

**BEFORE THE
FEDERAL ELECTION COMMISSION**

In the matter of:

Irene for Congress
C00714378

MUR **8014**

Irene Armendariz Jackson, Candidate

Thomas Datwyler, Treasurer

COMPLAINT

Complainant, Rep. Veronica Escobar, is a candidate for Texas' 16th Congressional District. Veronica Escobar for Congress (the "Campaign") is her authorized campaign committee. Mr. Eliot Shapleigh is the Campaign's treasurer.

This complaint is filed with the Federal Election Commission ("FEC") in accordance with the provisions of 52 U.S.C. § 30109(a)(1) in the belief that Respondents violated the Federal Election Campaign Act of 1971, as amended, 52 U.S.C. §§ 30101 *et. seq.* (the "Act").

Irene for Congress (ID: C00714378), Irene Armendariz Jackson (ID: H0TX16106), and Thomas Datwyler, Treasurer (collectively, "Respondents") violated the Act and the relevant Federal Election Commission ("FEC," or the "Commission") regulations by (1) engaging in non-commercial air travel in relation to a campaign for House of Representatives, and accepting a prohibited in-kind contribution for that travel; and (2) likely accepting excessive anonymous contributions, and failing to properly disclose those contributions.

These actions, if true, constitute violations of the Act and the Commission's regulations. Therefore, the Commission should find reason to believe that the Respondents violated the Act and sanction the Respondents accordingly.

Statement of Facts

1. **Ms. Irene Armendariz Jackson** is a candidate for the House of Representatives in Texas's 16th Congressional District in the 2022 general election. **Irene for Congress** is Ms. Armendariz Jackson's principal campaign committee, and **Thomas Datwyler** is its Treasurer.

Prohibited Non-Commercial Air Travel

2. Based upon two Facebook Live videos, both posted on May 13, 2021, Ms. Armendariz Jackson (i) flew on private, non-commercial air transportation with at least one family member from El Paso, TX to Phoenix, AZ or vice versa, and (ii) gave a campaign speech at an outdoor demonstration in Phoenix, AZ, where she referred to herself as a “candidate for U.S. Congress, Texas 16.”¹
3. A photo that appears to be from the same day shows her wearing the same outfit on the private jet and at the demonstration.²
4. The cost of this non-commercial flight was never disclosed as an in-kind contribution or a campaign expenditure.³
5. Additional photos available on the “Latinos for Trump-El Paso” Facebook page show Ms. Armendariz Jackson, among others, flying on *a different* non-commercial flight on May 17, 2021, meaning that it is possible that impermissible non-commercial air travel has been a mainstay of her campaign for the United States House of Representatives.⁴

Likely Excessive Anonymous Contributions

6. Based upon the Respondents’ October 2021 Amended Quarterly Report and Year-End 2021 Report, the Respondents appear to have accepted excessive anonymous cash contributions. On the October 2021 Amended Quarterly Report, the Respondents listed the following contributions as being from “ANONYMOUS, ANONYMOUS”:
 - i. A contribution from July 12, 2021 for \$325;

¹ Armendariz for El Paso – Facebook Live Video (posted May 13, 2021 at 12:33 PM), available at https://www.facebook.com/watch/live/?ref=watch_permalink&v=214581006883714 (at 1:24); Armendariz for El Paso – Facebook Live Video (posted May 13, 2021 at 4:47 PM), available at <https://www.facebook.com/ArmendarizforElPaso/videos/304078201160962>; *see also* Exs. A-C.

² Latinos for Trump-El Paso – Facebook (photo posted May 17, 2021 at 5:49 PM), available at <https://www.facebook.com/LatinosForTrumpElPaso/photos/309328183967507>; *see also* Ex. A-C.

³ Irene for Congress, July Quarterly Report, available at <https://docquery.fec.gov/cgi-bin/forms/C00714378/1590383/>.

⁴ Latinos for Trump-El Paso – Facebook (photo posted May 17, 2021 at 11:43 AM), available at <https://www.facebook.com/LatinosForTrumpElPaso/photos/309184183981907>; Latinos for Trump-El Paso – Facebook (photo posted May 17, 2021 at 11:43 AM), available at <https://www.facebook.com/LatinosForTrumpElPaso/photos/309183573981968>; *see also* Ex. D.

- ii. A contribution from August 2, 2021 for \$6,410;
 - iii. A contribution from August 6, 2021 for \$760
 - iv. A contribution from August 9, 2021 for \$1,590;
 - v. A contribution from September 28, 2021 for \$665; and
 - vi. A contribution from September 30, 2021 for \$985.⁵
- 7. The Year-End 2021 report also includes another contribution from “ANONYMOUS, ANONYMOUS” for \$150.⁶
- 8. Respondents amended the October Quarterly Report three times, disclosing the following information:
 - i. Original Report, filed October 15, 2021:⁷
 - a. Total contributions: \$27,489.08;
 - i. Unitemized contributions: \$16,524.08;
 - ii. Itemized contributions: \$10,965.00 (including \$0 anonymous)
 - ii. Amendment 1, filed January 31, 2022:⁸
 - a. Total contributions: \$32,955.99;
 - i. Unitemized contributions: \$11,325.99;
 - ii. Itemized contributions: \$21,730.00 (including \$10,765 anonymous).
 - iii. Amendment 2, filed April 25, 2022:⁹

⁵ Irene for Congress, First Amended October Quarterly Report at pages 5, 7, 8, and 9, available at <https://docquery.fec.gov/pdf/622/202201319485451622/202201319485451622.pdf>.

⁶ Irene for Congress, 2021 Year-End Report at page 12, available at <https://docquery.fec.gov/pdf/986/202201319485452986/202201319485452986.pdf>.

⁷ Irene for Congress, Original October Quarterly Report, available at <https://docquery.fec.gov/cgi-bin/forms/C00714378/1542934/>.

⁸ Irene for Congress, First Amended October Quarterly Report, available at <https://docquery.fec.gov/cgi-bin/forms/C00714378/1563995/>.

- a. Total contributions: \$32,955.99;
 - i. Unitemized contributions: \$22,090.99;
 - ii. Itemized contributions: \$10,965.00 (including \$0 anonymous)

Based on these amendments, the Respondents appear to have moved these anonymous contributions from undisclosed in the original report, to itemized as “anonymous” in the amended report, and then moved them to the unitemized contributions section in the second amendment.

However, as a result of these amendments, it appears that the Respondents (i) did not originally disclose the contributions, and (ii) on information and belief, may have accepted contributions above the \$50 limit.

Violations of the Act

9. Based on the facts laid out above, the Complainants allege that the Respondents have (1) engaged in prohibited non-commercial air travel in relation to a campaign for House of Representatives, and accepted prohibited in-kind contributions in the form of that travel; and (2) have likely accepted excessive anonymous contributions and improperly disclosed those contributions on their October 2021 Quarterly Report.

Prohibited Non-Commercial Air Travel

10. The Respondents have engaged in prohibited non-commercial air travel, and have accepted a prohibited in-kind contribution of that travel.
11. Under FEC rules, “a campaign traveler who is *a candidate for election for the office of Representative in . . . the Congress*, or a person traveling on behalf of any such candidate or any authorized committee or leadership PAC of such candidate, *is prohibited from non-commercial travel on behalf of any such candidate* or any authorized committee or leadership PAC of such candidate.”¹⁰
12. In MUR 6394, Representative Rochelle M. Pingree, a candidate for Maine’s First Congressional District in 2010, violated “the ban on non-commercial campaign-related

⁹ Irene for Congress, Second Amended October Quarterly Report, available at <https://docquery.fec.gov/cgi-bin/forms/C00714378/1590384/>.

¹⁰ 11 C.F.R. 100.93(c)(2) (emphasis added); 11 C.F.R. 113.5(b); *see also* 52 U.S.C. § 30114(c)(2); FEC, MUR 6394 (Pingree for Congress), Factual and Legal Analysis at 4; Second General Counsel’s Report at 7-8; Conciliation Agreement at 2-3.

air travel by House candidates” by flying “on a non-commercial aircraft to attend her re-election fundraiser.”¹¹

The Office of General Counsel (OGC) stated that “[b]oth [the Honest Leadership and Open Government Act of 2007] and the Commission regulations create a bright-line test for any travel in connection with the candidate’s election.”¹² In applying this simple bright-line test, the OGC stated that “[b]ecause Representative Pingree attended a campaign fundraising event, there is no dispute that her trip to New York was in connection with an election.”¹³

As a result, OGC, and later the Commission, found reason to believe that Rep. Pingree violated the ban on non-commercial air travel for House candidates.¹⁴ Following pre-probable cause conciliation, the Commission then imposed a \$9,750 penalty and required the Committee “to reimburse the \$ 13,456.80 value of the flights on the jet.”¹⁵

13. Similarly, in MUR 6421, Representative Dan Benishek also accepted non-commercial air travel for a campaign-related event, and the Commission once again found reason to believe that the House of Representatives candidate had violated the Act and Commission regulations.¹⁶ This flight from Harbor Springs, Michigan to Gwinn, Michigan to attend the Munising Home Show, where Rep. Benishek “engaged in campaign activity[;] . . . greeted attendees and spoke to them about his positions on current issues.”¹⁷

The Commission once again discussed the flat out prohibition on House candidates’ travel on non-commercial aircraft for campaign activities and found that Rep. Benishek had violated that prohibition.¹⁸

¹¹ FEC, MUR 6394 (Pingree for Congress), Factual and Legal Analysis at 1, 6; Second General Counsel’s Report at 9.

¹² *Id.* at 7-8.

¹³ *Id.* at 8.

¹⁴ *Id.* at 9; Certification (June 30, 2011); Second General Counsel’s Report at 2.

¹⁵ FEC, MUR 6394 (Pingree for Congress), Conciliation Agreement at 6.

¹⁶ FEC, MUR 6421 (Benishek for Congress), Second General Counsel’s Report at 1.

¹⁷ *Id.* at 2.

¹⁸ *Id.* at 6-7 (as corroborated by Benishek’s statements in a YouTube video and Facebook photos of Rep. Benishek of the aircraft). However, the OGC found that low-dollar amount at issue (\$875-885) did not warrant additional resources, so the Commission closed the file. *Id.* at 8-10; Notification to Dan Benishek (Feb. 11, 2013). Then-Chair Weintraub and Commissioner Walther wrote separate to state their belief that this MUR should have gone to conciliation. FEC, MUR 6421 (Benishek for Congress), Statement of Reasons of Chair Weintraub and Cmr. Walther at 1-2.

14. In MUR 7539, the Arizona Republican Party filed a complaint against Brill for Congress, the authorized committee for a candidate for the U.S. House of Representatives in the Arizona's Fourth Congressional District. There, the candidate accepted travel on a single propeller aircraft "that [had] been loaned to candidates" for "a joint campaign tour through the Fourth District."¹⁹ The purpose of the tour was "to court voters and expound his policy positions."²⁰ The Commission ultimately transferred this MUR to the Alternative Dispute Resolution office, where the Committee agreed to amend their reports "to disclose the non-commercial air travel."²¹
15. Like the Committees in these MURs, Respondents clearly traveled on non-commercial aircraft to campaign-related events in direct contravention of the "bright-line test for any travel in connection with the [House] candidate's election."²²

As described above, on at least one occasion in May 2021, the Respondents accepted non-commercial air travel for campaign-related events – where they spoke as a candidate, addressed an audience, and discussed their policy positions. During the May 13 event, with video linked above, the candidate spoke to the audience about their "positions on current issues" – and specifically identified themselves as a candidate for Congress – similar to the facts in MUR 6421.²³

As a result, the Respondents have engaged in prohibited non-commercial travel, and have accepted at least one prohibited in-kind contribution of that non-commercial air travel.

Likely Excessive Anonymous Contributions

16. The Respondents have likely accepted excessive anonymous cash contributions and failed to properly disclose them.
17. Under 11 C.F.R. 110.4(c)(3), candidates and committees may only accept up to \$50 in anonymous cash contributions.²⁴ Any amount higher than that must be disposed of and

¹⁹ FEC, MUR 7539 (Brill for Congress), Compl. at 1-2.

²⁰ *Id.* at 2 (citing MUR 6421 (In re Dan Benishek, et al.). Factual & Legal Analysis at 5-6 (finding reason to believe House candidate violated HLOGA when he used corporation's private plane to attend home show, where he recounted that he had "met a lot of people, shook a lot of hands, saw a lot of constituents, and told them 'where I stand on the issues.'").

²¹ FEC, MUR 7539 (Brill for Congress), Negotiated Settlement at 1-2.

²² *See* FEC, MUR 6394 (Pingree for Congress), Factual and Legal Analysis at 7-8.

²³ Armendariz for El Paso – Facebook Live Video (posted May 13, 2021 at 12:33 PM), available at https://www.facebook.com/watch/live/?ref=watch_permalink&v=214581006883714; *see also* Exs. A-C.

“may be used for any lawful purpose unrelated to any Federal election, campaign, or candidate.”²⁵

18. In MUR 5442, Keyes 2000, Inc., the authorized candidate committee for Alan Keyes, “failed to dispose of a total of \$15,013 of anonymous cash contributions that exceeded \$50.”²⁶ As a result of this and other errors related to contributions and recordkeeping, the Commission imposed a \$23,000 penalty.²⁷

The FEC found reason to believe in this case that Keyes 2000, Inc. “made 89 cash deposits in excess of \$50,” \$15,013 of which were unaccounted for.²⁸ The Committee in that MUR also provided no information “to suggest that the Committee had a practice or procedure in place for disposing of anonymous cash contributions in excess of \$50 and [there was] no indication in any of the Committee’s records or statements that they ever disposed of excessive cash contributions.”²⁹

For these reasons, the Commission “found reason to believe that Keyes 2000, Inc. and William Leo Constantine, as Treasurer, violated 11 C.F.R. 110.4(c)(3) by failing to properly dispose of anonymous cash contributions in excess of \$50.”³⁰

19. In an audit of the Missouri State Democratic Committee (MSDC), the Commission found that “MSDC accepted three anonymous cash contributions that exceeded the applicable contribution limit of \$50 by \$5,675.”³¹ As a result of this and other violations of the Act, the Commission imposed a \$20,000 penalty in the conciliation agreement with the MSDC.³²
20. A committee and its treasurer must make “best efforts” to obtain certain information about contributions.³³ Contribution records must be kept as follows:

²⁴ 11 C.F.R. 110.4(c)(1), (c)(3); FEC, MUR 5697 (Mo. Dem. State Cmte.), Conciliation Agreement at 2; FEC, MUR 5442 (Keyes 2000, Inc.), Conciliation Agreement at 3.

²⁵ 11 C.F.R. 110.4(c)(3); FEC, MUR 7126 (Mich. Dem. State Central Cmte.), Conciliation Agreement at 5; FEC, MUR 5697 (Mo. Dem. State Cmte.), Conciliation Agreement at 2; FEC, MUR 5442 (Keyes 2000, Inc.), Conciliation Agreement at 3.

²⁶ FEC, MUR 5442 (Keyes 2000, Inc.), Conciliation Agreement at 3.

²⁷ *Id.* at 4.

²⁸ FEC, MUR 5442 (Keyes 2000, Inc.), Factual and Legal Analysis at 2.

²⁹ *Id.* at 3.

³⁰ *Id.* at 4; *see also* FEC, MUR 5442 (Keyes 2000, Inc.), General Counsel’s Report #2 at 1.

³¹ FEC, MUR 5697 (Mo. Dem. State Cmte.), Conciliation Agreement at 2, 4; General Counsel’s Report #2 at 1.

³² FEC, MUR 5697 (Mo. Dem. State Cmte.), Conciliation Agreement at 4.

- a. Any contributions above \$50 must be recorded with the amount, date of receipt, and the name and address of the contributor;³⁴
- b. Any contributions that exceed \$200 must be recorded with the amount; date of receipt; and the name, address, occupation, and employer of the contributor;³⁵ and
- c. Contributions below \$50, *including anonymous ones*, must be accounted for “by ‘any reasonable accounting procedure.’”³⁶

Additionally, “political committees must maintain either a full-size photocopy or digital image of each check or written instrument by which a contribution of more than \$50 is made.”³⁷

Contributions exceeding \$200 alone or in the aggregate must be itemized on the committee’s reports while any contributions of \$50 or less, *including anonymous ones*, must be reported as “unitemized contributions from individuals.”³⁸

- 21. In this instance, Respondents likely improperly reported these anonymous contributions, depending on the amounts of those contributions in fact. In their original October Quarterly Report, the Respondents reported \$0 in anonymous contributions. In their first amended report, they reported a total of \$10,765 itemized anonymous contributions. Assuming that each individual contributed \$50, this amount would encompass hundreds of individual donors. In their second amended report, they reported these contributions in the “unitemized contributions from individuals” portion of the report.
- 22. However, like the Committees involved in MURs 5442 and 5697 – and evidenced by the number of amendments made to these transactions – there is a strong indication on

³³ 11 C.F.R. 102.9(d); FEC, *Campaign Guide – Congressional Candidates and Committees*, at 87, available at <https://www.fec.gov/resources/cms-content/documents/candgui.pdf> [“FEC Candidate Guide”].

³⁴ 11 C.F.R. 102.9(a)(1); FEC Candidate Guide at 83.

³⁵ 11 C.F.R. 102.9(a)(2); FEC, MUR 7126 (Mich. Dem. State Central Cmte.), Conciliation Agreement at 6; FEC Candidate Guide at 84.

³⁶ For events involving these small dollar cash contributions, the FEC has “delineated two possible accounting methods that would satisfy the record-keeping requirement[. . .] . . . A committee may keep an account of the name and address of each contributor and the date and amount of their contribution, as the law requires for contributions over \$50 . . . or, alternatively, a committee may ‘record the name of the event, the date(s) contributions were received for that event and the total amount of contributions received on each day for that event.’” FEC, MUR 5442 (Keyes 2000, Inc.), Conciliation Agreement at 3 (internal citations omitted) (citing 2 U.S.C. 6 432(c)(2); FEC Adv. Op. 1980-99); FEC, MUR 7126 (Mich. Dem. State Central Cmte.), Conciliation Agreement at 5 (citing 11 C.F.R. 102.9(a)).

³⁷ 11 C.F.R. 102.9(a)(4); FEC Candidate Guide at 83.

³⁸ 11 C.F.R. 104.3(a)(3)(i)(B), (a)(4)(i); FEC Candidate Guide at 83.

information and belief that the Respondents did not have “a practice or procedure in place for disposing of anonymous cash contributions in excess of \$50” nor is there any “indication . . . that [Respondents] ever disposed of excessive cash contributions.”³⁹

23. Given the large aggregate amount of these anonymous contributions, it appears that not only were some or all of them likely above the \$50 anonymous contribution limit, but they were kept anonymous despite the recordkeeping and reporting requirements laid out above. Furthermore, there is no available indication that any excessive portions were properly disposed of by the Respondents.

³⁹ See FEC, MUR 5442 (Keyes 2000, Inc.), Factual and Legal Analysis at 3; *see also* FEC, MUR 5697 (Mo. Dem. State Cmte.), First General Counsel’s Report, Att. A at 11-12.

Request for Relief

Based on the foregoing, I request that the FEC review this matter and find reason to believe that Irene Armendariz Jackson and Irene for Congress violated the Act by (1) engaging in prohibited non-commercial air travel in relation to a campaign for House of Representatives, and accepting prohibited in-kind contributions in the form of that travel; and (2) have likely accepted excessive anonymous contributions and improperly disclosed those contributions on their October 2021 Quarterly Report.

Under penalty of perjury, the above statements are true and accurate to the best of my knowledge, information, and belief.

Sincerely,



Rep. Veronica Escobar
Candidate, Texas 16th Congressional District

Veronica Escobar for Congress
PO Box 3961
El Paso, Texas 79923

District of Columbia
Signed and sworn to by the undersigned before me on 6/8/22 (Date)
by Veronica Escobar
(Name of declarant making statement)
Signature of Notary Public: [Signature]
Title of Office: Public Notary
My Commission Expires: April 27, 2027

EXHIBIT A



2



Latinos For Trump-El Paso

@LatinosForTrumpElPaso · Interest

Send message

Hi! Please let us know how we can help.



Latinos For Trump-El Paso

May 17, 2021 · 🌐

...

Latinos fighting for America. What a privilege to be able to exercise



Latinos For Trump-El...

Send message

Like

...





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30

Like

Comment

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Write a comment...



Pinned post

**Latinos For Trump-El Paso**

August 19, 2020 · 🌐



Join our Facebook group a place for open discussions and information on future events!



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Latinos For Trump-El Paso

72

23 Comments

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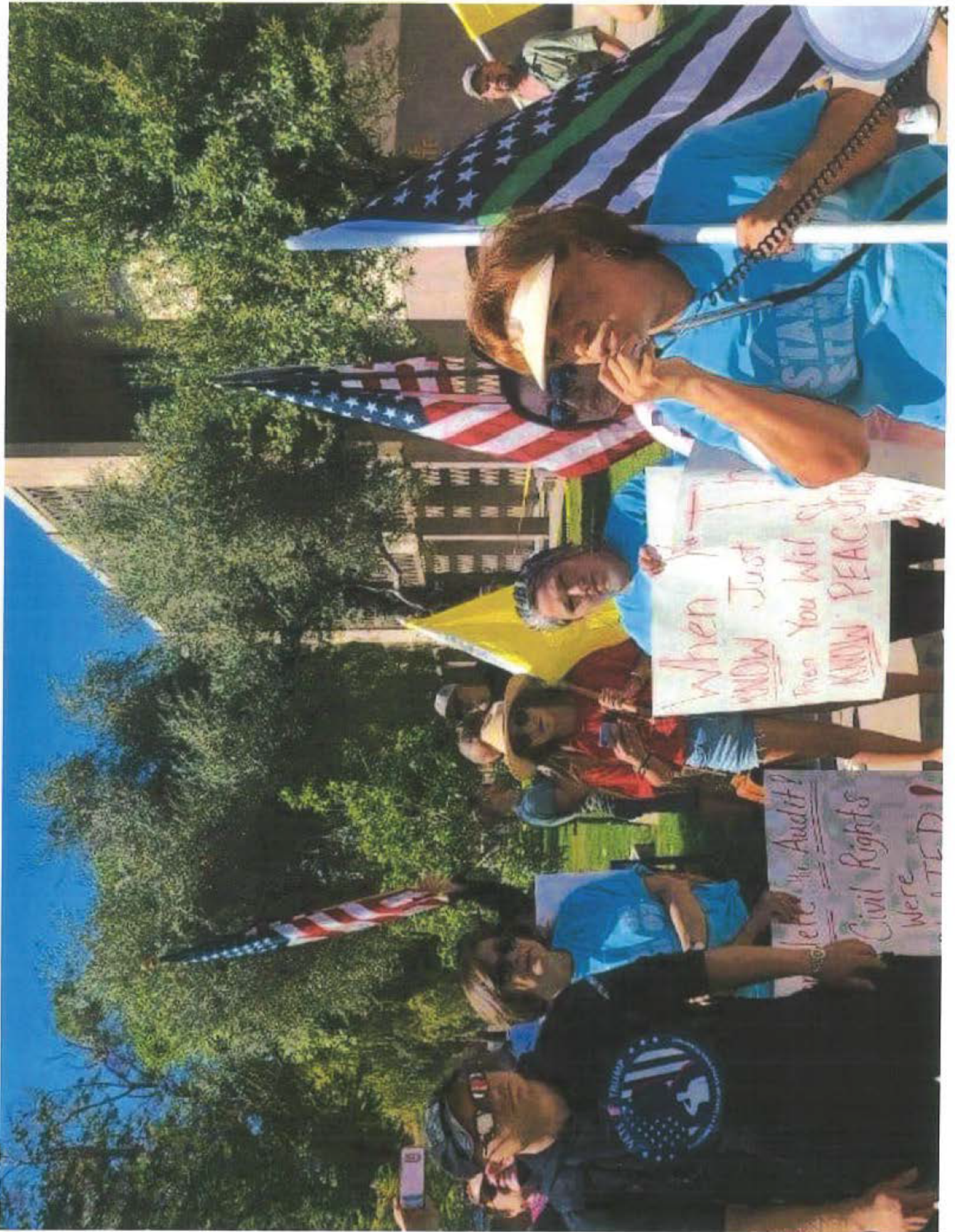


EXHIBIT B



Armendariz tor El Paso was

live.

May 13, 2021 · 🌐



98

3 Comments 552 Views



Like



Comment



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Comments

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Most relevant



Jessie El Paso · 1:40

Wow I am so proud of you Ms. Irene , thank you for being our voice 🙏

Like Reply 1y



Adrianna Carrillo · 0:06

Out there doing more than our elected officials

Like Reply 1y



Israel Tala · 0:24

Veronica Escobar only cares about illegals and not Americans!!! Let's get her out

Like Reply 1y

Exhibit B – Irene for Congress

(from Facebook Live video posted May 13, 2021 at 12:33PM)

[video showing Ms. Armendariz Jackson speaking to a crowd at a demonstration]

Armendariz Jackson: - cannot continue to ask the Lord to bless America when we continue to allow the spilling of innocent blood. The stats say over 65 million babies have been sacrificed to Moloch, Baal, and Asherah since 1973. Did you know that's a lie? Because abortions do not need to be reported in government documents. When I found that out, it burdened my heart.

The pastor talked about Mia Maya. The first thing Mia Maya did when she felt the burden for the people of Jerusalem was go and hide in a closet and plead with the Lord for forgiveness, not only his forgiveness but his people had offended his commandments. We cannot continue to ask God to bless America without asking for forgiveness. And when we repent, we walk the opposite way.

May our banner be of life. May our banner be of liberty. Let freedom ring. Let freedom ring. Let freedom ring.

I'm Irene Armendariz Jackson, candidate for U.S. Congress for Texas 16, and I have a message for the Left – your time is up.

EXHIBIT C



Armendariz for El Paso was live.

May 13, 2021 · 🌐



35

5 Comments 448 Views



Like



Comment



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Comments

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Most relevant



Dave Elliott ² · 0:13
Have a great time

Like Reply 1y



Guillermina Jaglowitz ¹ · 0:00
Ccc.

Like Reply 1y



Delbert Abbott ¹ · 0:01
Where are you headed?

Like Reply 1y

Most Relevant is selected, so some comments may have been filtered out.



Exhibit C – Irene for Congress

(from Facebook Live video posted May 13, 2021 at 4:47 PM)

[video shows a group of 15-20 people walking up to what appears to be a private plane]

Armendariz Jackson: There's our plane.

Hey El Paso! Wooooo!

Sonya! Hey, wait wait wait wait, come on! Picture.

EXHIBIT D



Latinos For Trump-El Paso

@LatinosForTrumpElPaso · Interest

 Send message

Hi! Please let us know how we can help.



Latinos For Trump-El Paso

May 17, 2021 · 🌐



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August 19, 2020 ·



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23 Comments



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