

**FEDERAL ELECTION COMMISSION**  
**FIRST GENERAL COUNSEL'S REPORT**

**MUR 7915**

DATE COMPLAINT FILED: July 21, 2021

DATE OF NOTIFICATIONS: July 27, 2021

LAST RESPONSE RECEIVED: September 29, 2021

DATE ACTIVATED: January 27, 2022

EARLIEST SOL: February 2025

LATEST SOL: November 2025

ELECTION CYCLE: 2020

**COMPLAINANT:**

Jay Stone

**RESPONDENTS:**

When We All Vote

Civic Nation

Andrew Amore

Selena Gomez

Tom Hanks

Erin Hannigan

Faith Hill

Valerie Jarrett

Liza Koshy

Kyle Lierman

Laura Miller

Lin-Manuel Miranda

Janelle Monáe

Michelle Obama

Chris Paul

Megan Rapinoe

Shonda Rhimes

Tracee Ellis Ross

Pete Rouse

Tina Tchen

Kerry Washington

Rita Wilson

Stephanie Young

**RELEVANT STATUTES  
AND REGULATIONS:**

52 U.S.C. § 30101(4)(A)

52 U.S.C. § 30102

52 U.S.C. § 30103

52 U.S.C. § 30104

11 U.S.C. § 100.5(a)

**INTERNAL REPORTS CHECKED:** Disclosure Reports

**FEDERAL AGENCIES CHECKED:**

**I. INTRODUCTION**

The Complaint in this matter alleges that When We All Vote (“WWAV”), a formerly independent 501(c)(3) non-profit organization that was acquired after the 2020 election by Civic Nation, another 501(c)(3) non-profit organization, violated the Federal Election Campaign Act of 1971, as amended (the “Act”), by failing to register and report as a political committee, in violation of 52 U.S.C. §§ 30102, 30103, and 30104. The Complaint alleges that “WWAV’s mission to close the age and race voting gap” by engaging in voter registration and get-out-the-vote activity “was merely a smoke screen for WWAV to achieve its goal of helping Democrat Joe Biden win the 2020 presidential election.”<sup>1</sup> Respondents deny the allegations, arguing that WWAV “conducts itself in an entirely non-partisan, unbiased manner without regard to any candidate running for office,” and deny that WWAV has conducted any federal campaign activity.<sup>2</sup>

As explained below, the available information does not demonstrate that WWAV exceeded the \$1,000 contribution or expenditure threshold under the statutory definition of “political committee.” Further, the available information does not appear to indicate that WWAV’s major purpose was the election or nomination of a federal candidate but, in any event, the Commission need not take a position on this issue because the \$1,000 threshold was not satisfied. Although the Complaint argues that individuals associated with WWAV, namely

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<sup>1</sup> Compl. at 7 (July 21, 2021).

<sup>2</sup> Resp. at 3 (Sept. 29, 2021). The Response was submitted on behalf of Civic Nation and When We All Vote, and individual respondents Andrew Amore, Erin Hannigan, Valerie Jarrett, Kyle Lierman, Laura Miller, Pete Rouse, Tina Tchen, and Stephanie Young, who are WWAV staff and directors. *Id.* at 1.

1 Andrew Amore, Selena Gomez, Tom Hanks, Erin Hannigan, Faith Hill, Valerie Jarrett, Liza  
 2 Koshy, Kyle Lierman, Laura Miller, Lin-Manuel Miranda, Janelle Monáe, Michelle Obama,  
 3 Chris Paul, Megan Rapinoe, Shonda Rhimes, Pete Rouse, Tracee Ellis Ross, Tina Tchen, Kerry  
 4 Washington, Rita Wilson, and Stephanie Young, (collectively, “Individual Respondents”), may  
 5 have made contributions to committees associated with the Democratic Party and its candidates  
 6 or expressly advocated for the election or defeat of particular candidates during the 2020 election  
 7 cycle, there is no information that they did so when acting on behalf of WWAV or that WWAV  
 8 paid for any such communications.<sup>3</sup>

9 Therefore, based on the available information, we recommend that the Commission find  
 10 no reason to believe that When We All Vote and Civic Nation violated 52 U.S.C. §§ 30102,  
 11 30103, 30104, by failing to register and report as a political committee. Further, because the  
 12 Complaint alleges no cognizable violations of the Act by Individual Respondents, we  
 13 recommend that the Commission find no reason to believe that they violated the Act.

## 14 **II. FACTUAL BACKGROUND**

15 Civic Nation is a 501(c)(3) non-profit corporation formed in 2015.<sup>4</sup> According to the  
 16 Response, Civic Nation “empowers and educates individuals, companies, institutions, and

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<sup>3</sup> The Complaint identifies Valerie Jarrett as WWAV President; Kyle Lierman as CEO of Civic Nation and WWAV; Peter Rouse as Director of WWAV and a Civic Nation board member; Tina Tchen as WWAV’s treasurer and a Civic Nation board member; Erin Hannigan as Managing Director for WWAV from January 2019 to January 2021; Stephanie L. Young as Executive Director of WWAV and Senior Advisor to the Civic Nation; Laura Miller as WWAV’s Managing Director of Campaigns and Advocacy from March 2021 to present; Andrew Amore as WWAV’s Senior Director of My School Votes program. Compl. at 6-10. The remaining Individual Respondents (Selena Gomez, Tom Hanks, Faith Hill, Lin-Manuel Miranda, Janelle Monáe, Liza Koshy, Chris Paul, Megan Rapinoe, Shonda Rhimes, Tracee Ellis Ross, Kerry Washington, and Rita Wilson) are, according to the Response, “co-chair . . . volunteers of WWAV and do not serve in decision-making roles.” Resp. at 2.

<sup>4</sup> Resp. at 1; IRS Form 990, Civic Nation, 2015 Return of Organization Exempt from Income Tax at 1 (Sept. 2, 2016); *see also* CorpOnline, Department of Consumer and Regulatory Affairs of the District of Columbia, <https://corponline.dcra.dc.gov/Home.aspx> (search “Civic Nation”); IRS Final Determination Letter, Civic Nation (July 23, 2015) (identifying March 20, 2015, as the effective date of Civic Nation’s exemption from federal income tax as a public charity under section 501(c)(3) of the Internal Revenue Code).

1 organizations to drive culture, systems and policy change, working towards a more inclusive and  
 2 equitable America.”<sup>5</sup>

3 WWAV was established in 2018 and recognized by the IRS as a public charity operating  
 4 under section 501(c)(3) of the Internal Revenue Code.<sup>6</sup> On January 1, 2021, WWAV was  
 5 acquired by Civic Nation and is currently one of Civic Nation’s “six initiatives.”<sup>7</sup> Public records  
 6 suggest that WWAV was previously incorporated but is no longer an incorporated entity.<sup>8</sup> The  
 7 relationship between the two organizations before Civic Nation acquired WWAV is unclear but  
 8 their 2019 tax returns identify the same address and two overlapping officers or directors.<sup>9</sup> The  
 9 Complaint’s allegations generally focus on WWAV’s activities prior to its acquisition by Civic  
 10 Nation.

11 According to the Response and its current website, WWAV’s mission is to “change the  
 12 culture around voting and to increase participation in each and every election by helping to close  
 13 the race and age gap.”<sup>10</sup> To accomplish this mission, WWAV “engages in non-partisan voter

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<sup>5</sup> Resp. at 1; *see also About*, Civic Nation <https://civiction.org/about/> (last visited May 20, 2022).

<sup>6</sup> Resp. at 1 n.1; IRS Form 990, When We All Vote, 2019 Return of Organization Exempt from Income Tax at 1 (Nov. 9, 2020); IRS Final Determination Letter, When We All Vote (Mar. 26, 2019).

<sup>7</sup> Resp. at 1 n.1; *see also* Compl., Ex. 1 (attaching screenshot of terms and conditions for donations to “When We All Vote . . . an initiative of Civic Nation, a 501(c)(3) organization”); *About Us*, When We All Vote, <https://whenweallvote.org/about/> (last visited May 20, 2022) (“When We All Vote is a key initiative within the 501(c)(3) organization Civic Nation.”).

<sup>8</sup> *See* CorpOnline, Department of Consumer and Regulatory Affairs of the District of Columbia, <https://corponline.dcra.dc.gov/Home.aspx> (providing search results for When We All Vote that show its “entity status” as “dissolved”); IRS Form 990, When We All Vote, 2019 Return of Organization Exempt from Income Tax at 1 (Nov. 9, 2020) (identifying When We All Vote as “corporation” in 2019).

<sup>9</sup> *Compare* IRS Form 990, Civic Nation, 2019 Return of Organization Exempt from Income Tax at 1, 7 (Nov. 6, 2020) (identifying Kyle Lierman as CEO to both organizations and Tina Tchen as a director or trustee to both organizations), *with* IRS Form 990, When We All Vote, 2019 Return of Organization Exempt from Income Tax at 1, 7 (Nov. 9, 2020). Additionally, WWAV made a \$655,000 grant to Civic Nation in 2019. IRS Form 990, When We All Vote, 2019 Return of Organization Exempt from Income Tax, Sched. I (Nov. 9, 2020).

<sup>10</sup> Resp. at 1; *About Us*, When We All Vote, <https://whenweallvote.org/about/> (last visited May 20, 2022) (“We empower our supporters and volunteers to take action through voting, advocating for their rights, and holding

1 registration activities aimed at registering new voters across the country, civic education efforts  
 2 directed towards voters of every age to build an informed and engaged electorate, and advocacy  
 3 for voting rights.”<sup>11</sup>

4 The Complaint alleges that WWAV's nonprofit status was a “false[] designation” and  
 5 that during the 2020 election cycle WWAV engaged in “partisan political activities” to elect Joe  
 6 Biden.<sup>12</sup> The Complaint claims “WWAV did more to help Joe Biden win . . . than the  
 7 Democratic National Committee,”<sup>13</sup> pointing to WWAV's statements that “512,000 people  
 8 started or completed its voter registration process” and that WWAV “reached over 100 million  
 9 eligible voters.”<sup>14</sup> The Complaint further asserts that numerous WWAV activities “indicate [it]  
 10 was more interested in electing a Democrat president than it was in closing the age and race  
 11 voting gaps.”<sup>15</sup> Accordingly, the Complaint asserts that WWAV was a political committee that  
 12 should have registered and reported to the Commission.<sup>16</sup>

13 The Complaint claims that WWAV's purpose is evident by the fact that WWAV was  
 14 founded by Michelle Obama, is supported and staffed by individuals who have worked for or are

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their elected officials accountable.”); *see also* IRS Form 990, When We All Vote, 2019 Return of Organization Exempt from Income Tax at 2 (Nov. 9, 2020) (“When We All Vote is a non-profit, nonpartisan organization that is on a mission to increase participation in every election and close the rage and age voting gap by changing the culture around voting, harnessing grassroots energy, and through the strategic partnerships to each every American. Launched in 2018 . . . When We All Vote is changing the culture around voting using a data-driven and multifaceted approach to increase participation in elections.”).

<sup>11</sup> Resp. at 1-2.

<sup>12</sup> Compl. at 5.

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

<sup>14</sup> *Id.*; *see also* *About Us*, When We All Vote, <https://whenweallvote.org/about/> (last visited May 20, 2022) (“In 2020, When We All Vote ran a robust, multifaceted campaign and reached more than 100 million people to educate them about the voting process and get them registered and ready to vote.”).

<sup>15</sup> Compl. at 7-8.

<sup>16</sup> *Id.* at 5.

1 Democrats,<sup>17</sup> and has high-profile volunteer “co-chairs” who supported Democratic candidates,  
 2 including Joe Biden, in the 2020 presidential election.<sup>18</sup> The Complaint includes a chart that  
 3 purportedly lists “partisan” public statements, endorsements, or political contributions made by  
 4 WWAV’s co-chairs during the 2020 election cycle.<sup>19</sup> For example, the Complaint alleges that  
 5 numerous co-chairs made speeches or appearances at the DNC convention or online events  
 6 associated with the convention;<sup>20</sup> made contributions to Biden or Democratic Party  
 7 committees;<sup>21</sup> “denounced,” “criticized,” “attacked,” or made “[h]ateful [c]omments” about  
 8 President Trump;<sup>22</sup> campaigned with or fundraised for Biden;<sup>23</sup> and appeared in videos with

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<sup>17</sup> *Id.*, Exs. 4-7 (producing LinkedIn profiles of Andrew Amore, Erin Hannigan, Laura Miller, and Stephanie Young, all of whom worked for President Obama’s campaign committee or administration as well as When We All Vote).

<sup>18</sup> *Id.* at 4-6, 8-10, 12-26 (identifying “[o]fficers and [k]ey [e]mployees” and co-chairs).

<sup>19</sup> Compl. at 23-25.

<sup>20</sup> *Id.*; see also Compl., Ex. 18 (reproducing text of speech by Michelle Obama at Democratic National Convention); Compl., Ex. 55 (Brian Rokus, “*The DNC Will Host a ‘Virtual After Party’ to Close Convention Week*,” CNN, (Aug. 20, 2020) (stating that Liza Koshy would participate in virtual “after party” “livestreamed across Joe Biden’s and the DNC’s social media accounts and websites”)); Compl., Ex. 65 (Joyce Frieden, “*Healthcare a Big Player at First Night of Democratic Convention*,” MEDPAGE TODAY, (Aug. 18, 2020) (stating that Megan Rapinoe participated in event streamed as part of Democratic National Convention)); Compl., Ex. 77 (Cynthia Littleton, “*Kerry Washington to Democrats: ‘We’re Fighting for the Soul of This Country*,” VARIETY, (Aug. 19, 2020) (quoting statements made by Kerry Washington at opening of third night of Democratic National Convention)).

<sup>21</sup> Compl. at 23-25. Commission disclosure reports indicate that Tom Hanks, Rita Wilson, and Shonda Rhimes made contributions to Biden for President. Biden for President, 2019 Amended July Quarterly Report (Oct. 21, 2019).

<sup>22</sup> Compl. at 23-25; see also, e.g., Compl., Ex. 20 (ASSOCIATED PRESS, “*Watch: Michelle Obama Goes After Trump in New Video Released by Biden Campaign*,” CHICAGO SUN-TIMES, (Oct. 6, 2020)); Compl., Ex. 30 (Jennifer Ruby, “*Tom Hanks Tears into Donald Trump in Major Rant: ‘I’m Offended as a Man*,” EVENING STANDARD, (undated) (quoting comments that Hanks made in 2016 about then-candidate Trump)); Compl., Ex. 40 (depicting September 2017 Tweet from Lin-Manuel Miranda stating that President Trump was “going straight to hell”); Compl., Ex. 48 (99.3/105.7 KISS FM, “*Janelle Monae and Kerry Washington Read Donald Trump to Shreds*,” (undated)).

<sup>23</sup> Compl. at 23-25; see also Compl. Ex. 32 (Alexi McCammond, “*Biden Team Launches Fundraiser Series, Starting with Tom Hanks*,” AXIOS, (Aug. 18, 2020) (describing Hanks as participating in online fundraiser for Biden campaign)); Compl., Ex. 35 (Josh Wingrove, “*Biden Gets Boost from Michelle Obama as Democrats Showcase Unity*,” BLOOMBERG, (Aug. 17, 2020) (referencing that then-candidate Biden, Tom Hanks, and Lin-Manuel Miranda planned to “take part in events” together shortly after the Democratic National Convention)).

Biden or Kamala Harris.<sup>24</sup>

The Complaint alleges that WWAV developed a “comprehensive and sophisticated digital strategy” that “has all the earmarks of a political campaign.”<sup>25</sup> According to the Complaint, WWAV disseminated online content through video messages, couch parties, and virtual concerts, and drew on its co-chairs’ “social media power” to further disseminate WWAV’s messages.<sup>26</sup>

Additionally, the Complaint alleges that WWAV focused its in-person events, including voter registration drives, food and meal distributions, concerts, prom contests, get-out-the-vote drives, and post-early election celebrations “in heavily Democratic cities in . . . swing states.”<sup>27</sup> For example, the Complaint alleges that “WWAV focused the organization’s in-person events in the cities of Atlanta, Detroit, Milwaukee, Philadelphia, Pittsburgh and Phoenix because these cities have the highest density of Democratic votes that helped Joe Biden win the swing states of Arizona, Georgia, Michigan, Pennsylvania, and Wisconsin.”<sup>28</sup> The Complaint includes a table titled “Inducements to Register or Vote” that identifies 35 events between February 27, 2020,

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<sup>24</sup> Compl. at 23-25; *see also, e.g.*, Compl., Ex. 25 (reproducing image of an Instagram post by Selena Gomez and describing video she made with then-candidate Harris on behalf of Biden for President); Compl., Ex. 50 (reproducing Facebook page announcing streaming event with then-candidate Harris and Janelle Monae); Compl., Ex. 62 (reproducing still of an April 30, 2020, Instagram stream by Megan Rapinoe’s interviewing then-candidate Biden and Dr. Jill Biden).

<sup>25</sup> Compl. at 50; *see also id.*, Ex. 117 at 2 (“‘A lot of what we [at WWAV] do is online’ . . . ‘We’re building online communities, but we’re also partnering with organizations on the ground.’ It is this seamless connection of offline and online activity that allows volunteers to act local but feel connected to a larger movement.”).

<sup>26</sup> Compl. at 35-41 (including table identifying online events); *id.* at 48 (identifying the number of followers associated with co-chairs’ Twitter and Instagram accounts). For example, the Complaint includes an article that claims Selena Gomez’s Instagram posts receive an average of 3.6 million “likes.” *See id.*, Ex. 24 (Stephen Moyes, “*Selena Gomez is the Queen of Instagram Likes*,” FOX NEWS, (June 2, 2019)).

<sup>27</sup> Compl. at 33.

<sup>28</sup> *Id.* at 33, 35.

1 and January 3, 2021.<sup>29</sup> Nine of the events on the table occurred virtually.<sup>30</sup> As to the in-person  
 2 events, the table includes descriptions like “WWAV Hosts Food, Groceries, and Voter  
 3 Registration Drive,” “WWAV Sponsors Drive-Thru Food Distribution and Voter Registration,”  
 4 and “Entertainment” to “Remind Everyone to Get Registered to Vote.”<sup>31</sup> The in-person events  
 5 identified on the table occurred in Detroit, Michigan, Atlanta, Georgia, Los Angeles, California,  
 6 Las Vegas, Nevada, Phoenix, Arizona, Pittsburgh and Philadelphia, Pennsylvania, Charlotte and  
 7 Durham, North Carolina, Milwaukee, Wisconsin, Minneapolis and St. Paul, Minnesota, and  
 8 Miami and Orlando, Florida.<sup>32</sup>

9 The Complaint further alleges WWAV partnered with “mostly Democratic mayors . . .  
 10 for the purpose of increasing the vote in heavily Democratic cities” as part of the “WWAV Civic  
 11 Cities Mayor Initiative.”<sup>33</sup> According to the Complaint, of the “WWAV Civic City Mayors”  
 12 who signed on to the initiative, there were 51 Democrats, 2 Republicans, and 16 Mayors of  
 13 unknown party affiliation; only 29 of those mayors endorsed a presidential candidate.<sup>34</sup>  
 14 According to the Complaint, WWAV’s partnerships with mayors enabled WWAV to “track

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<sup>29</sup> *Id.* at 35-41(Table 3).

<sup>30</sup> *Id.* Some of WWAV’s virtual content referenced on Table 3 remains publicly available. *E.g.*, Compl., Ex. 86 (Breanna Edwards, “Michelle Obama and Common Encourage Black Voter Registration,” ESSENCE, (updated Nov. 4, 2020), <https://www.essence.com/news/michelle-obama-and-common-black-voter-registration/> (embedding WWAV video)); WWAV, When We All Vote’s #CouchParty 2.0, FACEBOOK (May 20, 2022), <https://www.facebook.com/WhenWeAllVote/videos/when-we-all-votes-couchparty-20/541646193190796/>. The content generally includes voting rules, tips and strategies for registering and reaching out to voters, and encouragement to vote, but does not identify candidates.

<sup>31</sup> Compl. at 35-41.

<sup>32</sup> *Id.*

<sup>33</sup> Compl. at 33-34. The WWAV Civic Cities Mayor initiative, according to materials provided by the Complaint, “encourages and supports mayors to take a leading role in closing the voting race and age gap and fundamentally shift the culture around voting in every election, from school board races to federal elections.” *Id.*, Ex. 84.

<sup>34</sup> *Id.* at 29-32.



voter registration and voters,” “exchange voter registration and get out the vote strategies,” and hold a “Prom-athon contest” to register thousands of high school students to vote.<sup>35</sup> According to the Complaint, “[m]ost of the Prom-athon winners were in Democratic strongholds in swing states.”<sup>36</sup> Further, the Complaint alleges that WWAV’s numerous GOTV efforts, including concerts, raffles, picnics, food and grocery distribution, early voting celebrations, and ticket giveaways to events that were co-sponsored by local business, radio stations, churches and other organizations, amounted to “knowingly and willfully paying, offering to pay, or accepting payment either for registering to vote or voting.”<sup>37</sup>

In short, the Complaint alleges that WWAV’s efforts resulted in an increase in voting in cities where they were held, benefitting Biden’s candidacy.<sup>38</sup>

Respondents contend that Civic Nation and WWAV are not political committees subject to the Act’s registration and reporting requirements.<sup>39</sup> Respondents state that Civic Nation and WWAV only engage in “neutral, unbiased election activities” and point to the Complaint’s exhibits as evidence demonstrating that WWAV’s activities are “non-partisan” and “targeted solely at increasing voter education, registration, and turnout.”<sup>40</sup> Respondents point out that

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<sup>35</sup> *Id.* at 5-6, 43-44.

<sup>36</sup> *Id.* at 44 (claiming that winners included three Pennsylvania high schools, two high schools in both Arizona and Michigan, and a high school in Las Vegas, Nevada, Houston, Texas, Milwaukee, Wisconsin, and Norcross, Georgia).

<sup>37</sup> *Id.* at 35-43 (summarizing alleged “Inducements to Register or Vote”).

<sup>38</sup> *Id.* at 45-46.

<sup>39</sup> Resp. at 2.

<sup>40</sup> *Id.*

1 none of the dozens of exhibits detailing their GOTV efforts show any evidence that WWAV  
 2 advocated for the election or defeat of a federal candidate or sought to influence an election.<sup>41</sup>

3 Respondents expressly deny the Complaint's allegation that WWAV was incapable of  
 4 operating in a "non-partisan" manner because some of its most prominent volunteers also  
 5 supported Democratic candidates outside of their activities with WWAV.<sup>42</sup> Respondents point  
 6 out that the co-chairs named in the Complaint are volunteers that do not serve in decision-  
 7 making roles and are free to engage in or volunteer for political campaigns outside of their  
 8 volunteer activities for WWAV.<sup>43</sup>

### 9 **III. ANALYSIS**

#### 10 **A. Relevant Law**

11 The Act and Commission regulations define a "political committee" as "any committee,  
 12 club, association, or other group of persons which receives contributions aggregating in excess of  
 13 \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000  
 14 during a calendar year."<sup>44</sup> In *Buckley v. Valeo*,<sup>45</sup> the Supreme Court held that defining political  
 15 committee status "only in terms of [the] amount of annual 'contributions' and 'expenditures'"  
 16 might be overbroad, reaching "groups engaged purely in issue discussion."<sup>46</sup> To cure that  
 17 infirmity, the Court concluded that the term "political committee" "need only encompass  
 18 organizations that are under the control of a candidate or the *major purpose of which is the*

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<sup>41</sup> *Id.* at 3.

<sup>42</sup> Resp. at 2.

<sup>43</sup> *Id.*

<sup>44</sup> 52 U.S.C. § 30101(4)(A); 11 C.F.R. § 100.5.

<sup>45</sup> 424 U.S. 1 (1976) (per curiam).

<sup>46</sup> *Id.* at 79.

1 *nomination or election of a candidate.”*<sup>47</sup> Accordingly, under the statute as thus construed, an  
 2 organization that is not controlled by a candidate must register as a political committee only if  
 3 (1) it crosses the \$1,000 threshold and (2) it has as its “major purpose” the nomination or election  
 4 of federal candidates.

5 To determine an entity’s “major purpose,” the Commission considers a group’s “overall  
 6 conduct,” including, among other factors, public statements about its mission, organizational  
 7 documents, government filings (*e.g.*, IRS notices), and the proportion of spending related to  
 8 “Federal campaign activity (*i.e.*, the nomination or election of a Federal candidate).”<sup>48</sup>

9 Political committees must comply with certain organizational and reporting requirements  
 10 set forth in the Act. They must register with the Commission, file periodic reports for disclosure  
 11 to the public, appoint a treasurer who maintains its records, and identify themselves through  
 12 “disclaimers” on all their political advertising, on their websites, and in mass e-mails.<sup>49</sup>

13 An “independent expenditure” is an expenditure “for a communication expressly  
 14 advocating the election or defeat of a clearly identified candidate” that is not coordinated with  
 15 the candidate or the candidate’s committee.<sup>50</sup> The term “expressly advocating” means any  
 16 communication that: (1) uses phrases or words such as “vote for,” “elect,” “defeat,” etc., “which  
 17 in context can have no other reasonable meaning than to urge the election or defeat of one or  
 18 more clearly identified candidate(s)”; or (2) “[w]hen taken as a whole and with limited reference  
 19 to external events, such as the proximity to the election, could only be interpreted by a

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<sup>47</sup> *Id.* (emphasis added).

<sup>48</sup> Political Committee Status, 72 Fed. Reg. 5597, 5605 (Feb. 7, 2007) (Supplemental Explanation and Justification) (“Supplemental E&J”).

<sup>49</sup> 52 U.S.C. §§ 30102-30104; 11 C.F.R. § 110.11(a)(1).

<sup>50</sup> 11 C.F.R. § 100.16(a) (definition of independent expenditure); *see also* 52 U.S.C. § 30101(17) (same).

reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s).”<sup>51</sup>

**B. The Commission Should Find No Reason to Believe That WWAV And Civic Nation Failed to Register and Report as a Political Committee**

The Complaint argues that WWAV is a political committee and therefore should have registered and reported as such. As explained below, the available information does not indicate that WWAV exceeded the \$1,000 contribution or expenditure threshold. Moreover, the available information does not appear to indicate that WWAV’s major purpose was the election or nomination of a federal candidate but, in any event, the Commission need not take a position on this issue because the \$1,000 threshold is not satisfied.

1. There is No Indication That WWAV Met the Statutory Threshold

When considering an organization’s status as a political committee, the Commission first determines whether the organization meets the threshold requirement of receiving contributions or expenditures aggregating in excess of \$1,000 during a calendar year.<sup>52</sup> Here, there is no information to support Complaint’s assertion that WWAV received contributions or made expenditures in excess of \$1,000.

To assess whether an organization has made an “expenditure,” the Commission analyzes whether spending on any of an organization’s communications made independently of a candidate constitute express advocacy under 11 C.F.R. § 100.22.<sup>53</sup> WWAV has not filed any disclosure reports with the Commission reporting any independent expenditures. Moreover,

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<sup>51</sup> 11 C.F.R. § 100.22(a)-(b).

<sup>52</sup> 52 U.S.C. § 30101(4)(A); 11 C.F.R. § 100.5.

<sup>53</sup> Factual & Legal Analysis at 10, MUR 6538R (Americans for Job Security, *et al.*) (citing Supplemental E&J at 5606); Factual & Legal Analysis at 8, MUR 7465 (Freedom Vote, Inc.) (same).

1 further examination of WWAV's activities does not indicate that the organization made any  
 2 unreported independent expenditures. In the lengthy descriptions and documentation of  
 3 WWAV's activities included in and attached to the Complaint, none appear to reflect  
 4 communications by WWAV that include express advocacy under 11 C.F.R. § 100.22.<sup>54</sup> The  
 5 WWAV communications provided with the Complaint primarily consist of internet and social  
 6 media posts that advertised voter registration and GOTV efforts in combination with food and  
 7 grocery distribution or live music and entertainment, as well as the artists, entertainers and  
 8 musicians that would be participating in each event.<sup>55</sup> The early voting celebration  
 9 communications, which were also advertised on websites and through social media platforms,  
 10 only advertised music, entertainment, and free food.<sup>56</sup> None of the available communications  
 11 identify a candidate let alone expressly advocate for their election or defeat. Thus, the  
 12 communications described in the Complaint and its exhibits do not reflect spending by WWAV  
 13 for independent expenditures.<sup>57</sup>

14 Though the Complaint argues that WWAV volunteer co-chairs made public statements  
 15 that "endorsed," "campaigned with," or "appeared with" candidate Joe Biden, or "denounced"

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<sup>54</sup> See, e.g., Compl., Exs. 80-84, 87-92.

<sup>55</sup> See *id.*, Exs. 93-94, 96-98, 101, 108-109, 113. Many of the WWAV communications attached to the Complaint are WWAV press releases, none of which identify a federal candidate. *E.g.*, *id.*, Ex. 10 (identifying co-chairs and including transcript of accompanying video); *id.*, Ex. 11 (announcing new public service announcement, including transcript of video); *id.*, Ex. 12 (announcing Civic Cities initiative); *id.*, Ex. 13 (announcing virtual prom and winners of Prom Challenge grants); *id.*, Ex. 14 (announcing initiative to recruit educators to register students to vote, including transcript of video).

<sup>56</sup> *Id.*, Exs. 105-106, 122-130.

<sup>57</sup> See Supplemental E&J at 5606. Furthermore, Commission regulations provide that a corporation's disbursements for voter registration and get-out-the-vote communications to the general public are not contributions or expenditures, provided that the communications (1) do not expressly advocate the election or defeat of any clearly identified candidate or candidates of a clearly identified party and (2) the preparation and distribution of the communications is not coordinated with a candidate or party. See 11 C.F.R. § 114.4(c)(2).

Donald Trump during the election cycle,<sup>58</sup> nothing in the Complaint or attached exhibits suggest that the individuals did so in their capacities as WWAV volunteers or that the volunteers' statements reflected that WWAV spent money to disseminate volunteers' statements in support of candidates. As mentioned above, the available WWAV communications that preceded the 2020 election were limited to voter registration drives and GOTV efforts that did not name any federal candidate.

Furthermore, while WWAV's Form 990s reflect that WWAV received donations in excess of \$1,000,<sup>59</sup> the Complaint provides no information that indicates that WWAV received more than \$1,000 in "contributions," as that term is defined by the Act, that is, "gifts . . . made by any person for the purpose of influencing any election for Federal office."<sup>60</sup> Neither the Complaint's exhibits nor the other available information shows that WWAV solicited or received any contributions for a federal campaign purpose. The attachments to the Complaint show that WWAV advertised voter registration and GOTV events to the public, and WWAV's online "Donate" page does not appear to solicit any contributions for the purpose of influencing any election.<sup>61</sup>

Therefore, the available information does not indicate that WWAV crossed the Act's \$1,000 threshold for political committee status.

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<sup>58</sup> Compl. at 23-25.

<sup>59</sup> *E.g.*, IRS Form 990, When We All Vote, 2019 Return of Organization Exempt from Income Tax at 1 (Nov. 9, 2020).

<sup>60</sup> 52 U.S.C. § 30101(8)(A).

<sup>61</sup> *See Donate*, When We All Vote, <https://whenweallvote.org/donate/> (last visited May 19, 2022) (stating, "Your grassroots donation today will provide training and resources to our volunteers in communities around the country working to help us close the race and age voting gap. Donate now to be part of this movement to strengthen our democracy ahead of important elections for years to come."). The Complaint also attaches an undated excerpt of an online donation portal for When We All Vote that indicates it is "an initiative of Civic Nation, a 501(c)(3) nonprofit organization." Compl., Ex. 1.

2. Available Information Does Not Appear to Indicate that WWAV's Major Purpose is the Election or Nomination of Federal Candidates

As an initial matter, none of WWAV's available public statements about its mission or material in its government filings involve federal campaign activity.<sup>62</sup> Similarly, none of its known activities, including those cited in the Complaint, involve any federal campaign activity. Consistent with its stated purpose to "increase participation in every election and close the race and age voting gap by changing the culture around voting,"<sup>63</sup> WWAV's known activities included voter registration drives, food and meal distributions, concerts, raffles, picnics, prom contests, and early voting celebrations. None of the available information indicates WWAV funded any independent expenditures or aired any electioneering communications. Nor does the available information indicate that that WWAV made any contributions, direct or in-kind, to candidates or political committees.<sup>64</sup>

Ultimately, the Complaint's allegation that WWAV is a political committee is based on its view that "WWAV's mission to close the age and race voting gap was merely a smoke screen . . . to achieve its goal of helping Democrat Joe Biden with the 2020 presidential election."<sup>65</sup>

<sup>62</sup> Resp. at 2; IRS Form 990, When We All Vote, 2019 Return of Organization Exempt from Income Tax at 2 (Nov. 9, 2020) ("When We All Vote is a non-profit, nonpartisan organization that is on a mission to increase participation in every election and close the race and age voting gap by changing the culture around voting, harnessing grassroots energy, and through the strategic partnerships to each every American. Launched in 2018 . . . When We All Vote is changing the culture around voting using a data-driven and multifaceted approach to increase participation in elections.").

<sup>63</sup> IRS Form 990, When We All Vote, 2019 Return of Organization Exempt from Income Tax at 1 (Nov. 9, 2020); *see, e.g., id.*, Ex. 92 (describing concert intended "to remind everyone to register to vote"); *id.*, Ex 108 (describing 2020 Prom Challenge as effort to "celebrate and recognize 20 high schools across the country integrating voter registration into their schools").

<sup>64</sup> No available information suggests that WWAV made any communications that satisfy the Commission's three-part test for coordinated communications at 11 C.F.R. § 109.21. More specifically, the Complaint provides no information to indicate that WWAV's communications satisfy the content standards at 11 C.F.R. § 109.21(c) or the conduct standards at 11 C.F.R. § 109.21(d). Furthermore, no available information suggests that WWAV made any expenditures "in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or a political party committee." 11 C.F.R. § 109.20(a).

<sup>65</sup> Compl. at 7.

1 The Complaint contends that WWAV appealed to Black, Latino, and young voters in “heavily  
 2 Democratic cities” in order to increase their registration and turnout in favor of Biden.<sup>66</sup> The  
 3 Complaint, for instance, presents charts showing locations of where WWAV held events and  
 4 how the voting results in those areas are alleged to have favored Biden.<sup>67</sup> The Complaint,  
 5 however, can only speculate that the ultimate purpose of WWAV’s activities was to elect Biden.  
 6 Although the Complaint ascribes this purpose to WWAV’s activities, there is no corroborating  
 7 information. As detailed above, WWAV does not appear to have engaged in any election  
 8 spending for any candidate or otherwise participated in federal campaign activities that might  
 9 show an electoral purpose to its activities. In any event, the Commission need not resolve the  
 10 question of whether WWAV’s major purpose was the election or nomination of federal  
 11 candidates because the available information does not indicate that the organization crossed the  
 12 \$1,000 contribution or expenditure threshold.

13 Accordingly, we recommend that the Commission find no reason to believe that When  
 14 We All Vote and its parent Civic Nation violated 52 U.S.C. §§ 30102, 30103, 30104, by failing  
 15 to register and report as a political committee.

### 16 **C. There are No Cognizable Violations of the Act by the Individual Respondents**

17  
 18 As to the Individual Respondents, the Complaint alleges no cognizable violations of the  
 19 Act. The allegation that WWAV failed to register and report as a political committee does not  
 20 extend to the individuals allegedly associated with WWAV, as they have no individual liability  
 21 for any potential WWAV reporting violations.<sup>68</sup> The Complaint makes no specific allegations

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<sup>66</sup> *Id.*

<sup>67</sup> *E.g.*, Compl. at 45 (Table 4).

<sup>68</sup> The Act’s registration and reporting obligations for nonconnected committees apply to political committees and their treasurers, not other individuals associated with a political committee. *See* 52 U.S.C. §§ 30102(a),



that the Individual Respondents engaged in any conduct in support of WWAV or Civic Nation that violated the Act.<sup>69</sup> The Complaint only discusses the Individual Respondents' alleged partisan political activities in their individual capacities and not as agents of WWAV or Civic Nation.<sup>70</sup> Accordingly, the Commission should find no reason to believe Andrew Amore, Selena Gomez, Tom Hanks, Erin Hannigan, Faith Hill, Valerie Jarrett, Liza Koshy, Kyle Lierman, Laura Miller, Lin-Manuel Miranda, Janelle Monáe, Michelle Obama, Chris Paul, Megan Rapinoe, Shonda Rhimes, Pete Rouse, Tracee Ellis Ross, Tina Tchen, Kerry Washington, Rita Wilson, and Stephanie Young violated the Act.

#### IV. RECOMMENDATIONS

1. Find no reason to believe that When We All Vote or Civic Nation violated 52 U.S.C. §§ 30102, 30103, 30104, by failing to register and report as a political committee;
2. Find no reason to Andrew Amore, Selena Gomez, Tom Hanks, Erin Hannigan, Faith Hill, Valerie Jarrett, Liza Koshy, Kyle Lierman, Laura Miller, Lin-Manuel Miranda, Janelle Monáe, Michelle Obama, Chris Paul, Megan Rapinoe, Shonda Rhimes, Pete Rouse, Tracee Ellis Ross, Tina Tchen, Kerry Washington, Rita Wilson, and Stephanie Young violated the Act;
3. Approve the Factual and Legal Analysis;
4. Approve the appropriate letters; and

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30104(a) (requiring political committees to have treasurers and for treasurers to sign and file committees' disclosure reports).

<sup>69</sup> Compl. at 8-11.

<sup>70</sup> *Id.*

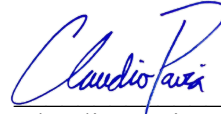
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3                   Lisa J. Stevenson  
4                   Acting General Counsel

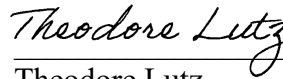
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6                   Charles Kitcher  
7                   Associate General Counsel for Enforcement

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10       May 24, 2022

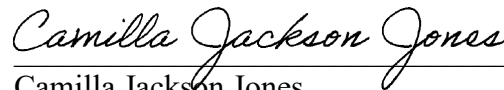
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12       Claudio Pavia  
13       Deputy Associate General Counsel  
14       for Enforcement

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17       Theodore Lutz  
18       Assistant General Counsel

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21       Camilla Jackson Jones  
22       Attorney  
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