



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

VIA ELECTRONIC MAIL

James E. Barton II
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August 1, 2024

RE: MUR 8172

Dear Mr. Barton:

On October 6, 2023, the Federal Election Commission notified your clients, Antonio Valdovinos and La Machine Consulting LLC, of a complaint indicating violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint and information supplied by your clients, the Commission, on June 25, 2024, voted to (1) dismiss the allegation that Valdovinos violated 52 U.S.C. § 30121(a)(1) and 11 C.F.R. § 110.20(c) by making \$600 in foreign national contributions to the Arizona Democratic Party; (2) dismiss the allegation that Valdovinos made \$750 in \$50 recurring, prohibited foreign national contributions in violation of 52 U.S.C. § 30121(a)(1) and 11 C.F.R. § 110.20(b) to Friends of Jevin D. Hodge; (3) dismiss the allegation that Valdovinos and La Machine violated 52 U.S.C. § 30121(a)(1) and 11 C.F.R. § 110.20(i) by participating as a foreign national in the decision-making process of Gallego for Arizona and DSCC with regard to their election-related activities during the 2016, 2018, 2020, and 2022 election cycles; and (4) dismiss the allegation that Valdovinos violated 52 U.S.C. § 30121(a)(1) and 11 C.F.R. § 110.20(i) by participating as a foreign national in the decision-making process of Gallego for Arizona with regard to their election-related activities during the 2014 election cycle. Any applicable Factual and Legal Analysis or Statements of Reasons available at the time of this letter's transmittal are enclosed.

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

MUR 8172 (Antonio Valdovinos, *et al.*)

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you have any questions, please contact Justine A. di Giovanni, the attorney assigned to this matter, at (202) 694-1574.

Sincerely,

Lisa Stevenson
Acting General Counsel

Ana J. Peña-Wallace

BY: Ana J. Peña-Wallace
Assistant General Counsel

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Antonio Valdovinos **MUR 8172**
La Machine Consulting LLC
Ruben Gallego
Gallego for Arizona and Roy Herrera in his official capacity as treasurer
Friends of Jevin D. Hodge and Dacey Montoya in her official capacity as
treasurer (terminated)
Arizona Democratic Party and Rick McGuire in his official capacity as
treasurer
DSCC and Allison Wright in her official capacity as treasurer

I. INTRODUCTION

This matter arises from a Complaint alleging that Antonio Valdovinos violated the Federal Election Campaign Act of 1971, as amended (the “Act”), by (1) making prohibited foreign national contributions, and (2) participating in the decision-making processes involving election-related activities of political committees via services as an individual staffer and later through services he provided through his company, La Machine. The Complaint alleges that the Arizona Democratic Party and Rick McGuire in his official capacity as treasurer (“ADP”) and Friends of Jevin D. Hodge and Dacey Montoya in her official capacity as treasurer (the “Hodge Committee”) knowingly accepted prohibited contributions from Valdovinos, and that Ruben Gallego, his principal campaign committee, Gallego for Arizona and Roy Herrera in his official capacity as treasurer (the “Gallego Committee”), and DSCC and Allison Wright in her official capacity as treasurer (“DSCC”) permitted Valdovinos to participate in their decision-making.

Respondents deny the allegations. Valdovinos acknowledges paying \$600 to attend a dinner and purchase a book to benefit ADP, but states that he did not realize that these payments were contributions. Valdovinos asserts that the \$750 in contributions to the Hodge Committee were made in his name by a former roommate, whose email address is associated with the contribution, and that the debit card used to make the contributions was not his. Valdovinos

1 further states that La Machine does not provide general consulting or campaign services, nor
2 does it assist in the ultimate decision-making process, but rather carries out clients' instructions
3 to perform field canvassing services.

4 ADP acknowledges that Valdovinos made the \$600 in contributions at issue, but denies
5 that it knew that Valdovinos was a foreign national at the time the contributions were made. It
6 further states that \$500 of the \$600 was contributed online via ActBlue, and that Valdovinos
7 would have been required to attest that he was permitted to make the contribution. ADP states
8 that the \$100 contribution was made in cash in person, and that there was nothing to indicate on
9 Valdovinos's donor card that he was a foreign national. Finally, ADP states that it disgorged the
10 contributions upon receiving notification of the Complaint in this matter.

11 The Hodge Committee states that it was unaware of any improprieties involving the \$750
12 in contributions from Valdovinos prior to receiving notification of the Complaint. It states that
13 the contributions were made via ActBlue, which requires contributors to certify that they are
14 making contributions with their own funds. The Response includes information about the
15 contributions obtained from ActBlue reflecting a Phoenix, Arizona address and an email address
16 apparently associated with Valdovinos's former roommate. The Hodge Committee states that,
17 upon receiving the Complaint, it reached out to Valdovinos, who replied that his former
18 roommate made the contribution using her personal funds.

19 DSCC, Gallego, and the Gallego Committee deny the allegations and state that the
20 services they received from La Machine were limited to specific administrative campaign tasks
21 such as signature gathering and voter canvassing, and that neither Valdovinos nor other
22 individuals associated with La Machine participated in election-related decision-making. Rather,

La Machine carried out instructions received from DSCC and the Gallego Committee to complete the services for which it was engaged.

Due to the low amount in violation, the Commission exercises its prosecutorial discretion to dismiss the allegations that Valdovinos violated 52 U.S.C. § 30121(a)(1) and 11 C.F.R. § 110.20(c) by making, and that ADP and the Hodge Committee violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by knowingly accepting, contributions.

Further, because the Complaint provides only limited information about the services Valdovinos and La Machine provided to the Gallego Committee and DSCC, and because Respondents reliably describe those services as limited to signature-gathering and canvassing, rather than any participation in decision-making activities, the Commission dismisses the allegations that Valdovinos and La Machine violated 52 U.S.C. § 30121(a)(1) and 11 C.F.R. § 110.20(i). The Commission also dismisses the allegation that Gallego, the Gallego Committee, and DSCC violated 52 U.S.C. § 30121 and 11 C.F.R. § 110.20(i) by engaging Valdovinos and La Machine.

II. FACTUAL BACKGROUND

A. Respondents

Antonio Valdovinos is a political consultant who was born in Mexico and granted lawful presence in the United States through the Deferred Action for Childhood Arrivals (“DACA”) program.¹ He is the founder and CEO of La Machine Consulting LLC, a domestic political

¹ Compl. at 7 (Oct. 2, 2023) (quoting Press Release, Ruben Gallego, Rep. Ruben Gallego Announces State of the Union Guest (Jan. 30, 2018), <https://rubengallego.house.gov/media-center/press-releases/rep-ruben-gallego-announces-state-union-guest>); Valdovinos & La Machine Resp. at 1 (Nov. 21, 2023) (“DACA recipients like Mr. Valdovinos . . .”); *see also* Memorandum from Janet Napolitano, Sec’y of Homeland Sec., U.S. Dep’t of Homeland Sec., to David V. Aguilar, Acting Comm’r, U.S. Customs & Border Prot., *et al.* (June 15, 2012) [hereinafter Napolitano Memo], [Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children \(dhs.gov\)](#) (establishing DACA program).

consulting firm incorporated in Arizona.² La Machine states on its website that it provides services to political committees including “crafting campaign strategies,” providing “field operations” that “persuade, mobilize, and engage in meaningful dialogues” with voters, and creating “data-driven” digital organizing plans that “leverage[] technology and data to build winning campaign strategies.”³

Ruben Gallego is a member of the U.S. House of Representatives in Arizona’s Third District.⁴ Gallego first ran for U.S. House of Representatives in Arizona’s Seventh District in the 2014 election cycle;⁵ he represented that District from 2015 to 2023.⁶ The Gallego Committee is his authorized committee and has been since 2014.⁷

The Hodge Committee is the authorized committee of Jevin D. Hodge, a 2022 candidate for the U.S. House of Representatives in Arizona’s First District.⁸

² Home, LA MACHINE, <https://lamachineconsulting.com/> (last visited Apr. 2, 2024); *Our Team*, LA MACHINE, <https://lamachineconsulting.com/people-powered/> (last visited Apr. 2, 2024); *Entity Information: La Machine Consulting LLC*, ARIZ. CORP. COMM’N, <https://ecorp.azcc.gov/BusinessSearch/BusinessInfo?entityNumber=L19906342> (last visited Apr. 2, 2024).

³ *Our Services*, LA MACHINE, <https://lamachineconsulting.com/services/> (last visited Apr. 2, 2024).

⁴ *About*, RUBEN GALLEG0, <https://rubengallego.house.gov/about/about-ruben> (last visited Apr. 2, 2024).

⁵ Ruben Gallego, Statement of Candidacy (Mar. 1, 2014), <https://docquery.fec.gov/pdf/273/14031192273/14031192273.pdf>.

⁶ *Representative Ruben Gallego*, CONGRESS.GOV, <https://www.congress.gov/member/ruben-gallego/G000574> (last visited Apr. 2, 2024) (listing Gallego as serving in “Arizona, District 3[,] 118th [Congress] (2023-Present)” and “Arizona, District 7[,] 114th-117th [Congresses] (2015-2023)”).

⁷ Gallego for Arizona, Amended Statement of Organization at 2 (Aug. 21, 2023), <https://docquery.fec.gov/pdf/887/202308219596758887/202308219596758887.pdf>; Gallego for Congress, Statement of Organization at 2 (Mar. 3, 2014), <https://docquery.fec.gov/pdf/266/14031192266/14031192266.pdf>. At that time, the committee was named Gallego for Congress rather than Gallego for Arizona. *Id.*

⁸ Friends of Jevin D. Hodge, Amended Statement of Organization at 2 (Oct. 27, 2022), <https://docquery.fec.gov/pdf/386/202210289546612386/202210289546612386.pdf>.

ADP is a state party committee of the Democratic Party.⁹ DSCC is a national committee of the Democratic Party.¹⁰

B. Complaint

The Complaint alleges that Valdovinos is a foreign national, and that since 2014 he has violated the Act's foreign national prohibition in multiple ways.¹¹ First, the Complaint alleges that Valdovinos violated 52 U.S.C. § 30121(a) and 11 C.F.R. § 110.20(b), (c) by making \$600 in contributions to ADP and \$750 in contributions to the Hodge Committee from 2019 through 2022.¹²

The Complaint alleges that ADP knowingly accepted the prohibited contributions from Valdovinos.¹³ It notes that Valdovinos had worked with ADP in 2012 in connection with "Team Awesome," a group that included volunteers who would have been eligible for U.S. residency under the DREAM Act, which *ABC News* reported contemporaneously with that 2012 engagement.¹⁴ It further notes that ADP paid La Machine over \$5,000 for field services during the 2016 election cycle, "years before it accepted Valdovinos's contributions."¹⁵ The Complaint does not specifically allege that the Hodge Committee also had such knowledge.

⁹ Ariz. Democratic Party, Amended Statement of Organization at 2 (Nov. 28, 2023), <https://docquery.fec.gov/pdf/673/202311289599363673/202311289599363673.pdf>.

¹⁰ DSCC, Amended Statement of Organization at 2 (Oct. 10, 2023), <https://docquery.fec.gov/pdf/644/202310109597437644/202310109597437644.pdf>.

¹¹ Compl. at 2.

¹² *Id.* at 3.

¹³ Compl. at 10.

¹⁴ Compl. at 10 (citing *Team Awesome Is Giving Latinos a New Reason to Vote*, ABC NEWS (Oct. 25, 2012, 1:35 PM), https://abcnews.go.com/ABC_Univision/News/team-awesome-undocumented-activists-arizona-latino-voter-turnout/story?id=17563331).

¹⁵ *Id.*; see *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committeeid=C00166710&recipientname=La+Machine&data_type=processed&committee_id=C00166710&recipient_name=la+machine (last visited Apr. 2, 2024) (reflecting all disbursements by ADP to La Machine, totaling \$5,118).

Second, the Complaint alleges that Valdovinos violated 11 C.F.R. § 110.20(i) of the Commission’s regulations by participating in decisions involving election-related activities for the Gallego Committee and the DSCC individually and through La Machine.¹⁶ Between February 2016 and December 2022 (the date of the last such disbursement by either committee), the Gallego Committee and DSCC together paid La Machine \$947,032.66.¹⁷ The Complaint alleges that the work La Machine provided to both committees constituted impermissible participation in the decision-making processes of a political committee because voter canvassing was important to DSCC’s 2022 election strategy, and because La Machine advertises that one of the services it provides is “helping campaign make strategic decisions.”¹⁸ The Complaint does not address whether “petition signature gathering services,” the purpose of the Gallego Committee’s disbursements to La Machine remaining within the five-year statute of limitations, constitute prohibited involvement under § 110.20(i).¹⁹

Additionally, the Complaint alleges that Gallego and the Gallego Committee violated 52 U.S.C. § 30121 and 11 C.F.R. § 110.20(i) by permitting Valdovinos to participate in their decisions involving election-related activities knowing that he was a foreign national.²⁰ The Complaint does not state that DSCC had similar knowledge.

¹⁶ Compl. at 7-8.

¹⁷ *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00042366&committee_id=C00558627&recipient_name=la+machine (last visited Apr. 2, 2024) (reflecting all disbursements by the Gallego Committee and DSCC to La Machine). Of this amount, \$845,000 remains within the statute of limitations: \$135,000 from the Gallego Committee and \$710,000 from DSCC.

¹⁸ Compl. at 14-15.

¹⁹ The Complaint makes additional allegations from the 2014 election cycle that it concedes are beyond the statute of limitations. *Id.* at 5-9.

²⁰ Compl. at 3, 10, 14-15.

1 **C. Responses**

2 1. Alleged Contributions from Valdovinos to Political Committees

3 a. Contributions to ADP

4 Valdovinos and La Machine submitted a joint Response (the “Valdovinos Response”)
 5 generally denying the allegations.²¹ First, the Valdovinos Response states that the \$600 paid to
 6 ADP consisted of \$100 for tickets to attend a dinner hosted by ADP and \$500 to purchase a book
 7 at the event.²² The Valdovinos Response states that “Valdovinos did not recognize that these
 8 were contributions, and to the extent these were contributions rather than payments for goods
 9 received, it is not entirely clear at this time.”²³ The Valdovinos Response “urges the
 10 Commission to exercise its discretion and find no reason to believe further enforcement actions
 11 are called for based on these payments” because “[a]ny damage has been rectified,” “[a]ny
 12 violation was unintentional,” and “[t]he amount at issue is quite small.”²⁴

13 ADP “acknowledges that it received these contributions,” but denies that it had notice at
 14 the time of the contributions that Valdovinos was a foreign national.²⁵ Its Response states that
 15 the \$500 contribution was received via ActBlue, and that, accordingly, Valdovinos would have
 16 had to attest that he was a “U.S. citizen or lawfully admitted permanent resident,” and that,
 17 accordingly, neither ActBlue nor ADP had reason to suspect that Valdovinos was a foreign
 18 national.²⁶ It further states that the \$100 contribution was made in cash “for the purchase of an

²¹ Valdovinos & La Machine Resp. at 1 (Nov. 21, 2023) [hereinafter Valdovinos Resp.].

²² *Id.* at 2.

²³ *Id.*

²⁴ *Id.* at 4.

²⁵ ADP Resp. at 1 (Nov. 16, 2023).

²⁶ *Id.* at 2.

1 item at a fundraising event,” and attaches a copy of the donor card Valdovinos filled out at the
 2 time of the cash contribution.²⁷ ADP denies that its payment to La Machine for services years
 3 prior to the contribution indicates that it knew or should have known that Valdovinos was a
 4 foreign national, arguing that “determining the legality of a contribution is limited to the four
 5 corners of the contribution and other information available to those processing the contribution
 6 on behalf of the ADP.”²⁸ ADP sent the Commission a check made payable to the United States
 7 Treasury disgorging the \$600 it received from Valdovinos in 2019.²⁹

8 b. Recurring Contributions to the Hodge Committee

9 The Valdovinos Response states that the \$750 in contributions to the Hodge Committee,
 10 given as a \$50 per month recurring contribution, were actually made by Valdovinos’s former
 11 roommate, and that Valdovinos “did not make these contributions.”³⁰ In support of that claim,
 12 the Valdovinos Response states that “Valdovinos did not authorize a recurring contribution” to
 13 the Hodge Committee, “the credit card number on file is not Mr. Valdovinos’s credit card,” and
 14 “[t]he email address on the ActBlue contribution is that of” an individual who was living with
 15 Valdovinos at the time of the contributions.³¹ The Valdovinos Response does not state why the

²⁷ *Id.*; *id.*, Attach. 2. Though the ADP Response states that “[t]he address [Valdovinos provided] on the donor form is a United States address,” the address line on the donor card attached to the ADP Response is blank. The phone number provided on the card begins with 602, an area code associated with Phoenix, Arizona. *See All About Area Codes Answers to Common Questions*, ARIZ. CORP. COMM’N, <https://www.azcc.gov/utilities/telephone/all-about-area-codes> (last visited Apr. 2, 2024) (“The 602 [area code] . . . serves the majority of the City of Phoenix as well as, but not limited to, a portion of the City of Glendale, and the communities of Cave Creek and Ahwatukee.”).

²⁸ ADP Resp. at 2.

²⁹ *Id.* at 1. Though the Response indicates that ADP enclosed the check with its Response, the Commission actually received the check on January 24, 2024.

³⁰ Valdovinos Resp. at 2.

³¹ *Id.*

1 former roommate may have made the recurring contribution in Valdovinos’s name, nor does it
2 address whether he was aware of his former roommate making the contribution in his name.

3 The Hodge Committee submitted a Response stating that, “[b]efore receiving the
4 [C]omplaint, [the treasurer] was not aware of any issue with the contributions listed in the
5 [C]omplaint.”³² The Hodge Committee states that it reached out to Valdovinos by email and that
6 he replied that “[t]he contributions were officially made by [my former roommate] at the time
7 she was living at my address. The visa number is from [her] personal funds. I never donated to
8 Jevin’s 2022 congressional efforts.”³³ Additionally, Valdovinos copied the former roommate on
9 his email response.³⁴ The Hodge Committee Response states that contributors to the Hodge
10 Committee who made their contributions via ActBlue, as was the case with the \$50 recurring
11 contributions at issue, were required to agree to terms including that “[t]his contribution is made
12 from my own funds, and funds are not being provided to me by another person or entity for the
13 purpose of making this contribution” and that the contributor is “a U.S. citizen or lawfully
14 admitted permanent resident.”³⁵

15 2. Alleged Violations Via Work for Political Committees

16 The Valdovinos Response states that La Machine’s work for political committees is “not
17 the sort of service” that involves “directing or controlling the decision-making process for the
18 campaign such that it would violate” the Act.³⁶ The Valdovinos Response states that the

³² Hodge Comm. Resp. at 1 (Nov. 8, 2023).

³³ *Id.* at 2. Based on his response, it appears that the Hodge Committee provided Valdovinos with the same ActBlue contribution information it includes in its Response.

³⁴ *Id.*

³⁵ *Id.* at 2.

³⁶ Valdovinos Resp. at 4.

1 prohibition “require[s] that the foreign national participated in the [campaign’s] decision
 2 making,” which “occurs when the foreign national is ‘embedded into the client political
 3 committees.’”³⁷ Valdovinos attests that La Machine’s services are not “general consulting or
 4 campaign management,” but rather “field canvassing services” which are provided “to meet
 5 [clients’] needs” and that La Machine does “not assist in the ultimate decision[-]making process”
 6 regarding whether to use La Machine’s services or not.³⁸

7 Per Valdovinos’s declaration, line items associated with these services include
 8 recruitment and vetting, taxes and payroll administration, canvasser and team lead pay/stipends,
 9 payments for “Director” and “Data & Reporting Managers,” equipment and hardware, printing
 10 and materials, management fees, staging location rental, “Overall Administration,” travel
 11 expenses/fuel, and training costs.³⁹ Valdovinos attests that La Machine provides “other
 12 services . . . of the same nature that are “client[-]driven wherein [La Machine] respond[s] to the
 13 client’s direction.”⁴⁰ Valdovinos quotes the La Machine website as stating that La Machine
 14 provides “digital, phone, and field-based strategies . . . with . . . robust multi-lingual capabilities”
 15 that give La Machine “a distinctive edge in accessing and mobilizing Arizona’s burgeoning,
 16 diverse population.”⁴¹

17 Ruben Gallego and the Gallego Committee submitted a joint Response (the “Gallego
 18 Response”) in which they deny the allegations,⁴² and to which they attach a sworn declaration

³⁷ *Id.* at 6 (quoting First Gen. Counsel’s Rpt. at 9, MUR 7587 (Bernard Sanders, *et al.*)).

³⁸ *Id.*, attach. ¶¶ 6-7 (Decl. of Antonio Valdovinos) [hereinafter Valdovinos Decl.].

³⁹ Valdovinos Decl. ¶ 7.

⁴⁰ *Id.* ¶ 10.

⁴¹ *Id.* ¶ 11 (quoting LA MACHINE, <https://lamachineconsulting.com/> (last visited Apr. 2, 2024)).

⁴² Ruben Gallego & Gallego Comm. Resp. at 2 (Oct. 23, 2023) [hereinafter Gallego Resp.].

1 from the Gallego Committee’s campaign manager, Jonathan Larkin.⁴³ In his declaration, Larkin
 2 attests that the Gallego Committee “compensated La Machine at the fair market rate for the
 3 services it rendered.”⁴⁴ Further, Larkin swears that:

4 La Machine’s role for the Campaign was to conduct signature
 5 gathering and limited outreach to voters. As a vendor, La Machine
 6 at all times acted at the direction of the Campaign and was not
 7 responsible for developing strategy or making decisions regarding
 8 how the Campaign would reach out to voters, the message that
 9 voters would receive, or what Campaign resources would be
 10 devoted to those efforts. Neither La Machine nor Mr. Valdovinos
 11 was involved in decision-making processes with regard to the
 12 Campaign’s election-related activities.

13 Neither La Machine nor Mr. Valdovinos were involved in directing
 14 contributions, expenditures, or disbursements for the Campaign.⁴⁵

15 DSCC also submitted a Response denying the allegations.⁴⁶ DSCC states that, during the
 16 2022 election cycle, it implemented an “extensive canvassing program in battleground Senate
 17 states across the country,” and that, to effectuate the canvassing program, it hired a third-party
 18 vendor “to supervise and manage” other canvassing firms hired by DSCC, including La
 19 Machine.⁴⁷ The DSCC Response attaches its contract with La Machine, which indicates that La
 20 Machine “was responsible for recruiting, vetting, hiring and training the individual paid
 21 canvassers who knocked doors” as part of the canvassing program in Arizona and Georgia.⁴⁸
 22 The DSCC Response states that “La Machine’s role was limited to practical, administrative
 23 execution” of the canvassing program in this area, and that La Machine “did not participate or

⁴³ *Id.*, attach. (Decl. of Johnathan Larkin) [hereinafter Larkin Decl.].

⁴⁴ Larkin Decl. ¶ 5.

⁴⁵ *Id.* ¶¶ 6-7.

⁴⁶ DSCC Resp. (Nov. 24, 2023).

⁴⁷ *Id.* at 1-2.

⁴⁸ *Id.* at 2; *id.*, Ex. A.

1 otherwise join any of [DSCC's] strategic meetings.”⁴⁹ Specifically, DSCC states that “La
 2 Machine's services did not in any way involve participation in the management or
 3 administration” of DSCC, nor did it “participate in decisions regarding [DSCC] contributions or
 4 expenditures,” nor did DSCC “engage[] or rel[y] upon La Machine or Antonio Valdovinos to
 5 provide strategic advice.”⁵⁰

6 **III. LEGAL Analysis**

7 **A. Relevant Law**

8 The Act and Commission regulations prohibit any “foreign national” from directly or
 9 indirectly making a contribution or donation of money or other thing of value or an expenditure,
 10 or disbursement in connection with a federal, state, or local election.⁵¹ The definition of
 11 “contribution” includes “[t]he entire amount paid to attend a fundraiser or other political event
 12 and the entire amount paid as the purchase price for a fundraising item sold by a political
 13 committee.”⁵² The Act's definition of “foreign national” includes an individual who is not a
 14 citizen or national of the United States and who is not lawfully admitted for permanent
 15 residence.⁵³

16 In 2012, under the DACA program, certain individuals born outside the United States but
 17 brought to the United States as children, among other criteria, were granted a reprieve from the

⁴⁹ DSCC Resp. at 2-3.

⁵⁰ *Id.* at 4.

⁵¹ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.20(b), (c). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over the activities and processes that are integral to democratic self-government, which include making political contributions and express-advocacy expenditures. *See Bluman v. FEC*, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011), *aff'd* 132 S. Ct. 1087 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

⁵² 11 C.F.R. § 100.53.

⁵³ 52 U.S.C. § 30121(b); *see also* 11 C.F.R. § 110.20(a)(3).

1 enforcement of immigration laws in an exercise of prosecutorial discretion.⁵⁴ In the memo
 2 establishing the policy, then-Department of Homeland Security Secretary Janet Napolitano stated
 3 that the policy conferred “no substantive right, immigration status or pathway to citizenship.”⁵⁵
 4 In 2021, the Commission found in MUR 7712 (Tom Steyer 2020, *et al.*) that DACA recipients,
 5 including, specifically, Valdovinos, who was a respondent in that matter, constitute foreign
 6 nationals under the Act because DACA does not confer citizenship, lawful permanent residence,
 7 or any other immigration status.⁵⁶ In 2022, the Commission conciliated MUR 7587, in which
 8 Bernard Sanders and his 2016 and 2020 authorized committees agreed to pay a civil penalty of
 9 \$15,000 in connection with hiring three DACA recipients to roles with decision-making
 10 authority within those committees between 2015 and 2019.⁵⁷

11 The Act states that it shall be unlawful for any person to solicit, accept, or receive a
 12 contribution or donation from a foreign national.⁵⁸ The Commission regulations, in turn, provide
 13 that a violation occurs only when a person “knowingly” solicits, accepts, or receives a
 14 contribution or donation from a foreign national.⁵⁹ In defining “knowingly,” the regulations
 15 state that the recipient must have either “actual knowledge” that the person being solicited is a
 16 foreign national, “[b]e aware of facts that would lead a reasonable person to conclude that there
 17 is a substantial probability that the source of the funds” is a foreign national, or “[b]e aware of
 18 facts that would lead a reasonable person to inquire whether the source of the funds . . . is a

⁵⁴ See Napolitano Memo.

⁵⁵ *Id.* DACA recipients are eligible for work authorization. *Id.* at 3.

⁵⁶ Factual & Legal Analysis (“F&LA”) at 6, MUR 7712 (Antonio Valdovinos) (internal citations omitted); Closing Letter at 1 (Apr. 19, 2021), MUR 7712 (Antonio Valdovinos) (attaching F&LA).

⁵⁷ Conciliation Agreement ¶¶ IV.4-14, VI.2, MUR 7587 (Bernard Sanders, *et al.*).

⁵⁸ 52 U.S.C. § 30121(a)(2).

⁵⁹ 11 C.F.R. § 110.20(g); *see also* 52 U.S.C. § 30121(a)(2).

foreign national,” but fail to “conduct a reasonable inquiry.”⁶⁰ Thus, the recipient does not need to know for certain that the source of the contribution is a foreign national.

B. The Commission Dismisses as an Exercise of Prosecutorial Discretion the Allegations that Valdovinos Made, and ADP and the Hodge Committee Knowingly Accepted, Prohibited Contributions

In his Response, Valdovinos acknowledges making payments of \$100 and \$500 to ADP in October 2019 to pay for attendance at a party event and to purchase a book.⁶¹ As explained above, payments for attendance at a fundraiser or political event and payments for fundraising items sold by a political committee are contributions.⁶² Further, Valdovinos attests that he did not make the \$750 in contributions to the Hodge Committee, but rather his roommate made the contributions in his name.⁶³

Nevertheless, due to the low amount in violation, the Commission dismisses as an exercise of prosecutorial discretion the allegations that Valdovinos violated 52 U.S.C. § 30121(a)(1) and 11 C.F.R. § 110.20(c) by making, and ADP and the Hodge Committee

⁶⁰ 11 C.F.R. § 110.20(a)(4). Pertinent facts include, but are not limited to: the contributor uses a foreign passport or provides a foreign address; the contribution is made via a foreign bank; or the contributor resides abroad. *Id.* § 11.20(a)(5).

⁶¹ Valdovinos Resp. at 2; Valdovinos Decl. ¶ 4. As noted above, though ADP and Valdovinos disagree as to which payment related to the book purchase and which to the ticket purchase, the two Responses otherwise appear to agree on the timing and amount of the contributions at issue.

⁶² 11 C.F.R. § 100.53.

⁶³ The Commission notes that this admission raises issues under the Act’s prohibition on contributions made in the name of another, but declines to pursue it for the same reasons set forth below. *See* 52 U.S.C. § 30122.

violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by accepting, prohibited contributions.⁶⁴

C. The Commission Dismisses the Allegations that Gallego, the Gallego Committee, and DSCC Violated the Act by Engaging Valdovinos and La Machine, and Dismisses the Allegations that Valdovinos and La Machine Violated the Act Via Services Provided to Those Committees

Commission regulations provide:

A foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person, such as a corporation, labor organization, political committee, or political organization with regard to such person’s Federal or non-Federal election-related activities, such as decisions concerning the making of contributions, donations, expenditures, or disbursements . . . or decisions concerning the administration of a political committee.⁶⁵

The Commission has explained that this provision also bars foreign nationals from “involvement in the management of a political committee.”⁶⁶ Commission regulations permit any person or company — foreign or domestic — to provide goods or services to a political committee if that person or company does so as a “commercial vendor,” *i.e.*, in the ordinary course of business, and at the usual and normal charge, as long as foreign nationals do not directly or indirectly

⁶⁴ See *Heckler v. Chaney*, 470 U.S. 821 (1985); see also F&LA at 2, MUR 7713 (Thomas R. Mills, *et al.*) (dismissing as a matter of prosecutorial discretion with admonishment where the prohibited foreign national contribution was \$100); Second Gen. Counsel’s Rpt. at 13, MUR 7320 (Libertarian Party of Miami Dade, *et al.*) (recommending that the Commission take no further action and close the matter “[i]n light of the amount of the contributions involved” (totaling \$143.88)); Certification ¶ 2, MUR 7320 (voting to take no further action); see also F&LA at 7, MUR 7737 (Trump Victory) (dismissing a matter involving a \$1,000 foreign national contribution made in exchange for a ticket to a lunch event in part “because the potential amount in violation . . . is \$1,000” and because the available information was unclear as to whether the foreign national or her U.S. citizen spouse had made the contribution).

⁶⁵ 11 C.F.R. § 110.20(i).

⁶⁶ Contribution Limits and Prohibitions, 67 Fed. Reg. 69,928, 69,946 (Nov. 19, 2002); see also Advisory Opinion 2004-26 at 2-3 (Weller) (noting that the foreign national prohibition at section 110.20(i) is broad and concluding that, while a foreign national fiancée of the candidate could participate in committees’ activities as a volunteer without making a prohibited contribution, she “must not participate in [the candidate’s] decisions regarding his campaign activities” and “must refrain from managing or participating in the decisions of the Committees”).

1 participate in any committee’s management or decision-making process in connection with its
 2 election-related activities.⁶⁷ For example, in MUR 5998, the Commission found that the foreign
 3 national owners of a venue did not make or facilitate a contribution to a political committee by
 4 allowing the committee to rent the venue for a fundraising event where the venue at issue was
 5 rented out for events in the ordinary course of business, and the owners charged the committee
 6 the usual and normal amount for the service.⁶⁸ The Commission noted that there was no
 7 available information to suggest — and the foreign nationals and political committee expressly
 8 denied — that the foreign nationals had any “decision-making role in the event.”⁶⁹

9 The Commission has found that not all participation by foreign nationals in the election-
 10 related activities of others will violate the Act. In MUR 6959, for example, the Commission
 11 found no reason to believe that a foreign national violated 52 U.S.C. § 30121(a) by performing
 12 clerical duties, such as online research and translations, during a one-month-long internship with
 13 a party committee.⁷⁰ Similarly, in MURs 5987, 5995, 6015, the Commission found no reason to
 14 believe that a foreign national violated 52 U.S.C. § 30121 by volunteering his services to
 15 perform at a campaign fundraiser and agreeing to let the political committee use his name and

⁶⁷ 11 C.F.R. § 114.2(f)(1); *see id.* § 116.l(c) (defining “commercial vendor” as “any persons providing goods or services to a candidate or political committee whose usual and normal business involves the sale, rental, lease or provision of those goods or services”). The Act defines a contribution to include “anything of value,” which in turn includes all “in-kind contributions,” such as “the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services.” *Id.* § 100.52(d)(1); *see* 52 U.S.C. § 30101(8). Accordingly, goods or services provided at the usual and normal charge do not constitute a contribution under the Act.

⁶⁸ F&LA at 4-6, MUR 5998 (Lord Jacob Rothschild).

⁶⁹ *Id.* at 5.

⁷⁰ F&LA at 4-5, MUR 6959 (Cindy Nava) (noting that the available information, which was based on two press reports that did not detail the foreign national’s activities, did not indicate that the foreign national participated in any political committee’s decision-making process). The Commission also found that a \$3,000 stipend that the foreign national received from third parties resulted in an in-kind contribution from the third parties to the committee, but the value of the foreign national volunteer’s services to the committee was not a contribution. *Id.* (citing 52 U.S.C. § 30101(8)(A)(ii); 11 C.F.R. § 100.54; Advisory Opinion 1982-04 (Apodaca)).

1 likeness in its emails promoting the concert and soliciting support, where the record did not
2 indicate that the foreign national had been involved in the committee's decision-making process
3 in connection with the making of contributions, donations, expenditures, or disbursements.⁷¹ In
4 Advisory Opinion 2004-26 (Weller), the Commission advised that a candidate's foreign-national
5 fiancée could "attend [c]ommittee events," "solicit funds from persons who are not foreign
6 nationals," "give speeches at [c]ommittee events" and "attend meetings" with the candidate and
7 committee personnel, as an uncompensated volunteer without making a prohibited contribution,
8 so long as she "refrain[ed] from managing or participating in the decisions of the
9 [c]ommittees."⁷²

10 By contrast, the Commission has found a violation where individuals participated in the
11 decision-making processes of several political committees in connection with election-related
12 activities through a commercial vendor.⁷³ In those matters the Commission concluded that "[b]y
13 providing strategic advice to committees on both the content and target audience for their
14 campaign communications, [the Respondent] may have helped shape political committees'
15 election-related spending decisions."⁷⁴

16 Here, the available information does not suggest that Valdovinos or La Machine
17 participated in the decision-making processes in connection with election related activities. The
18 Complaint describes La Machine's branding and marketing efforts as "touting its capability to

⁷¹ F&LA at 6-9, MURs 5987, 5995, 6015 (Sir Elton John); *see also* F&LA at 5, MUR 5998 (Lord Jacob Rothschild); Advisory Opinion 2004-26 (Weller).

⁷² Advisory Opinion 2004-26 at 3 (Weller).

⁷³ *See* F&LA at 10-13, MURs 7350, 7351 (Wylie); *see also* F&LA at 10-13, MURs 7350, 7351, 7382 (Cambridge Analytica, *et al.*).

⁷⁴ F&LA at 11, MURs 7350, 7351 (Wylie).

develop a campaign field strategy.”⁷⁵ The Complaint emphasizes that La Machine advertises itself as a “complete political operation firm” including offering “one-on-one coaching geared toward developing a field-organizing plan and budget based on a strategic analysis of objectives, resources, timeline, and demographics.”⁷⁶

However, the Complaint does not allege that La Machine provided these specific services to either the Gallego Committee or DSCC. Instead, the Complaint points to the purposes of the disbursements that the committees paid to La Machine and characterizes them as “petition signature gathering services” and “get-out-the-vote and field services.”⁷⁷

Both the Gallego Committee and DSCC expressly deny that Valdovinos performed any services that involved developing strategy or making decisions about the committees’ political activities. In support, the Gallego Committee campaign manager attests:

La Machine’s role for the Campaign was to conduct signature gathering and limited outreach to voters. As a vendor, La Machine at all times acted at the direction of the Campaign and was not responsible for developing strategy or making decisions regarding how the Campaign would reach out to voters, the message that voters would receive, or what Campaign resources would be devoted to those efforts. Neither La Machine nor Mr. Valdovinos was involved in decision-making processes with regard to the Campaign’s election-related activities.⁷⁸

DSCC states that it hired La Machine to “serve as one of the Committee’s many paid canvassing firms” and appended its contract with La Machine to its Response.⁷⁹ The contract,

⁷⁵ Compl. at 6.

⁷⁶ *Id.* at 5 (quoting La Machine, *About*, FACEBOOK, <https://www.facebook.com/LaMachineConsulting/about/> (last visited Apr. 2, 2024)).

⁷⁷ Compl. at 7. This accounts for all of the \$135,000 that the Gallego Committee paid (reported as “petition signature gathering services”) and all of the \$710,000 that the DSCC paid (reported as “voter canvassing”) to La Machine remaining within the statute of limitations.

⁷⁸ Larkin Decl. ¶ 6.

⁷⁹ DSCC Resp. at 2; *id.*, Ex. A.

1 entitled “Paid Canvassing Agreement,” is limited to paid canvassing services, including
2 recruiting, supervising, training, and compensating canvassers; providing DSCC with data and
3 reports as requested; and performing “necessary administrative functions related to the [s]ervices
4 rendered.”⁸⁰ DSCC describes the services provided by La Machine as “highly administrative in
5 nature,” and that DSCC “set the target audience, crafted the messaging and provided the printed
6 literature and oral scripts to La Machine,” which “simply took these inputs and executed
7 [DSCC’s] plans by obtaining and mobilizing the necessary infrastructure to knock on doors,
8 nothing more.”⁸¹ La Machine and Valdovinos also deny that they participated in decision-
9 making at either committee, stating that La Machine was “not imbedded in these client
10 organizations” and that it “was not privy to budget decisions or management of the campaigns[’]
11 funds.”⁸²

12 In sum, Respondents persuasively rebut the Complaint’s allegations with sworn
13 statements and documentary evidence. Therefore, the Commission dismisses the allegation that
14 Valdovinos and La Machine violated 52 U.S.C. § 30121(a)(1) and 11 C.F.R. § 110.20(i) by
15 participating in the decision-making processes of the Gallego Committee and DSCC. The
16 Commission also dismisses the allegation that Gallego, the Gallego Committee, and DSCC
17 violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(i) by using La Machine as a vendor.

⁸⁰ DSCC Resp., Ex. A ¶ 1.

⁸¹ DSCC Resp. at 5.

⁸² Valdovinos Resp. at 2; *see* Valdovinos Decl. ¶ 6.