



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 6, 2024

VIA EMAIL

amaltbie@nossaman.com

Amber Maltbie, Esq.
William A. Powers, Esq.
Nossaman LLP
777 South Figueroa Street
34th Floor
Los Angeles, CA 90017

RE: MUR 8188
Susan Rubio
Susan Rubio for Congress and
Denise Lewis in her official
capacity as treasurer
Susan Rubio for Senate 2026

Dear Ms. Maltbie and Mr. Powers:

On December 1, 2023, the Federal Election Commission notified your clients, Susan Rubio, Susan Rubio for Congress and Denise Lewis in her official capacity as treasurer (the “Federal Committee”), and Susan Rubio for Senate 2026 (the “State Committee”), of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On November 6, 2024, the Commission, on the basis of the information in the Complaint and the Response, dismissed the allegation that Susan Rubio, the Federal Committee and the State Committee violated 52 U.S.C. §§ 30125(e)(1)(A)-(B). Accordingly, the Commission voted to close its file in this matter effective December 6, 2024.

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). Any applicable Factual and Legal Analysis or Statements of Reasons available at the time of this letter’s transmittal are enclosed.

If you have any questions, please contact Camilla Jackson Jones, the attorney assigned to this matter, at (202) 694-1507 or cjacksonjones@fec.gov.

Sincerely,
Wanda D. Brown

Wanda D. Brown
Assistant General Counsel

BEFORE THE FEDERAL ELECTION COMMISSION

ENFORCEMENT PRIORITY SYSTEM

DISMISSAL REPORT

MUR 8188

Respondents: Susan Rubio
Susan Rubio for Congress and Denise
Lewis in her official capacity as
treasurer
Susan Rubio for Senate 2026

Complaint Receipt Date: Nov. 29, 2023

Response Date: Jan. 31, 2024

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Alleged Statutory and Regulatory Violations: 52 U.S.C. §§ 30101(22), 30125(e)
11 C.F.R. §§ 100.26, 110.3(d), 300.2(c), 300.61, 300.62,
300.63

The Complaint alleges that 2024 candidate in California’s 31st Congressional District and California State Senator Susan Rubio, her state committee Susan Rubio for Senate 2026 (the “State Committee”), and her principal campaign committee, Susan Rubio for Congress and Denise Lewis as treasurer (the “Federal Committee”),¹ violated the Federal Election Campaign Act of 1971, as amended (the “Act”), when the State Committee produced and disseminated a mailer that included a QR Code which linked to the Federal Committee’s website.² The Complaint raises allegations that the State Committee made an impermissible in-kind contribution to the Federal Committee using nonfederal funds; the State Committee made a prohibited transfer to the Federal Committee; and the Federal Committee failed to properly report the contribution.³ The mailer, which is attached to the Complaint, consists of a newsletter titled “The Susan Rubio Report: Legislative Update” and contains descriptions of initiatives by Rubio as State Senator, her positions on certain issues, and

¹ Susan Rubio Statement of Candidacy (July 11, 2023), <https://docquery.fec.gov/pdf/648/202307110300444648/202307110300444648.pdf>; Susan Rubio for Congress Statement of Organization (July 26, 2023), <https://docquery.fec.gov/pdf/554/202307269584050554/202307269584050554.pdf>.

² Compl. at 2 (Nov. 29, 2023).

³ *Id.* at 2-3.

MUR 8188 (Susan Rubio for Congress, *et al.*)
EPS Dismissal Report
Page 2 of 3

1 biographical information about Rubio, along with the aforementioned QR Code.⁴ During the period
2 in question, the State Committee spent approximately \$36,500 on campaign literature and mailings,
3 including postage, delivery, and messenger services.⁵

4 Respondents filed a joint Response denying the allegations and arguing that the mailer is
5 covered by 52 U.S.C. § 30125(e)(2), which exempts spending of non-federal funds by a state
6 candidate when the funds are spent solely in connection with their election for state office if the
7 spending of funds is permitted under state law and refers only to such state candidate.⁶ Further, the
8 Response states that the mailer is not “in connection with” a federal election because it is of the type
9 that state officeholders routinely send to their constituents, Rubio sent her monthly “Rubio Report”
10 mailers prior to becoming a federal candidate, Rubio only sent the mailer within her state district,
11 and it only mentioned her state legislative accomplishments.⁷ While the Response admits that the
12 QR Code contained a link to the Federal Committee’s website, it asserts that the link was
13 inadvertently included on one issue of the newsletter by the State Committee’s consultant who
14 produced the mailer and that the value of the link was *de minimis*.⁸

15 Based on its experience and expertise, the Commission has established an Enforcement
16 Priority System using formal, pre-determined scoring criteria to allocate agency resources and
17 assess whether particular matters warrant further administrative enforcement proceedings. These
18 criteria include (1) the gravity of the alleged violation, taking into account both the type of activity
19 and the amount in violation; (2) the apparent impact the alleged violation may have had on the

⁴ *Id.*, Attach.

⁵ California Secretary of State, Cal-Access Campaign Finance database, <https://cal-access.sos.ca.gov/Campaign/Committees/Detail.aspx?id=1456613&view=expenditures&session=2023>.

⁶ Resp. at 2 (May 23, 2024).

⁷ *Id.* at 2-3.

⁸ *Id.* at 3 and Attach. A (sworn declaration from the consultant stating that while they inadvertently included the QR code in the newsletter as an oversight).

1 electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in
 2 potential violations and other developments in the law. This matter is rated as low priority for
 3 Commission action after application of these pre-established criteria. Given that low rating, we
 4 recommend that the Commission dismiss the Complaint, consistent with the Commission's
 5 prosecutorial discretion to determine the proper ordering of its priorities and use of agency
 6 resources.⁹ We also recommend that the Commission close the file as to all Respondents effective
 7 30 days after the date of certification of this vote is signed (or on the next business day after the
 8 30th day, if the 30th day falls on a weekend or holiday) and send the appropriate letters.

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 10 Lisa J. Stevenson
 11 Acting General Counsel

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 14
 15 October 23, 2024

16 Date

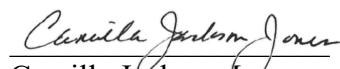
BY:



 Claudio J. Pavia
 Deputy Associate General Counsel



 Wanda Brown
 Assistant General Counsel



 Camilla Jackson Jones
 Attorney

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⁹ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).