invoices totaling just over \$14,000 that were attached to MUR 7321. There was an additional invoice for another television station.

<sup>16</sup> MUR 7359 Supp. Compl. Attach. (July 13, 2018). The attached screenshot of the Facebook page includes links to both [www.keeptexashonest.com](http://www.keeptexashonest.com) and [www.keepelpasohonest.com](http://www.keepelpasohonest.com). *See id.* The supplement also includes February 16, 2018, El Paso Times article that was attached to a complaint supplement in MUR 7335.

<sup>17</sup> *Id.*

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1 disclose those expenditures.<sup>18</sup> Specifically, the Complaint alleges that the Committee produced  
 2 and published a 30-second YouTube video advertisement titled “Veronica Escobar: Bad for El  
 3 Paso,” which contained a disclaimer noting that the Committee paid for the content.<sup>19</sup> The  
 4 Complaint also alleges that the Committee spent over \$17,900 for media buys for at least 17  
 5 television advertisements between February 4, 2018, and March 6, 2018. The Complaint  
 6 attached publicly available records from the Federal Communications Commission regarding the  
 7 media buys.<sup>20</sup> The Complaint also cites a news article in which Sierra is quoted declaring that  
 8 “we have spent more than \$10,000.” The same article reports that Sierra said the Committee  
 9 raised approximately \$125,000 and that “about \$10,000 [is] from myself and the rest is El Paso  
 10 donors.”<sup>21</sup> The Complaint also alleges that the Committee funded billboards featuring an image  
 11 of Escobar with the text “I doubled my salary and raised your taxes. We good?”<sup>22</sup> Finally, the  
 12 Complaint alleges that the Committee funded and mailed a “last-minute flier . . . urging

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<sup>18</sup> MUR 7473 Compl. at 2-9 (Aug. 9, 2018). The Complaint also notes that the *El Paso Times* reported that political consultant Carlos Sierra had set up the Committee to oppose Escobar. The same article reported that Sierra had also set up another political committee, Keep Texas Honest, for the same purpose. MUR 7473 Compl. at 2 (citing Aileen B. Flores, *Political Consultant Creates PAC Opposing Escobar’s Congressional Bid*, EL PASO TIMES (Nov. 16, 2017), <https://www.elpasotimes.com/story/news/politics/2017/11/16/el-paso-political-consultant-says-hes-out-ensure-escobar-loses-congressional-race/868998001/>). Keep Texas Honest is registered with the Commission as an IE-only committee, but has filed no disclosure reports. None of the allegations in any of the complaints include expenditures made by Keep Texas Honest, so they are not named as respondents in these matters. See FEC Form 1, *Statement of Organization*, Keep Texas Honest at <http://docquery.fec.gov/pdf/726/201711059086608726/201711059086608726.pdf> (Nov. 5, 2017).

<sup>19</sup> MUR 7473 Compl. (citing *Veronica Escobar: Bad for El Paso*, YOUTUBE (Jan. 18, 2018), <https://www.youtube.com/watch?v=FnEBNAGDYq0>).

<sup>20</sup> MUR 7473 Compl. at 3-5 and Attachs. A-C. The Complaint indicates, based on an additional filing that does not contain the Committee’s name, that the Committee may have made additional buys totaling \$7,700. *Id.* at 3 n.13.

<sup>21</sup> MUR 7473 Compl. at 5 (citing Madlin Mekelburg, *Anti-Escobar PAC Fails to Report Campaign Spending on Advertisements*, EL PASO TIMES (Feb. 16, 2018)).

<sup>22</sup> MUR 7473 Compl. (citing El Paso: *Someten Queja en Contra de Grupo Que Ataca A Veronica Escobar*, NOTICIAS YA (Feb. 27, 2018)).

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1      Republicans to vote in the Democratic congressional primary against former County Judge  
 2      Veronica Escobar.”<sup>23</sup> The Complaint alleges that despite making these expenditures, the  
 3      Committee failed to file required independent expenditure reports and periodic disclosure reports  
 4      with the Commission.<sup>24</sup>

5            **B. Legal Analysis**

6            The Act requires committee treasurers to file reports in accordance with the provisions of  
 7      52 U.S.C. § 30104.<sup>25</sup> These reports must include, *inter alia*, the total amount of all receipts and  
 8      disbursements, including the appropriate itemization, where required.<sup>26</sup>

9            An independent expenditure is an expenditure that expressly advocates the election or  
 10     defeat of a clearly identified federal candidate, and is not made in concert or cooperation with or  
 11     at the request or suggestion of such candidate, the candidate’s authorized political committee, or  
 12     their agents.<sup>27</sup> In addition to a political committee’s regular reporting obligations, when a  
 13     committee makes or contracts to make independent expenditures aggregating \$1,000 or more  
 14     after the 20<sup>th</sup> day, but more than 24 hours before, the date of an election, the Act requires the  
 15     Committee to file an additional report describing those expenditures within 24 hours.<sup>28</sup>

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<sup>23</sup>        MUR 7473 Compl. at 6 and Attach. K; *see also id.* at 6 (citing Aaron Martinez, *PAC Urges Republicans to Vote Against Escobar in Democratic Primary to Force Runoff*, EL PASO TIMES (Mar. 3, 2018), <https://www.elpasotimes.com/story/news/2018/03/03/keep-el-paso-honest-urges-republicans-vote-against-escobar-democratic-primary-force-runoff/392264002/>).

<sup>24</sup>        MUR 7473 Compl. at 6-7.

<sup>25</sup>        *See* 52 U.S.C. § 30104(a)(1); 11 C.F.R. § 104.1(a).

<sup>26</sup>        *See* 52 U.S.C. § 30104(b)(2), (4); 11 C.F.R. § 104.3(a), (b).

<sup>27</sup>        52 U.S.C. § 30101(17); *see also* 11 C.F.R. § 100.22(a), (b) (definition of “expressly advocating”).

<sup>28</sup>        *See* 52 U.S.C. § 30104(g)(1); 11 C.F.R. § 109.10(d).

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1        Further, a political committee that makes or contracts to make independent expenditures  
 2 aggregating \$10,000 or more outside of that 20-day period, up to and including the 20th day,  
 3 must file a report describing those expenditures within 48 hours.<sup>29</sup> These reports must be filed  
 4 within 48 hours “following the date on which a communication that constitutes an independent  
 5 expenditure is publicly distributed or otherwise publicly disseminated.”<sup>30</sup>

6        The information in the record indicates that the Committee violated the Act’s reporting  
 7 requirements by failing to file its 2018 Pre-Primary Report, 2018 April Quarterly Report, and  
 8 2018 July Quarterly Report. In addition, the record indicates that Committee may have failed to  
 9 file reports of independent expenditures with the Commission after meeting the Act’s financial  
 10 thresholds by funding at least \$20,000 in television advertisements.<sup>31</sup> FCC filings indicate that  
 11 the Committee purchased political advertising from the following four El Paso television stations  
 12 prior to Texas’s March 2018 primary election: (1) \$3,360 at KVIA;<sup>32</sup> (2) \$7,700 at KFOX;<sup>33</sup> (3)  
 13 \$4,500 at KDBC;<sup>34</sup> and (4) \$7,075 at KTSM.<sup>35</sup> These advertisement may have constituted

<sup>29</sup>        52 U.S.C. § 30104(g)(2); 11 C.F.R. § 104.4(b)(2).

<sup>30</sup>        11 C.F.R. § 104.4(b), (c).

<sup>31</sup>        The amounts disclosed by the television stations are just over \$2,000 more than alleged in the complaints. However, the invoices indicate that there may have been discounts based on volume purchases.

<sup>32</sup>        See MUR 7473 Compl. at 3-5; KVIA, FCC Disclosures, 2018 Political Files, Keep El Paso Honest Non-Candidate Issue Ads at <https://publicfiles.fcc.gov/tv-profile/kvia-tv/political-files/2018/non-candidate-issue-ads/keep-el-paso-honest/697946c8-da7b-9c80-6d94-47498f35fa70/>.

<sup>33</sup>        See MUR 7473 Compl. at 3-5; KFOX, FCC Disclosures, 2018 Political Files, Keep El Paso Honest at <https://publicfiles.fcc.gov/tv-profile/kfox-tv/political-files/2018/non-candidate-issue-ads/b7db4df6-d0e4-a47e-bb52-24e26608a89b/>.

<sup>34</sup>        See MUR 7473 Compl. at 3-5; KDBC, FCC Disclosures, 2018 Political Files, Keep El Paso Honest at <https://publicfiles.fcc.gov/tv-profile/kdbc-tv/political-files/2018/non-candidate-issue-ads/255e98a7-9d50-594b-7d45-17830553c464/>.

<sup>35</sup>        See MUR 7473 Compl. at 3-5; KTSM, FCC Disclosures, 2018 Political Files, Keep El Paso Honest at <https://publicfiles.fcc.gov/tv-profile/ktsm-tv/political-files/2018/non-candidate-issue-ads/29fd71fc-43ef-cfc8-3f25-2bf1df8da96f/>.

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1 independent expenditures. The record also indicates that the Committee funded flyers expressly  
2 advocating against Veronica Escobar but did not file any reports of independent expenditures.<sup>36</sup>  
3 Further, the record indicates that a Committee representative acknowledged at least \$125,000 in  
4 receipts, and stated that questions about unfiled disclosure reports should be addressed to the  
5 Committee's attorney.<sup>37</sup> Accordingly, the Commission finds reason to believe that the  
6 Committee violated 52 U.S.C. § 30104(a), (b), and (g), and 11 C.F.R. §§ 104.4 and 109.10.

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<sup>36</sup> *See supra*, note 23.

<sup>37</sup> *See supra*, note 8, 9.