

**BEFORE THE FEDERAL ELECTION COMMISSION**

**ENFORCEMENT PRIORITY SYSTEM**

**DISMISSAL REPORT**

MUR: 8014

**Respondents:** Irene for Congress and Thomas Datwyler in his official capacity as treasurer  
Irene Armendariz-Jackson  
NJI Sales, Inc.  
Unknown Respondents

**Complaint Receipt Date:** June 10, 2022

**Response Dates:** June 27, 2022; March 13, 2024

## **Alleged Statutory and Regulatory Violations:**

52 U.S.C. §§ 30104(b); 30114(c)(2); 30116(f); 30123  
11 C.F.R. §§ 100.93(c)(2); 104.3(a); 110.4(c)(3); 110.9;  
113.5(b), (d)

The Complaint alleges that 2022 congressional candidate Irene Armendariz-Jackson and

20 her principal campaign committee, Irene for Congress and Thomas Datwyler in his official  
21 capacity as treasurer (the “Committee”),<sup>1</sup> violated the Federal Election Campaign Act of 1971,  
22 as amended (the “Act”), by knowingly accepting a prohibited in-kind contribution in the form of  
23 non-commercial air travel from an unknown respondent(s) who paid for Armendariz-Jackson  
24 and at least one of her family members to fly roundtrip on a private aircraft from El Paso, Texas  
25 to Phoenix, Arizona to give a campaign speech at a demonstration.<sup>2</sup> The Complaint provides a  
26 link to a Facebook Live video in which Armendariz-Jackson briefly speaks to a small group of

<sup>1</sup> Irene Armendariz-Jackson, Statement of Candidacy (Aug. 1, 2019), <https://docquery.fec.gov/pdf/659/201908019161350659/201908019161350659.pdf>; Irene for Congress, Statement of Organization (Nov. 29, 2022), <https://docquery.fec.gov/pdf/392/202211299547069392/202211299547069392.pdf>. In 2022, Armendariz-Jackson received 36.5% of the general election vote. November 8, 2022 General Election – Official Results, TX. SEC’Y OF STATE (last updated Feb. 1, 2023), <https://results.texas-election.com/races>.

<sup>2</sup> Compl. ¶¶ 1-5, 9-15 (June 10, 2022); Armendariz for El Paso, FACEBOOK (posted May 13, 2021, 12:33 PM), <https://www.facebook.com/ArmendarizforElPaso/videos/214581006883714/>.

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1 people at an outside location presumably at or near the demonstration, in which she discusses  
 2 political issues, and ends by referring to herself as a federal candidate.<sup>3</sup> The Complaint includes  
 3 a purported image of the plane, which is owned by NJI Sales, Inc. (“NJI”).<sup>4</sup> The Complaint also  
 4 alleges that the Committee violated the Act by failing to properly dispose of, or properly report,  
 5 excessive and anonymous cash contributions totaling \$10,885.<sup>5</sup> The Complaint points to  
 6 itemized contributions on the Committee’s disclosure reports listed as being from  
 7 “ANONYMOUS, ANONYMOUS” in amounts ranging from \$150 to \$6,410.<sup>6</sup>

8 Armendariz-Jackson and the Committee acknowledge that Armendariz-Jackson flew to  
 9 Phoenix by plane, paid for by an unnamed third party, but contend that she did not appear in her  
 10 capacity as a candidate and that, aside from a “ fleeting reference to herself as a candidate,” her  
 11 speech contained “ general conservative, pro-life messaging.”<sup>7</sup> As to the anonymous cash  
 12 contributions, the Response does not provide any specific information but generally states that  
 13 the Committee hired a professional compliance vendor and corrected any reporting issues.<sup>8</sup>

14 NJI asserts that the relevant flights were certified under Part 135 of FAA regulations and  
 15 would therefore constitute commercial travel.<sup>9</sup> NJI states that a third party paid for the flights as  
 16 part of the NetJets Card Program which costs approximately \$11,200 per hour of flight.<sup>10</sup> The

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<sup>3</sup> Compl. ¶ 2 (citing to two Facebook Live videos both posted on May 13, 2021).

<sup>4</sup> Compl., Ex. A; *see* NJI Resp. at 2 (Mar. 13, 2024).

<sup>5</sup> Compl. ¶¶ 6-8.

<sup>6</sup> *Id.*; *see* Irene for Congress, Amended 2021 October Quarterly Report (Jan. 31, 2022), <https://docquery.fec.gov/pdf/622/202201319485451622/202201319485451622.pdf>; Irene for Congress, 2021 Year-End Report (Jan. 31, 2022), <https://docquery.fec.gov/pdf/986/202201319485452986/202201319485452986.pdf>.

<sup>7</sup> Committee Resp. at 1 (June 27, 2022).

<sup>8</sup> *Id.* at 3.

<sup>9</sup> NJI Resp. at 2.

<sup>10</sup> *Id.*; *NetJets Card Program*, NETJETS, <https://www.netjets.com/en-us/private-jet-card-program> (last visited May 3, 2024). This cost is the starting price quoted on the Net Jets website. The website indicates that final pricing

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1 flights, about two hours each, included 14 individuals on the flight to El Paso and 13 individuals  
2 on the return flight to Phoenix,<sup>11</sup> apparently making the Committee's prorated expense a small  
3 share of the overall cost.

4 Based on its experience and expertise, the Commission has established an Enforcement  
5 Priority System using formal, pre-determined scoring criteria to allocate agency resources and  
6 assess whether particular matters warrant further administrative enforcement proceedings. These  
7 criteria include (1) the gravity of the alleged violation, taking into account both the type of  
8 activity and the amount in violation; (2) the apparent impact the alleged violation may have had  
9 on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent  
10 trends in potential violations and other developments in the law. This matter is rated as low  
11 priority for Commission action after application of these pre-established criteria. Given that low  
12 rating, and apparent low dollar amounts at issue, we recommend that the Commission dismiss  
13 the Complaint, consistent with the Commission's prosecutorial discretion to determine the proper  
14 ordering of its priorities and use of agency resources.<sup>12</sup> We also recommend that the  
15 Commission close the file as to all Respondents effective 30 days after the date the certification

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will depend on additional factors such as the "hours purchased and the program and aircraft chosen." *Private Jet Costs: Fractional & Lease Pricing*, NETJETS, <https://www.netjets.com/en-us/private-jet-cost-pricing> (last visited May 13, 2024).

<sup>11</sup> NJI Resp. at 2.

<sup>12</sup> *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

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- 1 of this vote is signed (or on the next business day after the 30th day, if the 30th day falls on a
- 2 weekend or holiday) and send the appropriate letters.

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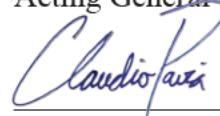
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8 Date

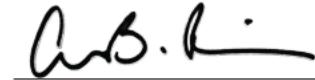
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