



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
Laxalt for Senate)	MUR 8055
and Cameron Phillips in his official)	
capacity as treasurer)	
Adam Laxalt)	
Morning in Nevada PAC)	

**STATEMENT OF REASONS OF VICE CHAIR ELLEN L. WEINTRAUB AND
COMMISSIONER SHANA M. BROUSSARD**

On July 23, 2024, the Commission voted to dismiss the allegations against Laxalt for Senate, Adam Laxalt, and Morning in Nevada PAC.¹ For the reasons set out in our proposed Factual and Legal Analysis, attached, we would have found reason to believe that Morning in Nevada PAC made, and Adam Laxalt and Laxalt for Senate and Cameron Phillips in his official capacity as treasurer knowingly accepted, excessive in-kind contributions in connection with the 7th Annual Basque Fry in violation of the Act and Commission regulations, and further, that Laxalt for Senate and Cameron Phillips in his official capacity as treasurer failed to report the receipt of these in-kind contributions.

August 20, 2024
Date

Ellen L. Weintraub
Ellen L. Weintraub
Vice Chair

August 20, 2024
Date

Shana M. Broussard
Shana M. Broussard
Commissioner

¹ Cert., MUR 8055 (Laxalt for Senate, *et al.*) (July 26, 2024).

1 **FEDERAL ELECTION COMMISSION**2 **FACTUAL AND LEGAL ANALYSIS**

3 **RESPONDENTS:** Adam Laxalt, Laxalt for Senate and MUR 8055
4 Cameron Phillips in his official capacity
5 as treasurer, and Morning in Nevada PAC
6

7 **I. INTRODUCTION**

8 The Complaint alleges that Morning in Nevada PAC (“Morning in Nevada”), a Nevada
9 state political committee that hosts an annual fundraising event known as the “Basque Fry,”¹
10 made prohibited and excessive in-kind contributions to Adam Laxalt, a 2022 candidate for U.S.
11 Senate in Nevada,² and his principal campaign committee, Laxalt for Senate and Cameron
12 Phillips in his official capacity as treasurer (“Laxalt for Senate”),³ in connection with speeches
13 supporting Laxalt at the 6th and 7th Annual Basque Fry events, which were held on August 14,
14 2021, and August 13, 2022.

15 Respondents deny the allegations in their joint Response. Respondents state that the
16 purpose of the annual Basque Fry events is to raise money for Morning in Nevada, and not to
17 support any individual candidate.⁴ Respondents also argue that Laxalt was still testing the
18 waters at the time of the 2021 6th Annual Basque Fry, that the three speakers at that 2021 event
19 who voiced support for Laxalt’s possible upcoming candidacy, did not indicate that Laxalt had
20 made a final decision to run for office at that time, and that the Complaint fails to provide

¹ *Basque Fry Back for Fifth Year*, MORNING IN NEVADA PAC (May 21, 2019), https://www.morninginnevadapac.org/basque_fry_back_for_fifth_year; see also Compl. at 2 (Aug. 19, 2022).

² Adam Laxalt, Amended Statement of Candidacy at 1 (Aug. 25, 2022), <https://docquery.fec.gov/pdf/356/202208259528245356/202208259528245356.pdf>.

³ Laxalt for Senate, Amended Statement of Organization at 2, 4 (Aug. 25, 2022), <https://docquery.fec.gov/pdf/252/202208259528245252/202208259528245252.pdf>.

⁴ Resp. at 7 (Oct. 11, 2022).

1 evidence that Laxalt or Morning in Nevada authorized those third-party statements.⁵
2 Respondents, however, do not address the allegations regarding the use of Morning in Nevada's
3 nonfederal funds in connection with Laxalt's express advocacy of his candidacy at the 7th
4 Annual Basque Fry in 2022.

5 Regarding the 6th Annual Basque Fry in 2021, although the proximity between a speech
6 expressly advocating Laxalt's candidacy and Laxalt's announcement of his candidacy could be
7 interpreted to suggest that they coordinated beforehand, too much speculation is needed to infer
8 that either Morning in Nevada or Laxalt had advance knowledge or coordinated with the speaker
9 engaging in express advocacy regarding the content of his statements.⁶ On balance, the available
10 evidence is insufficient to support a reasonable inference that Laxalt became a candidate during
11 this event, and the value of the time at the event where individuals advocated for Laxalt's
12 election likely does not warrant the use of Commission resources. Thus, the Commission
13 dismisses this allegation.

14 At the 7th Annual Basque Fry in 2022, Laxalt used his own speaking time to expressly
15 advocate for his own election and for the defeat of his opponent. At least three other speakers
16 made multiple statements during their remarks expressly advocating for Laxalt or against his
17 opponent. Because Morning in Nevada invited him to speak at the event, and the new Morning
18 in Nevada president may have been an advisor to Laxalt's Senate campaign, it appears plausible
19 that Laxalt coordinated with Morning in Nevada over these remarks and consequently accepted
20 an in-kind contribution in excess of the contribution limits contained in the Federal Election

⁵ *Id.* at 3.

⁶ *See infra* Part III.A.

1 Campaign Act of 1971, as amended (the “Act”). Laxalt for Senate also failed to report any in-
2 kind contribution from Morning in Nevada. Accordingly, the Commission finds reason to
3 believe that Morning in Nevada made, and Laxalt and Laxalt for Senate accepted, an excessive
4 in-kind contribution in connection with the 7th Annual Basque Fry and, further, that Laxalt and
5 Laxalt for Senate failed to report an in-kind contribution.

6 Accordingly, the Commission finds reason to believe (1) that Morning in Nevada PAC
7 made excessive in-kind contributions in violation of 52 U.S.C. § 30116(a) in connection with the
8 7th Basque Fry event; (2) that Adam Laxalt and Laxalt for Senate and Cameron Phillips in his
9 official capacity as treasurer accepted excessive in-kind contributions in violation of 52 U.S.C.
10 §§ 30116(f) and 30125(e)(1)(A) and 11 C.F.R. §§ 110.9 and 300.61 in connection with the 7th
11 Annual Basque Fry Event; and (3) that Laxalt for Senate and Cameron Phillips in his official
12 capacity as treasurer violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3(a) by failing to report
13 the in-kind contributions from Morning in Nevada PAC in connection with the 7th Annual
14 Basque Fry event. Further, the Commission dismisses the allegations (1) that Morning in
15 Nevada PAC made excessive in-kind contributions in violation of 52 U.S.C. § 30116(a) in
16 connection with the 6th Basque Fry event and (2) that Adam Laxalt and Laxalt for Senate and
17 Cameron Phillips in his official capacity as treasurer accepted excessive in-kind contributions in
18 violation of 52 U.S.C. §§ 30116(f) and 30125(e)(1)(A) and 11 C.F.R. §§ 110.9 and 300.61 in
19 connection with the 6th Annual Basque Fry Event.

1 II. FACTUAL BACKGROUND

2 Adam Laxalt was a 2022 candidate for U.S. Senate in Nevada.⁷ Prior to running for U.S.
3 Senate, Laxalt was Nevada's Attorney General from 2015 to 2019, and unsuccessfully ran to
4 become Nevada's governor in 2018.⁸ Supporters of Laxalt created Morning in Nevada in 2015,
5 and declared its mission as "to identify, educate, motivate and activate citizens in Nevada to
6 advance conservative causes and elect conservative candidates."⁹ In February 2019, after ending
7 his term as the Nevada Attorney General, Laxalt became the president of Morning in Nevada.¹⁰

8 The Morning in Nevada website prominently features Laxalt and describes him as follows:

9 Laxalt is a former U.S. Navy JAG officer who served in Iraq during the U.S.-led
10 surge and became Nevada's Attorney General in a tough election against a
11 statewide office holder. As the youngest state Attorney General in the country
12 when elected, Laxalt is part of a new generation of leaders who have served our
13 nation in Iraq or Afghanistan and part of a conservative movement that Morning
14 in Nevada PAC seeks to help. Many of these individuals have come home and
15 now seek ways to continue serving. For some, this includes running for an
16 elected office.¹¹

⁷ Adam Laxalt, Amended Statement of Candidacy at 1 (Aug. 25, 2022), <https://docquery.fec.gov/pdf/356/202208259528245356/202208259528245356.pdf>. Although Laxalt won the primary election on June 14, 2022, he subsequently lost the general election on November 8, 2022. See *United States Senate election in Nevada, 2022 (June 14 Republican primary)*, BALLOTPEDIA.ORG, [https://ballotpedia.org/United_States_Senate_election_in_Nevada,_2022_\(June_14_Republican_primary\)](https://ballotpedia.org/United_States_Senate_election_in_Nevada,_2022_(June_14_Republican_primary)) (last visited Jan. 5, 2024); 2022 Official State of Nevada General Election Returns at 3, NEV. SEC'Y OF STATE (Nov. 22, 2022), <https://www.nvsos.gov/sos/home/showpublisheddocument/11241/638059319239170000> (reflecting that Catherine Cortez Masto defeated Laxalt in the general election with 48.81% of the votes).

⁸ *Adam Paul Laxalt*, BALLOTPEDIA.ORG, https://ballotpedia.org/Adam_Paul_Laxalt (last visited May 13, 2024).

⁹ Compl. at 2; Resp. at 2; *About*, MORNING IN NEVADA PAC, <https://www.morninginnevadapac.org/about> (last visited May 13, 2024).

¹⁰ Compl. at 2, Exs. A-C (Nov. 29, 2022); Resp. at 2. Laxalt has resumed serving as its president since January 2023. Morning in Nevada PAC, Amended Statement of Registration at 2 (Jan. 13, 2023), <https://www.nvsos.gov/elections/2488.pdf> (last visited May 13, 2024).

¹¹ *About*, MORNING IN NEVADA PAC, <https://www.morninginnevadapac.org/about> (last visited Jan. 5, 2024). This webpage appears to have been unchanged since during Laxalt's candidacy. *Morning in Nevada PAC: About*, WAYBACK MACHINE (Jan. 25, 2022), <https://web.archive.org/web/20220125120501/https://www.morninginnevadapac.org/about> (reflecting a copy of Morning in Nevada PAC's "About" page as of January 25, 2022).

1 As a Nevada state political committee, Morning in Nevada accepts contributions from
 2 corporations and in amounts that would be excessive under the Act.¹² In addition, it is not
 3 registered with the Commission, nor has it filed any reports with the Commission.¹³

4 Since 2015, Morning in Nevada has hosted a widely-attended annual event known as the
 5 “Basque Fry” at the Corley Ranch in South Gardnerville, Nevada.¹⁴ At the August 14, 2021 6th
 6 Annual Basque Fry, held from 10:00 AM to 2:00 PM, about 4,000 people attended in person.¹⁵
 7 Morning in Nevada promoted the event using Laxalt’s image and referred to Laxalt as its
 8 President in its promotional materials.¹⁶ Laxalt, in his capacity as President of Morning in
 9 Nevada, hosted and spoke at the event.¹⁷ In addition, for the first and only time so far, Morning
 10 in Nevada broadcast the event live on its own website.¹⁸ Morning in Nevada’s 2021 third

¹² Compl. at 1 & n.6 (citing Morning in Nevada PAC, 2021 Report #3 (Oct. 13, 2021), <https://www.nvsos.gov/soscandidateservices/anonymousaccess/ViewCCEReport.aspx?syn=9uDGZiGKNYk1%252bVHCWkgijQ%253d%253d> (reflecting that the committee accepted a \$4,000 contribution from “Champion Chevrolet,” which appears to be a corporation, on July 22, 2021, and \$10,000 contribution from Tito Tiberti on July 1, 2021)).

¹³ Resp. at 2 (“The PAC has never registered or reported to the Commission as a federal political committee because it has not engaged in any activities which would require it to do so.”).

¹⁴ *Basque Fry Back for Fifth Year*, MORNING IN NEVADA PAC (May 21, 2019), https://www.morninginnevadapac.org/basque_fry_back_for_fifth_year; see also Compl. at 2. The event in 2020 was cancelled. *6th Annual Basque Fry & CPAC West 2020 Canceled*, 2NEWS.COM (July 20, 2020), https://www.2news.com/townnews/politics/6th-annual-basque-fry-cpac-west-2020-canceled/article_ab758950-6070-5bf4-9f05-1213d12016ee.html.

¹⁵ *Sen. Tom Cotton: Laxalt Key to GOP Flipping the Senate*, NEWSMAX (Aug. 15, 2021), <https://www.newsmax.com/newsfront/election-2020-nevada-basque-fry/2021/08/15/id/1032408/> (“U.S. Sen. Tom Cotton told a crowd of about 4,000 Republicans that former Nevada Attorney General Adam Laxalt plans to run for the U.S. Senate against incumbent Democratic Sen. Catherine Cortez Masto.”); *6th Annual Basque Fry*, EVENTBRITE, https://www.eventbrite.com/e/6th-annual-basque-fry-tickets-151578047019_ab758950-6070-5bf4-9f05-1213d12016ee.html (last visited Jan. 5, 2024) (noting that the event was held at 10:00 AM to 2:00 PM on August 14, 2021).

¹⁶ Compl. at 2-3 (describing Morning in Nevada’s Facebook posts featuring Laxalt and including an image of that post); see also Morning in Nevada, FACEBOOK (Aug. 14, 2021), <https://www.facebook.com/MorninginNevadaPAC/photos/a.526840620808385/2156282367864194/> (displaying a picture of Adam Laxalt with the words “President of Morning in Nevada PAC Adam Laxalt Live” with a caption indicating that he is speaking at the 6th Annual Basque Fry “now”).

¹⁷ Resp. at 2.

¹⁸ Morning in Nevada PAC, FACEBOOK (Aug. 3, 2021), <https://www.facebook.com/MorninginNevadaPAC/photos/a.526840620808385/2147533598739071/> (“For the first time ever, our annual Basque Fry will be streaming

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1 quarter report to the Nevada Secretary of State indicated that it spent \$282,635.93 from July 1,
2 2021, to September 30, 2021, on expenses related to a “special event.”¹⁹

3 At the time of the 6th Annual Basque Fry, Laxalt had not yet filed a Statement of
4 Candidacy or made a definitive public announcement that he would be running for U.S. Senate.²⁰
5 Laxalt, who was one of ten speakers at the event, also did not address this topic during his speech
6 at the event.²¹ According to the Response, Laxalt was merely testing the waters for a potential
7 candidacy at this time.²² As discussed below, however, several speakers at the 6th Annual
8 Basque Fry either referenced or advocated for Laxalt’s possible candidacy, with one suggesting
9 that Laxalt would be making an announcement about his candidacy the following week.²³

10 Several invited speakers at the 6th Annual Basque Fry, specifically, U.S. Senator from
11 Arkansas Tom Cotton, Florida Governor Ron DeSantis, and former acting director of national
12 intelligence, Richard Grenell, referenced Laxalt’s candidacy in their respective speeches.²⁴

live for FREE!”); *6th Annual Basque Fry – LIVE*, MORNING IN NEVADA PAC, https://www.morninginnevadapac.org/basque_fry_livestream (last visited May 13, 2024); *see also* Compl. at 2-3.

¹⁹ Morning in Nevada PAC, 2021 Report #3 (Oct. 13, 2021), <https://www.nvsos.gov/SOSCandidateServices/AnonymousAccess/ViewCCEReport.aspx?syn=9uDGZiGKNYk1%252bVHCWkgjQ%253d%253d>.

²⁰ *See, e.g.*, Humberto Sanchez, *Indy DC Download: Senate Democrats Lay the Groundwork to Pass \$3.5 Trillion Soft Infrastructure Spending Package*, THE NEVADA INDEPENDENT (Aug. 14, 2021), <https://thenevada-independent.com/article/indy-dc-download-senate-democrats-lay-the-groundwork-to-pass-3-5-trillion-soft-infrastructure-spending-package> (reporting that, during an August 11, 2021 radio talk show appearance, Laxalt stated that he did not intend to announce a run for Senate during the upcoming Basque Fry).

²¹ Tabitha Mueller, *Laxalt Files Papers to Run for U.S. Senate after Cotton Announces His Candidacy*, THE NEVADA INDEPENDENT (Aug. 14, 2021), <https://thenevadaindependent.com/article/sen-tom-cotton-announces-adam-laxalts-candidacy-for-u-s-senate> (“During the Basque Fry, Laxalt did not indicate an intention to run for office, instead, using his time at the microphone to introduce his family to the crowd and kick off the event with a call to end the ‘cancerous spread of leftist culture.’”) [hereinafter Mueller Article].

²² *See Resp.* at 3.

²³ Mueller Article.

²⁴ *See Nevada Basque Fry with Senator Tom Cotton and Adam Laxalt*, C-SPAN, <https://www.c-span.org/video/?514079-2/sen-cotton-speaks-nevada-basque-fry> (last visited May 13, 2024) [hereinafter 6th Annual Basque Fry Speeches].

1 Cotton, who spoke at the event directly after Laxalt, made numerous statements suggesting that
2 Laxalt would be a candidate in the upcoming 2022 election against the incumbent U.S. Senator
3 from Nevada, Catherine Cortez Masto.²⁵ Beginning with, “It’s great to be back in Nevada,
4 supporting our good friend, Adam Laxalt,”²⁶ Cotton’s 16-minute speech primarily focused on
5 supporting Laxalt as Cortez Masto’s replacement and criticizing Cortez Masto. Around two
6 minutes into his speech, Cotton stated, “change starts right here in Nevada, when Adam Laxalt
7 sends Cathy Cortez Masto packing home for Nevada.”²⁷ “Now,” Cotton said before turning
8 away from the camera and facing to the side or back of the stage, “I don’t know, am I not
9 supposed to say that?”²⁸ He then turned to the front of the stage, facing the cameras again, “Uh
10 oh, am I not supposed to say that? Uh oh, did I violate some rule?”²⁹ Cotton continued, “Now, I
11 know, Adam, I guess he’s not supposed to say that he’s going to be your next United States
12 Senator. There’s some campaign finance rules against it. But what do I care about some stupid
13 rules like that? Adam Laxalt is going to the United States Senate for the Battle Born state in
14 2022!”³⁰

15 In addition to Cotton’s statements encouraging the crowd to elect Laxalt in the upcoming
16 election, Richard Grenell, former director of national intelligence, stated the following during his
17 speech at the event: “We can’t make any announcements here about Adam’s future, but as a

²⁵ *Id.* at 39:39 to 56:11 (recording Senator Cotton’s speech at the 6th Annual Basque Fry); *see* Mueller Article.

²⁶ 6th Annual Basque Fry Speeches at 40:04 to 40:09.

²⁷ *Id.* at 41:42 to 41:52.

²⁸ *Id.* at 41:54 to 41:57.

²⁹ *Id.* at 41:57 to 41:59.

³⁰ *Id.* at 41:59 to 42:14.

1 close friend of Adam’s, I’m telling you I am pushing him hard, that on Tuesday maybe he’ll
2 make an announcement.”³¹ Florida Governor Ron DeSantis also encouraged Laxalt to run for
3 Senate during his speech at the event.³² The record does not indicate that Morning in Nevada
4 paid any of these third party speakers.³³

5 On the evening of August 14, 2021, after the 6th Annual Basque Fry took place earlier
6 that day, Laxalt resigned from his position as president of Morning in Nevada.³⁴ The next day,
7 on August 15, 2021, Laxalt filed a Statement of Candidacy designating Laxalt for Senate and
8 Cameron Phillips in his official capacity as treasurer of his principal campaign committee.³⁵
9 Laxalt publicly declared his candidacy on Tuesday, August 17, 2021.³⁶ Laxalt for Senate’s 2021
10 October Quarterly Report reported its first receipt and disbursement as occurring on August 19,
11 2021, indicating that Laxalt did not spend or raise any funds prior to announcing his candidacy.³⁷

12 On August 30, 2021, Robert Uithoven, who “ran the successful [2014] campaign of
13 Adam P. Laxalt for Nevada Attorney General,”³⁸ became the new president of Morning in

³¹ Mueller Article.

³² Sam Metz, *Sen. Tom Cotton speaks at 6th annual Basque Fry in Gardnerville*, NEWS4 (Aug. 15, 2021), <https://mynews4.com/newsletter-daily/sen-tom-cotton-speaks-at-6th-annual-basque-fry-in-gardnerville>. Laxalt did, in fact, make such an announcement on Tuesday, August 17, 2021. Jeff Gillan & Matthew Seeman, *Republican Adam Laxalt formally launches campaign for U.S. Senate in Nevada*, NEWS3LV.COM (Aug. 17, 2021), <https://news3lv.com/news/local/republican-adam-laxalt-formally-launches-campaign-for-us-senate-in-nevada> [hereinafter Gillan/Seeman Article].

³³ See Morning in Nevada PAC, 2021 Report #3 (Oct. 13, 2021), <https://www.nvsos.gov/soscandidate/services/anonymousaccess/ViewCCEReport.aspx?syn=9uDGZiGKNYk1%252bVHCWkgijQ%253d%253d>.

³⁴ Resp., Ex. A (reflecting that the resignation was sent at 8:04 PM on August 14, 2021).

³⁵ Adam Laxalt, Statement of Candidacy (Aug. 15, 2021), <https://docquery.fec.gov/pdf/551/202108159466277551/202108159466277551.pdf>; Laxalt for Senate, Statement of Organization (Aug. 15, 2021), <https://docquery.fec.gov/pdf/552/202108159466277552/202108159466277552.pdf>.

³⁶ Gillan/Seeman Article.

³⁷ Laxalt for Senate, 2021 October Quarterly Report at 5 (Oct. 15, 2021), <https://docquery.fec.gov/pdf/662/202110159467900662/202110159467900662.pdf>.

³⁸ Robert S. Uithoven, *Biography*, <https://robertuithoven.com/> (last visited May 13, 2024).

1 Nevada.³⁹ On October 29, 2021, Laxalt’s campaign paid Uithoven \$7,151.52 for “travel and
 2 catering services.”⁴⁰ Subsequently, from December 2021 to November 2022, Laxalt’s campaign
 3 paid Axiom Strategies, which employed Uithoven as a vice president at that time,⁴¹ \$452,309.87
 4 in total fees for various services, including strategy consulting services.⁴²

5 The following year, on August 13, 2022, Morning in Nevada held its 7th Annual Basque
 6 Fry from 10:00 AM to 2:00 PM, which was attended by 1,500 to 2,000 people.⁴³ According to
 7 its 2022 third quarter report to the Nevada Secretary of State, Morning in Nevada spent
 8 \$205,225.39 from July 1, 2022, to September 30, 2022 on a “special event.”⁴⁴ The 7th Annual
 9 Basque Fry included speeches from Laxalt and nine other invited speakers.⁴⁵ Towards the last
 10 third of Laxalt’s 14-minute speech, he began advocating for his own election and criticizing his
 11 opponent, Cortez Masto:⁴⁶

³⁹ Resp., Ex. B.

⁴⁰ Laxalt for Senate, Amended 2021 Year-End Report at 455-60 (Mar. 29, 2022), <https://docquery.fec.gov/pdf/928/202203299495913928/202203299495913928.pdf>.

⁴¹ *Biography*, ROBERT S. UITHOVEN, <https://robertuithoven.com/> (last visited June 26, 2023); *The Axiom Family*, AXIOM, <https://axiomstrategies.com/about/> (last visited Jan. 5, 2024) (reflecting that Uithoven was a vice president from January 2021 and promoted to partner in December 2022).

⁴² *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00787135&recipient_name=axiom (last visited June 26, 2023) (reflecting Laxalt for Senate’s disbursements to Axiom Strategies).

⁴³ *7th Annual Basque Fry*, MORNING IN NEVADA PAC, https://www.morninginnevadapac.org/7th_annual_basque_fry (last visited May 13, 2024) (“More than 1,500 great patriots attended, and we want to thank you all for helping to make this our best Basque Fry yet!”); Steve Ranson, *Noem, Cruz Energize the Crowd at the Annual Basque Fry*, NEVADA APPEAL (Aug. 15, 2022), <https://www.nevadaappeal.com/news/2022/aug/15/noem-cruz-energize-crowd-annual-basque-fry/> (“Cruz grabbed the most attention as the day’s final speaker to the crowd estimated between 1,500 to 2,000.”).

⁴⁴ Morning in Nevada PAC, 2022 Report #3 (Oct. 17, 2022), <https://www.nvsos.gov/SOSCandidateServices/AnonymousAccess/ViewCCEReport.aspx?syn=eLVyEDiFLaZLRRf691f5QA%253d%253d>.

⁴⁵ Resp. at 7.

⁴⁶ Compl., Ex. D at 2-3 (reflecting a transcript of Laxalt’s speech at the 2022 7th Annual Basque Fry); *see also Nevada U.S. Senate Candidate Adam Laxalt Speaks at 2022 Basque Fry in Nevada*, C-SPAN, <https://www.c-span.org/video/?521979-5/nevada-us-senate-candidate-adam-laxalt-speaks-2022-basque-fry-nevada> (last visited

- 1 • “This is what we can get if we fight at this state and get me into the United States
 2 Senate, right?”⁴⁷
- 3 • “Senator Masto is considered the most vulnerable Senator in America. And why is
 4 she considered the most vulnerable Senator? Well first and foremost, after eight
 5 years of being Attorney General, I had to get in office and clean up after her once,
 6 right? And after thirteen years, she had nothing to show for the – for Nevada.”⁴⁸
- 7 • “She’s a rubber stamp for Joe Biden and a rubber stamp for the left. She has voted
 8 with the financial package of Joe Biden 100% of the time. We have inflation because
 9 of her vote.”⁴⁹
- 10 • “You see, literally, the tens of millions of dollars the left is pouring into this state to
 11 buy this seat for Catherine Cortez Masto. Are we going to let them buy this seat?”
 12 The crowd then chants, “No!”⁵⁰
- 13 • “If you elect me, I’m going to be able to join Senator Cruz and others. And we’re
 14 going to be the 51st seat to start reversing this madness.”⁵¹

15 The Complaint alleges that Cotton’s speech at the 6th Annual Basque Fry made Laxalt a
 16 federal candidate during the event.⁵² Consequently, the Complaint argues, Morning in Nevada
 17 made excessive and prohibited in-kind contributions to Laxalt and Laxalt for Senate, and Laxalt
 18 and Laxalt for Senate accepted prohibited in-kind contributions from Morning in Nevada.⁵³
 19 Additionally, the Complaint argues that Laxalt’s express advocacy for his own election during

May 13, 2024) [hereinafter 2022 Laxalt Basque Fry Speech] (Laxalt begins advocating for his own election and criticizing his candidate around 8:50 of the video until the end of his speech at 14:03).

⁴⁷ 2022 Laxalt Basque Fry Speech at 8:50 to 8:57.

⁴⁸ *Id.* at 9:13 to 9:35. For background, Cortez Masto served eight years as Nevada’s Attorney General from 2007 to 2015 before becoming the United States Senator from Nevada in 2017. *Catherine Cortez Masto*, [BALLOTPEDIA.ORG, https://ballotpedia.org/Catherine_Cortez_Masto](https://ballotpedia.org/Catherine_Cortez_Masto) (last visited June 25, 2023). Laxalt then succeeded Cortez Masto as Nevada’s Attorney General in 2015. *Adam Paul Laxalt*, [BALLOTPEDIA.ORG, https://ballotpedia.org/Adam_Paul_Laxalt](https://ballotpedia.org/Adam_Paul_Laxalt) (last visited June 26, 2023).

⁴⁹ 2022 Laxalt Basque Fry Speech at 10:57 to 11:15.

⁵⁰ *Id.* at 11:40 to 11:55.

⁵¹ *Id.* at 12:02 to 12:12.

⁵² Compl. at 5.

⁵³ *Id.* at 5-7.

1 the 7th Annual Basque Fry, coupled with the platform and audience afforded him by Morning in
 2 Nevada, resulted in an additional in-kind contribution.⁵⁴

3 III. LEGAL ANALYSIS

4 a. The Commission Dismisses the Allegation that Morning in Nevada made, 5 and Laxalt and Laxalt for Senate Accepted, Excessive In-Kind Contributions 6 in Connection with the 6th Annual Basque Fry Event

7
 8 The Act defines the term “contribution” to include “any gift, subscription, loan, advance,
 9 or deposit of money or anything of value made by any person for the purpose of influencing any
 10 election for Federal office.”⁵⁵ Similarly, the term “expenditure” includes “any purchase,
 11 payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any
 12 person for the purpose of influencing any election for Federal office.”⁵⁶ Under the
 13 Commission’s regulations, expenditures that are “coordinated” with a candidate, but are not
 14 made for a coordinated communication or party-coordinated communication, are in-kind
 15 contributions to that candidate.⁵⁷ The Commission’s regulations further provide that

⁵⁴ *Id.* at 9.

⁵⁵ 52 U.S.C. § 30101(8)(A)(i); *see also* 11 C.F.R. § 100.52(a).

⁵⁶ 52 U.S.C. § 30101(9)(A)(i); *see also* 11 C.F.R. § 100.111(a).

⁵⁷ 11 C.F.R. § 109.20(b); *see also* 11 C.F.R. § 100.52(d)(1) (providing that “in-kind contributions” may be a contribution under the Act); *id.* § 100.111(e)(1) (providing that “in-kind contributions” may be an expenditure under the Act). We note that the speeches given at the 6th and 7th Annual Basque Fry events are not considered “coordinated communications” under 11 C.F.R. § 109.21 because they were only broadcasted by news agencies and Morning in Nevada on its own website. Thus, neither event satisfies the content prong of a coordinated communication. 11 C.F.R. § 109.21(a)(2) & (c) (explaining that a “coordinated communication” must be either a “public communication” under 11 C.F.R. § 100.26 or an “electioneering communication” under 11 C.F.R. § 100.29); *id.* § 100.26 (providing that “communications over the internet” are not public communications unless they are placed on another person’s website or platform for a fee); *id.* § 100.29(c)(1) (providing that “communications over the Internet” are exempt from the definition of “electioneering communication”).

Although the 6th Annual Basque Fry was livestreamed by Morning in Nevada on its own website, the conduct addressed by this report does not involve the livestreaming aspect of the event, and thus it is not covered by the internet communications exemption to coordinated expenditures. *Cf.* Advisory Opinion 2008-10 at 7 (VoterVoter.com) (“The costs incurred by an individual in creating an ad will be covered by the Internet exemption from the definition of ‘expenditure’ as long as the creator is not also purchasing TV airtime for the ad he or she created.”).

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1 “[c]oordinated means made in cooperation, consultation or concert with, or at the request or
2 suggestion of, a candidate, [or] a candidate’s authorized committee.”⁵⁸

3 The “purpose of influencing a federal election” is also a necessary element in defining
4 whether a payment is a “contribution” or “expenditure” under the Act and Commission
5 regulations.⁵⁹ In analyzing whether a payment made by a third party is a “contribution” or
6 “expenditure,” the Commission has concluded that “the question under the Act is whether” the
7 donation, payment, or service was “provided for the purpose of influencing a federal election
8 [and] not whether [it] provided a benefit to [a federal candidate’s] campaign.”⁶⁰ The electoral
9 purpose of a payment may be clear on its face, as in payments to solicit contributions or for
10 communications that expressly advocate for the election or defeat of a specific candidate, or
11 inferred from the surrounding circumstances.⁶¹

⁵⁸ 11 C.F.R. § 109.20(a).

⁵⁹ *See* 52 U.S.C. § 30101(8)(A)(i), (9)(A)(i).

⁶⁰ Factual & Legal Analysis (“F&LA”) at 6, MUR 7024 (Van Hollen for Senate).

⁶¹ *See, e.g.*, Advisory Op. 2000-08 (Harvey) at 1, 3 (“AO 2000-08”) (concluding private individual’s \$10,000 “gift” to federal candidate would be a contribution because “the proposed gift would not be made but for the recipient’s status as a Federal candidate”); Advisory Op. 1990-05 (Mueller) at 4 (“AO 1990-05”) (explaining that solicitations and express advocacy communications are for the purpose of influencing an election and concluding, after examining circumstances of the proposed activity, that federal candidate’s company newsletter featuring discussion of campaign resulted in contributions); Advisory Op. 1988-22 (San Joaquin Valley Republican Associates) at 5 (concluding third party newspaper publishing comments regarding federal candidates, coordinated with those candidates or their agents, thereby made contributions because “the financing of a communication to the general public, not within the ‘press exemption,’ that discusses or mentions a candidate in an election-related context and is undertaken in coordination with the candidate or his campaign is ‘for the purpose of influencing a federal election’); F&LA at 17-20, MURs 4568, 4633, and 4634 (Triad Mgmt. Servs., Inc.) (finding reason to believe corporation and related nonprofit organizations made contributions by providing federal candidates with “uncompensated fundraising and campaign management assistance” and “advertising assistance[.]” including spending “several million dollars” on coordinated advertisements). A federal court, in the context of a criminal case, has articulated that a third party’s payment to a candidate is a “contribution” if the person behind it has the principal purpose of influencing a federal election — even if that is not the only purpose — acknowledging that “[p]eople rarely act with a single purpose in mind.” Jury Instrs., *United States v. Edwards*, No. 1:11-CR-161, 2012 WL 1856481 (M.D.N.C. May 18, 2012).

1 In addition, the Commission has stated that “[t]he provision of costs for campaign events
 2 or rallies for a federal candidate constitutes in-kind contributions.”⁶² When a candidate speaks at
 3 an event organized and paid for by a third party, the Commission “consider[s] the nature and
 4 purposes of an event to determine if it is campaign-related so as to implicate the making of
 5 contributions or expenditures by those sponsoring or financially supporting the event.”⁶³ “[I]f an
 6 event involves (i) the solicitation of political contributions or (ii) the express advocacy of a
 7 candidate’s election or defeat, then the event would be viewed as a campaign event for the
 8 purpose of influencing a Federal election.”⁶⁴ Express advocacy includes any communication
 9 that “can have no other reasonable meaning than to urge the election or defeat of one or more
 10 clearly identified candidate(s),” when taken alone or “as a whole and with limited reference to

⁶² F&LA at 8, MUR 7755 (Cory Gardner for Senate, *et al.*); *cf.* F&LA at 7-9, MUR 5183 (DNC) (finding reason to believe that the DNC accepted prohibited corporate contributions from nonprofit corporations when it did not pre-pay for the costs related to a partisan speaking tour and that it failed to report those expenditures).

⁶³ Advisory Opinion 1988-27 at 3 (Medivision) (“AO 1988-27”) (advising that a speaking fee paid to an officeholder would be considered an honorarium, and not a contribution, where the officeholder’s speech would be related to the speaker’s officeholder duties and not related or in reference to the speaker’s federal campaign); *cf.* FGCR at 14, MURs 5550 & 5566 (Michael Moore, *et al.*) (recommending dismissal of the allegation that several universities made in-kind contributions or independent expenditures when they hosted events in which a popular filmmaker made expressive advocacy statements in light of the events being consistent with the universities’ apparent purpose of fostering the free exchange of ideas in an academic setting); Certification (“Cert.”) ¶¶ A.2, B.1 (May 19, 2006), MURs 5550 & 5566 (dismissing the allegations as to the university respondents).

⁶⁴ AO 1988-27 at 3; *see also* F&LA at 7-8, MUR 7755 (Cory Gardner for Senate, *et al.*) (finding that the event was not campaign related where there was no fundraising and no person mentioned the candidate’s attendance at the event, and stating, “if an event included express advocacy on behalf of a candidate or against the candidate’s opponent, or if the candidate is soliciting contributions at the event, the Commission may conclude the event is campaign-related”); F&LA at 2-3, 6, MUR 6552 (Ohio State Med. Ass’n) (finding that the association made an apparent corporate contribution or expenditure where it posted on the internet videos of an event it hosted where, among others, the video included two speeches given at the event by competing candidates, with the first candidate speaker repeatedly referencing the other by name and criticizing his policies, and the other candidate speaking a few minutes after the first, and dismissing the matter because the videos were inadvertently made publicly available for 10 days and only accessed by 19 persons during that time); F&LA at 7, MUR 6375 (Independence Caucus) (finding reason to believe that a corporation made prohibited in-kind contributions by hosting and promoting an event featuring a candidate speaker and stating, “if the August 2009 Fundraiser was a fundraising event hosted by the Corporation, at which Chuck Devore, a federal candidate, or an agent of the Corporation solicited funds for his campaign, or if the candidate engaged in express advocacy on behalf of his own election or the defeat of his opponent, then any unreimbursed costs for the event could constitute an in-kind contribution by the Corporation”).

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1 external events, such as the proximity to the election.”⁶⁵ A candidate is “clearly identified”
2 where “the name of the candidate involved appears,” “a photograph or drawing of the candidate
3 appears,” or “the identity of the candidate is apparent by unambiguous reference.”⁶⁶

4 Under the Act, a candidate, their agent, or an entity EFMC’d by a candidate may only
5 “solicit, receive, direct, transfer, or spend funds” in connection with a federal election if the
6 funds are subject to the limitations, prohibitions, and reporting requirements of the Act, and may
7 only do so in connection with a nonfederal election if the funds are subject to the limitations and
8 prohibitions of the Act.⁶⁷ During the 2021-2022 election cycle, each person was limited to
9 making \$2,900 in contributions to each candidate per election,⁶⁸ and candidates and their
10 authorized committees were prohibited from knowingly accepting contributions in excess of that
11 amount.⁶⁹

12 The Complaint alleges that Morning in Nevada made, and Laxalt received, an excessive
13 in-kind contribution in the form of Morning in Nevada providing a platform for Cotton and
14 others to speak and promote Laxalt’s candidacy. The available information indicates that
15 essentially all of Cotton’s speech at the 6th Annual Basque Fry expressly advocated for Laxalt’s

⁶⁵ 11 C.F.R. § 100.22(a)-(b). *See, e.g.*, F&LA at 6-7, MUR 6861 (Williams, *et al.*) (yard sign saying respondent “has endorsed” candidate is express advocacy); First Gen. Counsel’s Rpt. (“First GCR”) at 6 n.5 (endorsement “by definition expressly advocates”) & Cert. at ¶ 1 (Feb. 8, 2005), MUR 5522 (Wisconsin Right to Life, Inc.).

⁶⁶ 52 U.S.C. § 30101(18).

⁶⁷ 52 U.S.C. § 30125(e)(1); *see also* 11 C.F.R. §§ 300.60, 300.61, 300.62.

⁶⁸ 52 U.S.C. § 30116(a)(1); 11 C.F.R. § 110.1(b)(1); *Contribution limits for 2021-2022*, FEC.GOV (Feb. 2, 2021), <https://www.fec.gov/updates/contribution-limits-2021-2022/>.

⁶⁹ 52 U.S.C. § 30116(f); 11 C.F.R. § 110.9.

1 election and Cortez Masto’s defeat in the upcoming 2022 Nevada U.S. Senate election.⁷⁰

2 However, the other references to Laxalt’s potential candidacy were minimal.

3 The Response does not explicitly deny that Laxalt coordinated with Cotton or authorized
4 the content of Cotton’s speech but instead emphasizes that Laxalt himself did not hint at nor
5 discuss his candidacy.⁷¹ While it is possible that Laxalt, given his role as the then-president of
6 Morning in Nevada, and Cotton made an undisclosed agreement regarding the content of
7 Cotton’s speech, and Laxalt authorized Cotton’s speech, there is insufficient information to
8 adequately support an inference as to such knowledge or an agreement.

9 Moreover, given the relatively small amount of time at the event devoted to the speech,
10 the Commission exercises its prosecutorial discretion and dismisses the allegation that Morning
11 in Nevada made, and Laxalt received an excessive in-kind contribution in connection with the
12 6th Annual Basque Fry.

13 **b. The Commission Finds Reason to Believe that Morning in Nevada Made, and**
14 **Laxalt and Laxalt for Senate Accepted, Excessive In-Kind Contributions in**
15 **Connection with the 7th Annual Basque Fry Event**

16 The available information indicates that Laxalt’s speech, as well as the speeches of at
17 least three other prominent speakers at the 2022 7th Annual Basque Fry contained express
18 advocacy and thus there is reason to believe that the event was campaign-related. During the
19 final third of his speech, Laxalt asked the Basque Fry attendees to “fight at this state and get me
20 into the United States Senate.”⁷² Laxalt then criticized his opponent, stating that “Senator Masto

⁷⁰ *See Supra*, Part II.

⁷¹ *See Resp.* at 3.

⁷² 2022 Laxalt Basque Fry Speech at 8:50 to 8:55.

1 is considered the most vulnerable Senator in America,”⁷³ that “she’s a rubber stamp for Joe
2 Biden and a rubber stamp for the left,”⁷⁴ and that the attendees shouldn’t let the “tens of millions
3 of dollars the left is pouring into this state to buy this seat for Catherine Cortez Masto.”⁷⁵ Laxalt
4 further pled, “If you elect me, I’m going to be able to join Senator Cruz and others. And we’re
5 going to be the 51st seat to start reversing this madness.”⁷⁶ Given Laxalt’s repeated appeals to
6 the crowd to vote for him in the upcoming election for U.S. Senate, and his repeated criticisms of
7 his opponent, Cortez Masto, Laxalt’s speech had no other reasonable meaning than to urge for
8 his own election and for the defeat of his opponent in the upcoming 2022 U.S. Senate election in
9 Nevada.⁷⁷ Thus, Laxalt’s own speech at the 2022 7th Annual Basque Fry contained express
10 advocacy and was for the purpose of influencing a federal election.⁷⁸

11 Other speakers at the 7th Annual Basque Fry also expressly advocated for Laxalt or
12 against his opponent, Catherine Cortez Masto. The Nebraska governor at the time, Pete Ricketts,
13 started his speech by thanking the attendees for “coming out to support Adam [Laxalt] and Joe
14 [Lombardo, then-candidate for Nevada governor].”⁷⁹ Ricketts went on to state that “you as
15 Nevadans can...help begin the American resurgence, right here, right now, in your state...and
16 you can do that by electing Adam Laxalt to the U.S. Senate to fight Joe Biden’s woke agenda”⁸⁰

⁷³ *Id.* at 9:13 to 9:18.

⁷⁴ *Id.* at 10:57 to 11:02.

⁷⁵ *Id.* at 11:43 to 11:51.

⁷⁶ *Id.* at 12:02 to 12:12.

⁷⁷ *See* 52 U.S.C. § 30101(18)(A); 11 C.F.R. § 100.22(a)-(b).

⁷⁸ *See* 11 C.F.R. § 100.22.

⁷⁹ *Governor Pete Ricketts Speaks at 2022 Basque Fry*, C-SPAN, <https://www.c-span.org/video/?521979-4/governor-pete-ricketts-speaks-2022-basque-fry> (last visited July 6, 2024) [hereinafter 2022 Ricketts Basque Fry Speech] at 0:24 to 0:28.

⁸⁰ *Id.* at 1:48 to 2:15.

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1 and that “here in Nevada you can make it morning again in America, and the way you do that is
2 by electing Adam Laxalt to the U.S. Senate so he can go there and fight Biden’s bad policies.”⁸¹
3 Later, Ricketts referred to Laxalt’s opponent, stating that “your U.S. Senator could have been
4 one to stop [inflation] if she voted no, but she didn’t and so you’ve got to replace her.”⁸² At the
5 end of his speech, Ricketts noted that “we’ve got less than 90 days before the election: talk to
6 your folks, your friends, your family, everybody you can think of, get them to make sure they are
7 going to show up and vote and they are going to vote for conservative policies that will save
8 Nevada and this country in November.”⁸³ Ricketts concluded by thanking the attendees and
9 inviting him “to support the great conservative candidates that you have here.”⁸⁴

10 South Dakota Governor Kristi Noem was also a speaker at the 7th Annual Basque Fry.
11 Midway through her remarks she told the audience that “you need to elect leaders...you do not
12 want leaders who want power, who want to be big deals, walking around with titles, surrounded
13 by detail. You cannot get near them. Never see them at a public event like this. You need
14 Adam.”⁸⁵ Later, she remarked that although “some of you came here today just to listen to really
15 good speeches, and that will be good, it is good to hear a really good speech...maybe somebody
16 has been asking you to volunteer for their campaign and you’re like ‘oh no, I’m too busy, I can’t

⁸¹ *Id.* at 9:45 to 9:59.

⁸² *Id.* at 12:13 to 12:22.

⁸³ *Id.* at 13:07 to 13:24.

⁸⁴ *Id.* at 13:38 to 13:41. In addition to Laxalt, it appears that only two Nevada candidates were speakers at the 7th Annual Basque Fry: Congressman Mark Amodei and Sheriff Joe Lombardo. *See Resp.* at 7.

⁸⁵ *South Dakota Governor Kristi Noem Speaks at 2022 Basque Fry in Nevada*, C-SPAN, <https://www.c-span.org/video/?521979-2/south-dakota-governor-kristi-noem-speaks-2022-basque-fry-nevada> (last visited July 6, 2024) [hereinafter 2022 Noem Basque Fry Speech] at 10:51 to 11:08.

1 do that, I have to say no.’ I’m going to ask you to stop doing that and start saying yes.
2 Somebody is asking you for a check or donation – I want you to double it, make it more.”⁸⁶
3 The headline speaker, Senator Ted Cruz, devoted more than seven minutes of his
4 speech⁸⁷ to Laxalt’s opponent, Senator Catherine Cortez Masto, with specific reference to the
5 general election (“[t]his Democratic party has gone extreme. You know, you have a Democrat
6 senator who is on the ballot in November, Catherine Cortez Masto, I will give \$20 if anyone can
7 tell me one positive thing she has done in her entire time in the Senate. There ain’t nothing to
8 say. I feel confident I would keep my \$20.”).⁸⁸ He went on to state that “Catherine Cortez
9 Masto was the deciding vote behind sending millions of your taxpayer dollars to murderers, to
10 rapists, to pedophiles...”⁸⁹ and that “Catherine Cortez Masto happily voted [to] throw those kids
11 [out of school] because she is not working for the kids, she is not working for the men and
12 women of Nevada. She is working for the campaign dollars from the corrupt lobbyists on the
13 left.”⁹⁰ Cruz then went on to expressly advocate for Laxalt, stating that “we are going to retake
14 the House and we are going to retake the Senate and Nevada is a battleground for both. I am
15 here today because I am supporting my friend Adam Laxalt. Nevada is, I believe, the single best
16 pickup opportunity for Republicans in the Senate in the entire country. Adam is a smart,
17 principled conservative...he will stand and fight with the people of Nevada and...when we win

⁸⁶ *Id.* at 12:15 to 12:45.

⁸⁷ *Senator Ted Cruz Speaks at 2022 Basque Fry in Nevada*, C-SPAN, <https://www.c-span.org/video/?521979-3/senator-ted-cruz-speaks-2022-basque-fry-nevada> (last visited July 7, 2024) [hereinafter 2022 Cruz Basque Fry Speech] at 11:03 to 17:38.

⁸⁸ *Id.* at 11:03 to 11:25.

⁸⁹ *Id.* at 13:25 to 13:37.

⁹⁰ *Id.* at 16:08 to 16:26.

1 Nevada, we will win a majority.”⁹¹ Cruz reiterated that “a big part of the reason I am here is
2 because I know Adam and I know he has the guts to stand up to Democrats, but also to stand up
3 to the party bosses in the Republican Party and to say, ‘I don’t work for the lobbyists and party
4 bosses in Washington, D.C., I work for the men and women of the great state of Nevada.’”⁹²
5 Cruz closed by asking “every one of you in November to come out and vote for Adam Laxalt ten
6 times.”⁹³ Thus, the available information supports reason to believe that the 7th Annual Basque
7 Fry was a campaign event for Adam Laxalt’s Senate candidacy.

8 Moreover, the available information indicates that Laxalt coordinated with Morning in
9 Nevada regarding his speech and the other speakers at the event. Although Laxalt was no longer
10 president of Morning in Nevada at the time of the 2022 7th Annual Basque Fry, the available
11 information indicates that Morning in Nevada coordinated with Laxalt to provide him a speaking
12 platform at the event. Specifically, on June 29, 2022, Morning in Nevada advertised that Laxalt
13 would be a featured speaker at the August 13, 2022 7th Annual Basque Fry, reflecting that
14 Morning in Nevada had been consulting or cooperating with Laxalt at least a month prior to the
15 August 13, 2022 7th Annual Basque Fry regarding his appearance and speaking opportunity.⁹⁴

16 Furthermore, Laxalt’s successor as president of Morning in Nevada at that time, Robert
17 Uithoven, had worked on Laxalt’s senate campaign in October 2021 and was paid directly by

⁹¹ *Id.* at 19:10 to 20:19.

⁹² *Id.* at 20:19 to 20:41.

⁹³ *Id.* at 22:29 to 22:37.

⁹⁴ Morning in Nevada PAC, FACEBOOK (June 29, 2022), <https://www.facebook.com/MorninginNevadaPAC/posts/pfbid0gfcam9tBoymhYiDpb7nb6vktVBDqLoC22pA98Ew4vpcewUoioJkEFckpTDheVSJil>.

1 Laxalt for Senate for that work.⁹⁵ Uithoven also “ran the successful [2014] campaign of
 2 Adam P. Laxalt for Nevada Attorney General,”⁹⁶ and was a vice president of the consulting firm
 3 employed by Laxalt’s senate campaign,⁹⁷ suggesting that Uithoven may have been personally
 4 advising Laxalt’s senate campaign or was otherwise knowledgeable about Laxalt’s campaign
 5 strategy at the time of the 7th Annual Basque Fry through his employer. The Response does not
 6 deny the Complaint’s allegations that Uithoven was advising Laxalt’s senate campaign, nor does
 7 it indicate that Laxalt’s express advocacy statements were unauthorized by Morning in Nevada.⁹⁸
 8 Finally, at least one speaker stated that she was asked to appear by Laxalt. In her remarks,
 9 Governor Noem stated that “Adam invited me to come out,”⁹⁹ and that “one of the reasons I’m
 10 here is because Adam asked me.”¹⁰⁰

11 The available information supports a reasonable inference that Morning in Nevada made,
 12 and Laxalt and Laxalt for Senate accepted, an excessive in-kind contribution. According to

⁹⁵ Laxalt for Senate, Amended 2021 Year-End Report at 455-60 (Mar. 29, 2022), <https://docquery.fec.gov/pdf/928/202203299495913928/202203299495913928.pdf> (reflecting that Uihoven was paid \$7,151.52 for travel and catering services on October 29, 2021).

⁹⁶ Robert S. Uithoven, *Biography*, <https://robertuithoven.com/> (last visited May 13, 2024).

⁹⁷ See Laxalt for Senate, Amended 2021 Year-End Report at 455-60 (Mar. 29, 2022), <https://docquery.fec.gov/pdf/928/202203299495913928/202203299495913928.pdf>; *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00787135&recipient_name=axiom (last visited June 26, 2023) (reflecting Laxalt for Senate’s disbursements to Axiom Strategies; Robert S. Uithoven, *Biography*, <https://robertuithoven.com/> (last visited June 26, 2023); *The Axiom Family*, AXIOM, <https://axiomstrategies.com/about/> (last visited June 26, 2023) (reflecting that Uithoven was a vice president from January 2021 and promoted to partner in December 2022).

The Response does not deny this assertion, but rather argues that the Complaint fails to indicate how much of the fees were paid directly to Uithoven for his political work, rather than Uithoven’s employer, Axiom Strategies. Resp. at 5 & n. 13.

⁹⁸ Instead, the Response argues that “[t]he Complaint presents no evidence indicating how much, if any, of the[] fees [paid to Axiom Strategies] were paid to Mr. Uithoven for political work,” Resp. at 5 n.13, and that the purpose of the Basque Fry events are to raise money for Morning in Nevada, *id.* at 7.

⁹⁹ 2022 Noem Basque Fry Speech at 0:57 to 0:58.

¹⁰⁰ *Id.* at 2:13 to 2:16.

1 Morning in Nevada’s 2022 third quarter report to the Nevada Secretary of State, the cost of
2 hosting the 7th Annual Basque Fry was \$205,225.39.¹⁰¹ Although Respondents represent that
3 the primary purpose of the Basque Fry events was to solicit contributions for Morning in
4 Nevada,¹⁰² at least three other speakers made multiple references to his candidacy or his
5 opponent, Catherine Cortez Masto and expressly advocated for Laxalt or against Cortez Masto.
6 The available information indicates that only two other candidates were invited speakers at the
7 7th Annual Basque Fry.¹⁰³ Thus, there is reason to believe that at least 50% of the cost of the
8 event - \$102,612.70 – was an in-kind contribution to Laxalt’s campaign.¹⁰⁴

9 The Commission therefore finds reason to believe that Morning in Nevada PAC made an
10 excessive in-kind contribution to Laxalt for Senate in violation of 52 U.S.C. § 30116(a)(1)(A)
11 and 11 C.F.R. § 110.1(b), and that Laxalt and Laxalt for Senate received an excessive in-kind

¹⁰¹ Morning in Nevada PAC, 2022 Report #3 (Oct. 17, 2022), <https://www.nvsos.gov/SOSCandidateServices/AnonymousAccess/ViewCCEReport.aspx?syn=eLVyEDiFLaZLRRf691f5QA%253d%253d> (reflecting \$205,225.39 spent between July 1, 2022, to September 30, 2022, on a “special event”).

¹⁰³ *See Resp.* at 7. Incumbent Congressman Mark Amodei was on the ballot for U.S. House of Representatives, *Mark Amodei*, BALLOTPEDIA.ORG, https://ballotpedia.org/Mark_Amodei (last visited July 8, 2024), and Sheriff Joe Lombardo was the Republican gubernatorial candidate for Nevada. *Joe Lombardo*, BALLOTPEDIA.ORG, https://ballotpedia.org/Joe_Lombardo (last visited July 8, 2024). Although both Governor Ricketts and Governor Noem referenced Sheriff Joe Lombardo in their remarks, *see, e.g.*, 2022 Ricketts Speech at Basque Fry Event at 2:08 to 20:20; 2022 Noem Speech at Basque Fry Event at 2:13 to 2:21, none of these three speakers referred to Congressman Amodei or his candidacy.

¹⁰⁴ Commission regulations provide that expenditures, including in-kind contributions, made on behalf of one or more clearly identified federal candidates and one or more clearly identified nonfederal candidates shall be attributed to each candidate according to the benefit reasonably expected to be derived. 11 C.F.R. § 106.1(a)(1). The regulation does not explicitly state how this benefit is to be calculated in the case of a live speaking event, but provides as an example that in the case of a broadcast communication, the attribution shall be determined by the proportion of time devoted to all candidates. *Id.* In this case, at least four of ten speakers expressly advocated for Laxalt or against his opponent. Two speakers referred to gubernatorial candidate Joe Lombardo, but a review of the taped speeches available online indicates that none of those speakers clearly identified the other candidate listed as a speaker for the event, Congressman Mark Amodei. An investigation will yield more information about how much time was devoted to Laxalt’s candidacy relative to time devoted to other clearly identified candidates, but based on the available information, it appears that more than 50% of the speakers’ time spent discussing clearly identified candidates was devoted to Laxalt or his opponent.

1 contribution in violation of 52 U.S.C. §§ 30116(f) and 30125(e)(1)(A)¹⁰⁵ and 11 C.F.R. §§ 110.9
2 and 300.61.

3 **c. The Commission Finds Reason to Believe that Laxalt and Laxalt for Senate**
4 **Failed to Report Contributions from Morning in Nevada PAC in Connection**
5 **with the 7th Annual Basque Fry**

6
7 Authorized political committees must report all received contributions aggregating over
8 \$200 in an election cycle.¹⁰⁶ As described above, there is reason to believe that Laxalt and
9 Laxalt for Senate accepted in-kind contributions from Morning in Nevada in connection with the
10 7th Annual Basque Fry. Despite the contributions valuing over \$200 in aggregate, Laxalt for
11 Senate did not report receiving any contributions from Morning in Nevada.¹⁰⁷ Accordingly, the
12 Commission finds reason to believe that Laxalt for Senate failed to report the receipt of in-kind
13 contributions from Morning in Nevada PAC in connection with the 7th Annual Basque Fry.

14

¹⁰⁵ Because Morning in Nevada is a state political committee, Laxalt and Laxalt for Senate may have violated the soft-money prohibitions by accepting in-kind contributions in any amount from Morning in Nevada. 52 U.S.C. § 30125(e)(1)(A) (prohibiting candidate from receiving funds in connection with an election for federal office unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Act); *see also* 11 C.F.R. § 300.61.

¹⁰⁶ 52 U.S.C. § 30104(b)(3); 11 C.F.R. § 104.3(a)(4)(i); *see also* F&LA at 10-11, MURs 7628, *et al.* (finding reason to believe that the committee failed to report its acceptance of a prohibited corporate in-kind contribution); First GCR at 11-12, MUR 5409 (Grover Norquist, *et al.*) (recommending that the Commission find reason to believe that the committee failed to report receipt of a prohibited corporate contribution and that the Commission take no further action due to the small value of the contribution); Cert. ¶ 2.c & g (Oct. 20, 2004), MUR 5409 (Grover Norquist, *et al.*) (finding reason to believe that the committee violated the Act and taking no further action as recommended in the FGCR).

¹⁰⁷ *FEC Receipts: Filtered Results*, FEC.GOV, https://www.fec.gov/data/receipts/?data_type=processed&committee_id=C00787135&contributor_name=morning (last visited Sept. 5, 2023) (reflecting that Laxalt for Senate did not report receiving any receipts from any source with the term “Morning” in its name).