

**BEFORE THE
FEDERAL ELECTION COMMISSION**

Tiffany Muller
End Citizens United
100 M St. SE
Washington, D.C. 20003

Complainant,

v.

No Labels
1130 Connecticut Ave. NW, Suite 325
Washington, D.C. 20036

Respondent.

COMPLAINT

This complaint is filed under 52 U.S.C. § 30109(a)(1) against No Labels (the “Respondent”) for apparent violations of the Federal Election Campaign Act of 1971, as amended (the “Act”), and Federal Election Commission (the “Commission” or “FEC”) regulations. In late 2021, No Labels began a massive new project to secure nationwide ballot access for a third-party presidential ticket with the stated goal of ensuring neither Joe Biden nor Donald Trump win the 2024 presidential election. Since the dawn of this project, No Labels has focused almost exclusively on federal election campaign activity in opposition to two clearly identified federal candidates and additionally appears to have met the \$1,000 expenditure threshold for political committee status. To date, however, No Labels has refused to register as a political committee, brazenly asserting it intends to shield its donors from public disclosure.¹

By failing to organize, register, and report as a political committee, No Labels appears to violate the Act and Commission regulations at 52 U.S.C. §§ 30101-30104 and 11 C.F.R. §§ 100.5, 102.1(d), 102.7, and 104.1. Through its evident evasion of the Act’s disclosure mechanisms, No Labels prevents the American people from assessing its political speech in light of its funders’ identities. This is exactly the type of harm that Congress aimed to prevent in passing the Act, as “[r]equiring people to stand up in public for their political acts fosters civic courage, without which democracy is doomed.”² We request

¹ NO LABELS, UNITY TICKET 2024 FAQs, <https://www.nolabels.org/unity-ticket-faqs> (“We have thousands of individual donors from across the country and across the political spectrum. . . . But we never release the names of our supporters because it is essential to protect their privacy.”).

² *Doe No. 1 v. Reed*, 561 U.S. 186, 219 (2010) (Scalia, J., concurring) (“There are laws against threats and intimidation; and harsh criticism, short of unlawful action, is a price our people have traditionally been willing to pay for self-governance. Requiring people to stand up in public for their political acts fosters civic courage, without which democracy is doomed.”).

that the Commission find reason to believe No Labels has violated the Act and the FEC’s regulations, open an investigation, and take appropriate remedial action against the Respondent.

FACTS

No Labels is a nonprofit corporation organized under section 501(c)(4) of the Internal Revenue Code, incorporated in 2009.³ No Labels states it was formed as a reaction to the Tea Party movement,⁴ and, at its formation, its purpose was to get the government to “stop fighting and start fixing.”⁵ In the organization’s early years, No Labels developed the “Problem Solvers Caucus” in the U.S. House of Representatives and gathered a similarly bipartisan group of members from the U.S. Senate to foster moderate policy solutions in Congress.⁶

No Labels is no longer actively involved in the Problem Solvers Caucus as the caucus is now an officially recognized, “formal, member-driven” body in the U.S. House.⁷ Indeed, No Labels clearly states that “No Labels and the Problem Solvers Caucus are separate entities.”⁸

No Labels’ current work appears to focus only on election activity. The organization is helping its endorsed candidates win federal elections,⁹ and is working on a large-scale third-party ballot access and nomination effort for the 2024 presidential election.

No Labels endorses and electorally supports candidates for federal election by “mobiliz[ing] [the organization’s] entire nationwide community to support them in their campaigns.”¹⁰ In 2014, No Labels “work[ed] to assist [Cory] Gardner’s ground game in Colorado”¹¹ making independent expenditures of close to \$4,000 for door hangers, palm cards, placards, and stickers in support of Gardner’s campaign for

³ IRS, *Results for Tax Exempt Organization Search (EIN:27-1432208)*, <https://apps.irs.gov/app/eos/allSearch>; DC.GOV, CORP ONLINE, NO LABELS, FILE NO. 296335.

⁴ Mariana Alfaro, *What is the No Labels Political Group, and What is it Trying to Do?*, WASH. POST (July 14, 2023, 11:25 A.M. ET), <https://www.washingtonpost.com/politics/2023/07/14/no-labels-presidential-election-2024>.

⁵ NO LABELS, ABOUT US, <https://www.nolabels.org/about-us>; IRS Form 990 (2022), No Labels, EIN: 27-1432208, accessible at: <https://projects.propublica.org/nonprofits/organizations/271432208/202302869349302260/full> [hereinafter “2022 IRS Form 990”].

⁶ NO LABELS, PROBLEM SOLVERS CAUCUS, <https://www.nolabels.org/problem-solvers-caucus> [hereinafter “NO LABELS, PROBLEM SOLVERS CAUCUS”].

⁷ NO LABELS, UNITY TICKET 2024 FAQs, <https://www.nolabels.org/unity-ticket-faqs> [hereinafter “NO LABELS, UNITY TICKET FAQs”].

⁸ *Id.*

⁹ An email from No Labels to its supporters even directly solicits contributions for the organization’s endorsed candidates, stating: “[w]ould you consider a contribution to the [Josh] Gottheimer and [Brian] Fitzpatrick reelection campaigns? They’re the voice for the commonsense majority in Congress, and we need to show them they have our full support.” E-mail from No Labels (Oct. 2, 2023).

¹⁰ NO LABELS, THE BICAMERAL, <https://www.nolabels.org/the-bicameral> [hereinafter “NO LABELS, BICAMERAL”]; NO LABELS, PROBLEM SOLVERS CAUCUS.

¹¹ Burgess Everett, *Manchin Quits Centrist No Labels*, POLITICO (Nov. 11, 2014, 11:55 A.M. ET), <https://www.politico.com/story/2014/11/joe-manchin-no-labels-112683>.

U.S. Senate.¹² The same election cycle, No Labels additionally reported independent expenditures of close to \$2,000 for door hangers, palm cards, placards, and stickers in support of its endorsed candidate, Ami Bera.¹³ No Labels also reportedly covered travel costs for its volunteers to assist with get-out-the-vote and voter turnout operations that cycle.¹⁴

During the 2018 election cycle, No Labels reported over \$20,000 in independent expenditures for a texting campaign, door hangers, and literature in support of Dan Lipinski, the group's endorsed candidate for congress in Illinois.¹⁵

No Labels also makes direct contributions to, and appears to bundle contributions for, its endorsed candidates.¹⁶ Describing these efforts, No Labels President Nancy Jacobson remarked in a call with donors in 2021, "the truth is, there's no other group in the center that's putting the hard dollars together. . . . I would be hard-pressed to think of any other group that can raise that sort of money. Our hope is at least \$20 million over the cycle with this group [of No Labels' endorsed candidates], and hopefully keep doubling it as we go."¹⁷ After Nancy Jacobson spoke on the call, Andy Bursky, a member of No Labels' board of directors, stated: "I will tell you that I participated in the last cycle when we handed out checks to a number of our members of the House in the range of \$50,000."¹⁸

In late 2021, No Labels "launched an ambitious new project to secure nationwide ballot access to enable the potential nomination of an independent Unity Ticket in 2024."¹⁹ On its public website, No Labels states it is "only doing ballot access work for one office and one election."²⁰ Nancy Jacobson, President of No Labels, described the organization's work as "building the infrastructure so that a ballot could be available or offered to a ticket."²¹ The organization's public materials, directed at those who

¹² Fed. Election Comm'n, No Labels, Year End 2014 Report, Schedule 5-E (Jan. 31, 2015), <https://docquery.fec.gov/cgi-bin/forms/C90015330/996056/f57>.

¹³ *Id.*

¹⁴ Adam O'Neal, *No Labels Backs Gardner Ground Effort in Colorado*, REAL CLEAR POLITICS (Oct. 27, 2014), https://www.realclearpolitics.com/articles/2014/10/27/no_labels_backs_gardner_ground_effort_in_colorado_124453.html.

¹⁵ Fed. Election Comm'n, No Labels, Amended April Quarterly Report, Schedule 5-E (Apr. 13, 2018), <https://docquery.fec.gov/cgi-bin/forms/C90015330/1221432/f57>.

¹⁶ See Fed. Election Comm'n, "Campaign Finance Data Search: Receipts by No Labels, accessible at: https://www.fec.gov/data/receipts/?data_type=processed&contributor_name=C90015330&min_date=01%2F01%2F2000&max_date=12%2F31%2F2024 (showing No Labels' direct and earmarked contributions to federal candidates).

¹⁷ Deconstructed, *Joe Manchin Gets Candid with Billionaire Donors in Leaked Audio*, Intercept (June 17, 2021, 9:07 P.M.), <https://theintercept.com/2021/06/17/deconstructed-manchin-candid-leaked-audio>.

¹⁸ *Id.*

¹⁹ NO LABELS, UNITY TICKET FAQs.

²⁰ *Id.*

²¹ NBC News, *No Labels Founder Says 'We Are Not Functioning' as a Political Party: Nancy Jacobson Full Interview*, NBC NEWS (Jul. 13, 2023), <https://www.nbcnews.com/meet-the-press/video/no-labels-founder-says-we-are-not-functioning-as-a-political-party-nancy-jacobson-full-interview-188338245510>.

“organize for No Labels in [their] local community,”²² describes its work as developing the “key assets that a Unity presidential ticket would need to run and win in 2024.”²³

No Labels has already secured ballot access in 14 states for the “No Labels Party.”²⁴ It expects to be on the ballot in 34 states before its nominating convention in 2024.²⁵

As part of its 2024 efforts, No Labels is planning a nominating convention for the No Labels Party. Public reports suggest the convention will either take place in Dallas, Texas in April 2024,²⁶ or it will be an online nominating convention in early 2024.²⁷ No Labels reportedly selected the Hilton Anatole hotel in Dallas as the convention’s venue.²⁸ And Ryan Clancy, No Labels’ chief strategist, revealed that No Labels has also already engaged software vendors to help with the logistics of online voting for the nomination process, and the law firm Winston & Strawn to set up a vetting process for potential delegates to the nominating convention.²⁹

Additionally, in July 2023, No Labels’ hosted a “common sense town hall” in New Hampshire featuring Senator Joe Manchin and former Governor Jon Huntsman—two reported frontrunners for the No Labels Party’s presidential ticket.³⁰

Finally, as part of its efforts leading up to its 2024 election, No Labels has been conducting large-scale national public opinion polls and modeling to inform its strategy and messaging. Since late 2021 No Labels reports polling over 60,000 registered voters to understand the dynamics of the 2024 race.³¹ In early

²² NO LABELS, RESOURCES AND DOWNLOADS, <https://join.nolabels.org/resources-and-downloads>.

²³ NO LABELS, RESOURCES AND DOWNLOADS: TRIFOLD BROCHURE, accessible at: <https://roar-assets-auto.rbl.ms/files/57312/NoLabelsTrifold.pdf>.

²⁴ The states are Alaska, Arizona, Arkansas, Colorado, Florida, Hawaii, Mississippi, Nevada, North Carolina, Oregon, South Dakota, Utah, and Maine. See Katherine Koretski, *No Labels Gains 2024 Ballot Access in a 12th State*, NBC NEWS (Oct. 23, 2023, 11:34 A.M.), <https://www.nbcnews.com/meet-the-press/meetthepressblog/no-labels-gains-2024-ballot-access-12th-state-rcna121916>; No Labels, *No Labels Wins Ballot Access in Maine for 2024 Election* (Jan. 5, 2024), <https://www.nolabels.org/no-labels-wins-ballot-access-in-maine-for-2024-election>; Caroline Vakil, *Kansas Recognizes No Labels as Political Party*, THE HILL (Jan. 18, 2024), <https://thehill.com/homenews/campaign/4415537-kansas-recognizes-no-labels-as-political-party/>.

²⁵ Melissa Nann Burke, *No Labels Unity Ticket Intends to Secure Spot on Michigan Presidential Ballot*, DET. NEWS (Dec. 9, 2023 11:51 P.M. ET), <https://www.detroitnews.com/story/news/politics/2023/12/09/no-labels-unity-ticket-intends-to-secure-spot-on-michigan-ballot/71864672007>.

²⁶ Lauren Sforza, *No Labels to Host Nominating Convention in Dallas in April, Joe Lieberman*, HILL (Aug. 27, 2023), <https://thehill.com/homenews/campaign/4174216-no-labels-to-host-nominating-convention-in-dallas-in-april-joe-lieberman>.

²⁷ Hans Nichols, *Scoop: No Labels Abandons its In-Person Presidential Convention*, AXIOS (Nov. 29, 2023), <https://www.axios.com/2023/11/30/no-labels-presidential-convention-event-virtual>.

²⁸ Michael Scherer, *No Labels Preps Playbook To Select Presidential Candidates, Broaden Support*, WASH. POST (Aug. 30, 2023), <https://www.washingtonpost.com/politics/2023/08/30/no-labels-third-party-election>.

²⁹ *Id.*

³⁰ See, e.g., John Wagner, *No Labels Snags Sen. Joe Manchin for Event, Stoking Talk of Presidential Run*, WASH. POST (Jul. 12, 2023), <https://www.washingtonpost.com/politics/2023/07/12/manchin-new-hampshire-no-labels>.

³¹ NO LABELS, MEMORANDUM: TRUMP/BIDEN CAMPAIGNS ARE A HOUSE OF CARDS, <https://www.nolabels.org/memo>.

2023, public reporting reveals No Labels has also “been conducting focus groups with like-minded voters to help draft a candidate selection plan next year without a traditional state-run primary system.”³²

In November 2023, No Labels conducted an over 70-question public opinion poll which asked respondents about preferred delegate selection process, tested the most convincing messaging to support a No Labels Party political campaign, and asked about “the most legitimate and credible way for No Labels to nominate their presidential candidates.”³³ No Labels’ chief strategist, Ryan Clancy, once described the group’s polling efforts as “a massive modeling exercise where [No Labels] polled 12,000 voters.”³⁴

No Labels also reports building a “data vault” of potential supporters to target and turnout the commonsense majority in the 2024 elections.³⁵

The organization’s public materials, including press releases and statements by its officers and board members, frame the organization’s 2024 presidential efforts as intending to defeat presidential candidates Joe Biden and Donald Trump. On its public website, No Labels casts their “Unity Ticket” as an “insurance policy” against the nominations of Joe Biden and Donald Trump and derides the candidates, stating: “Americans Don’t Want a Trump-Biden Rematch in 2024. They Think We Can Do Better.”³⁶ No Labels has also published a memorandum detailing the perceived weaknesses of Trump and Biden’s campaigns, entitled “Trump/Biden Campaigns are a House of Cards” which states “[b]oth Joe Biden and Donald Trump have profound vulnerabilities that likely will not get better with time.”³⁷

The group has also put out several anti-Trump and Biden digital videos that appear to be professionally produced.³⁸ No Labels additionally appears to be running paid digital ads on Facebook with the captions “No one is looking forward to a 2020 rematch next fall, but what if the #2024election

³² Michael Scherer, *No Labels Preps Playbook To Select Presidential Candidates, Broaden Support*, WASH. POST (Aug. 30, 2023), <https://www.washingtonpost.com/politics/2023/08/30/no-labels-third-party-election>.

³³ Jonathan J. Cooper, *The No Labels Party Asked Its Supporters If They Would Pay \$100 To Help Choose Its 2024 Nominee*, A.P. (Nov. 17, 2023, 5:35 P.M. EST), <https://apnews.com/article/no-labels-poll-unity-ticket-5713de0765dcf4b1b5ec16fb2ee4088d>.

³⁴ Zach Rounceville, *‘No Labels’ Leaders Give NC Media 2024 Ballot Access Update*, CAROLINA J. (Dec. 20, 2023), <https://www.carolinajournal.com/no-labels-leaders-give-nc-media-2024-ballot-access-update>.

³⁵ NO LABELS, MEMORANDUM TO INTERESTED PARTIES at 3, accessible at: <https://roar-assets-auto.rbl.ms/files/52327/FINAL-%202024%20NL%20MEMO.pdf>; see also David Moore, *No Labels Makes Initial Investment in Bipartisan Presidential Ticket*, SLUDGE (Jan 20, 2023), <https://readsludge.com/2023/01/20/no-labels-makes-initial-investment-in-bipartisan-presidential-ticket> (reporting No Labels previously polled a presidential pairing between Sen. Joe Machin and Sen. Lisa Murkowski).

³⁶ NO LABELS, A UNITY TICKET FOR 2024, <https://2024.nolabels.org>.

³⁷ NO LABELS, MEMORANDUM: TRUMP/BIDEN CAMPAIGNS ARE A HOUSE OF CARDS, <https://www.nolabels.org/memo>.

³⁸ In “How the Political Elite Try To Crush Competition,” for example, No Labels features an AI-generated “Fake Biden” and “Fake Trump” discussing their mutual unpopularity and the need to shut out No Labels as a competitor in the 2024 election. See No Labels, *How The Political Elite Try To Crush Competition*, YOUTUBE (Dec. 22, 2023), <https://www.youtube.com/watch?v=PsnFQZC2INo>; see also No Labels, *Americans Do Not Want A 2020 Rematch*, YOUTUBE (Dec. 11, 2023), <https://www.youtube.com/watch?v=bmscgkNAZIU>; No Labels, *Let’s Avoid A Doomed Sequel Together*, YOUTUBE (Dec. 18, 2023), <https://www.youtube.com/watch?v=EzT82j13m5k>.

had a new option?”³⁹ and “America doesn’t deserve a repeat of the 2020 election. Ensure there is a third choice on the ballot in 2024,”⁴⁰ and “Are you one of the tens of millions of Americans frustrated by the thought of more of the same?” with imagery depicting caricatured versions of Joe Biden and Donald Trump (shown below).⁴¹



No Labels’ officers’ have likewise cast their efforts as against Joe Biden and Donald Trump in public statements. In April 2023, Margaret White, No Labels’ Co-Executive Director, published an opinion piece in *The Hill* describing the reason behind No Labels ballot access efforts. It states:

Joe Biden has failed to bring the nation together and sits with an approval rating in the low 40s while he attacks the MAGA Republicans as anti-democratic and ‘semi-fascist.’ Donald Trump is mired in fights with virtually everyone, stirring a populist base, but turning to the swing suburban voters who will decide the next election. The only way either of these men could get elected in 2024 is if they are the only choices on the ballot. One of them by necessity would win, but the country would lose. . . . That’s why we [No Labels] are laying the groundwork for a potential new alternative to serve as an insurance policy against the parties failing to meet the needs of American people for fresh leadership.⁴²

³⁹ See Facebook Ad Library, No Labels “A New Option,” accessible at: <https://www.facebook.com/ads/library/?id=1545682982947584>

⁴⁰ See Facebook Ad Library, No Labels “Put a 3rd choice on the ballot in 2024! 2020 Rematch?” accessible at: <https://www.facebook.com/ads/library/?id=177654818766995>

⁴¹ Facebook Ad Library, No Labels “Let’s Avoid a Doomed Sequel Together,” accessible at: <https://www.facebook.com/ads/library/?id=3045900262208132>

⁴² Margaret White, *America Needs a New Alternative*, HILL (Apr. 7, 2023, 6:00 P.M. ET), <https://thehill.com/opinion/congress-blog/3939951-america-needs-a-new-alternative/?fbclid=IwAR0R3G9OgkF-mGN7V1Uwn8XrAvczVVKLKY7MdToeWu9pG07EicvRht7ECI8>.

A second opinion piece written by Margaret White in *The Hill* states: “The country needs some sort of insurance policy to make sure that Trump can’t just slip through and into office again.”⁴³

No Labels’ public website states: “To learn more about No Labels’ views about former President Trump, please refer to this note written by our co-chairs, Sen. Joe Lieberman and Dr. Benjamin F. Chavis, Jr.”⁴⁴ The “note” is also published on No Labels’ public website and is entitled “Donald Trump Should Never Again Be President.”⁴⁵ It states:

We are the national co-chairs of No Labels and want to be very clear about what *we, and our movement*, believe: Donald Trump should never again be president of the United States. . . . We don’t believe there is any “equivalency” between President Biden and former President Trump, who is a uniquely divisive force in our politics and who sought to disrupt the peaceful transfer of power after he lost the 2020 election.⁴⁶

No Labels clarified it is conducting these efforts to win the presidential, stating on its public website that No Labels “will ONLY offer [its] ballot line to a ticket if [No Labels] believe[s] it has a realistic shot to win outright.”⁴⁷ No Labels’ President, Nancy Jacobson reiterated the group’s mission in its 2024 efforts is to defeat Donald Trump and Joe Biden: “The only reason to do this is to win.”⁴⁸

No Labels publicly pledged to raise \$70 million to support its efforts to secure ballot access for the 2024 elections.⁴⁹ In Fiscal Year 2021, No Labels contributed \$2.4 million to the section 527 political committee, Insurance Policy for America, Inc., an organization which shares the same operating address as No Labels.⁵⁰ To date, Insurance Policy for America, Inc. has spent \$1.6 million for “ballot access” efforts paid to Capitol Advisors and Blitz Canvassing.⁵¹

⁴³ Margaret White, *Just Like in 2016, False Confidence Against Trump Could Be Our Downfall in 2024*, HILL (May 15, 2023), https://thehill.com/opinion/congress-blog/4005249-just-like-in-2016-false-confidence-against-trump-could-be-our-downfall-in-2024/?fbclid=IwAR2PZvFA_6704PoEC0FDSFE9iyx-GH_KmglyL8B7nbTJ83w9QhS84YTnXYw.

⁴⁴ NO LABELS, UNITY TICKET FAQs.

⁴⁵ NO LABELS, DONALD TRUMP SHOULD NEVER AGAIN BE PRESIDENT, <https://www.nolabels.org/no-labels-donald-trump-president>.

⁴⁶ *Id.*

⁴⁷ Vaughn Hillyard & Dan Gallo, *No Labels CEO Defends 2024 Ticket Against Spoiler Charges*, NBC (July 18, 2023, 5:00 P.M. ET), <https://www.nbcnews.com/politics/2024-election/no-labels-ceo-defends-2024-ticket-spoiler-charges-rcna94378>.

⁴⁸ *Id.*

⁴⁹ Dan Merica, *No Labels Wants to Raise \$70 Million for Its Third-Party Effort. Its Momentum is Unclear*, MESSENGER (July 12, 2023, 5:00 A.M. ET), <https://themessenger.com/politics/no-labels-wants-to-raise-70-million-for-its-third-party-effort-its-momentum-is-unclear>.

⁵⁰ See IRS, Insurance Policy for America, Inc., Form 8872 (Apr. 23, 2023), accessible at: <https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=139550&formType=e8872>. This appears to be incorrectly reported as a grant to another 501(c)(4) organization on No Labels’ 2021 Form 990 filing with the IRS. See IRS Form 990 (2021), No Labels, EIN: 27-1432208, accessible at: <https://projects.propublica.org/nonprofits/organizations/271432208/202331939349300603/full> (last visited Jan. 1, 2024) [*hereinafter* “2021 IRS Form 990”].

⁵¹ See IRS, Insurance Policy for America, Inc., Form 8872 (May 2, 2023), accessible at: <https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=139598&formType=e8872>; IRS, Insurance Policy for America,

No Labels' 2021 Form 990 filed with the IRS indicates it paid its Chief Strategist, Mark Halperin, \$240,753 annually.⁵² It paid Margaret White, its co-executive director \$192,160.⁵³ It paid Elizabeth Morrison, its co-executive director, \$186,412.⁵⁴ It also paid its vice president of development \$153,958 and its vice president of operations, \$143,535.⁵⁵ It additionally paid chief strategist Ryan Clancy's firm \$300,000 for strategy services.⁵⁶

In Fiscal Year 2022, No Labels reported \$8.9 million in total program service expenses on its filings with the Internal Revenue Service.⁵⁷ When disclosing its political campaign and lobbying activities on Schedule C, No Labels reports over \$3.1 million on "expenses for ballot access in multiple states that potentially could be used by a presidential/vice-presidential campaign in 2024."⁵⁸ No Labels paid close to \$2.2 million to Capitol Advisors, "a Virginia-based consulting firm owned by Michael Arno . . . who specializes in ballot access."⁵⁹ In 2022, No Labels compensated its top executives over \$3.3. million.⁶⁰ This figure includes Chief Strategist, Mark Halperin, who was paid \$336,879 in 2022; Margaret White was paid \$315,440; Nancy Jacobson made \$300,000; Elizabeth Morrison made \$203,975.⁶¹ It also paid its vice president of development \$153,958 and its deputy director, \$143,535.⁶² No Labels additionally paid chief strategist Ryan Clancy's firm for strategy services in 2022, but the amount Clancy was paid does not appear on the publicly disclosed Form 990, allegedly due to a "clerical error."⁶³ No Labels has not yet filed its Fiscal Year 2023 financial report with the IRS.

No Labels has never filed a Statement of Organization (FEC Form 1) with the Commission to register as a political committee nor has it ever filed Form 3X with the Commission.⁶⁴

Inc., Form 8872 (May 10, 2023), *accessible at*:

<https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=139688&formType=e8872>; IRS, Insurance Policy for America,

Inc., Form 8872 (July 29, 2023), *accessible at*:

<https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=141456&formType=e8872>.

⁵² See 2021 IRS Form 990, Part VII.

⁵³ See *id.*

⁵⁴ See *id.*

⁵⁵ See *id.*

⁵⁶ Jake Lahut, 'No Labels' Tax Forms Reveal Execs Cashing in on 2024 Hype, DAILY BEAST (Nov. 17, 2023, 11:51 P.M. ET), <https://www.thedailybeast.com/no-labels-tax-forms-reveal-execs-cashing-in-on-centrist-2024-third-party-campaign-hype>.

⁵⁷ 2022 IRS Form 990, Part III, Line 4a.

⁵⁸ *Id.* Sched. C, Part I-A, Part IV.

⁵⁹ 2022 IRS Form 990; Tori Otten, *The Shady Right-Wing Firm Helping No Labels Get on the Ballot*, NEW REPUBLIC (Dec. 7, 2023), <https://newrepublic.com/article/177352/no-labels-right-wing-consulting-firm>.

⁶⁰ 2022 IRS Form 990, Part VII.

⁶¹ See *id.*

⁶² See *id.*

⁶³ Jake Lahut, 'No Labels' Tax Forms Reveal Execs Cashing in on 2024 Hype, DAILY BEAST (Nov. 17, 2023, 11:51 P.M. ET), <https://www.thedailybeast.com/no-labels-tax-forms-reveal-execs-cashing-in-on-centrist-2024-third-party-campaign-hype>.

⁶⁴ Fed. Election Comm'n, Committee Search "No Labels," *accessible at*: <https://www.fec.gov/data/committees/?q=no+labels>.

LEGAL DISCUSSION

Under the Act and Commission regulations, an organization must register with the Commission within ten days of meeting the definition of a “political committee.”⁶⁵ After registering, political committees are required to file periodic public reports of contributions, expenditures, and other relevant information, appoint a treasurer, and abide by disclaimer requirements and other restrictions on fundraising.⁶⁶ As detailed below, Respondent has triggered political committee status but has failed to register as a political committee and file required reports with the Commission. Thus, it appears that Respondent is violating the Act and the Commission’s regulations. We urge the Commission to find reason to believe a violation is occurring, open an investigation, and take appropriate remedial action.

I. Political Committee Status

In relevant part, a “political committee” is “any committee, club, association or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year” and that has as its major purpose the nomination or election of federal candidates.⁶⁷ Accordingly, the FEC construes the statute to require an organization which is not under the control of a candidate to register as a political committee if it (1) has as its “major purpose” the nomination or election of federal candidates, and (2) crosses the \$1,000 statutory threshold.

a. Major Purpose Test

No Labels has the major purpose of influencing federal elections and therefore meets the first prong of the Commission’s test for political committee status. To avoid unconstitutional overbreadth, the Supreme Court narrowed the definition of a “political committee” to encompass only organizations whose major purposes are “campaign related”—meaning the organization must have as its “major purpose the nomination or election” of “federal candidate[s].”⁶⁸

The Commission assesses an organization’s major purpose “through a case-by-case analysis of a specific organization’s conduct.”⁶⁹ In determining an organization’s major purpose, the FEC considers the organization’s public statements, internal communications, financials, governing documents, and

⁶⁵ 52 U.S.C. § 30101(4)(a); 11 C.F.R. §§ 100.5, 102.1(d).

⁶⁶ See 52 U.S.C. §§ 30101-30104.

⁶⁷ *Buckley v. Valeo*, 424 U.S. 1, 79 (1976); 11 C.F.R. § 100.5.

⁶⁸ *Buckley*, 424 U.S. at 79; see also *FEC v. Mass. Citizens for Life, Inc.*, 479 U.S. 238, 262 (1986).

⁶⁹ *Political Committee Status*, 72 FED. REG. 5595, 5596 (Feb. 7, 2007) [*hereinafter* “Political Committee Status Supplemental E&J”].

governmental filings.⁷⁰ Relevant evidence may include statements by the organization’s board members and officers,⁷¹ the organization’s stated goals of supporting or opposing federal candidates,⁷² and whether the organization’s spending on campaign activities have “become so extensive that the organization’s major purpose may be regarded as campaign activity, [such that] the [organization] may be classified as a political committee.”⁷³ Specific “campaign activity” may include, for example: communications “attacking or expressly advocating the defeat of a Presidential candidate,”⁷⁴ spending on research and polling,⁷⁵ “other spending . . . for public communications mentioning Federal candidates,”⁷⁶ and costs to publicize the organization’s “endorsements by creating and distributing communications promoting [] slate[s] of candidates.”⁷⁷ The Commission has also determined that ballot access petition drives and expenses to prepare for a political party convention are likewise campaign activities which influence federal elections.⁷⁸

In examining an organization’s campaign-related spending under the major purpose analysis, the D.C. District Court allowed the Commission to retain flexibility over the relevant time period it examines, but instructed that the FEC should give additional weight to more recent activities to account for changes in an organization’s major purpose over time.⁷⁹ In doing so, the Commission recently found that an organization whose campaign-related expenditures exceeded 50% of the overall spending a year before the election was a “political committee” under the Act.⁸⁰

Finally, in its major purpose analysis, the Commission examines an organization’s “full range of campaign activities,” which means that in addition to examining what the organization *does*, the

⁷⁰ Political Committee Status Supplemental E&J at 5597, 5605. In *CREW v. FEC*, the D.C. District Court instructed the FEC to look beyond only express advocacy when determining an organization’s major purpose and consider whether the organization’s other communications indicate a “campaign-related purpose.” *CREW v. FEC*, 209 F. Supp. 3d 77, 92-93 (D.D.C. 2016).

⁷¹ *FEC v. GOPAC, Inc.*, 917 F. Supp. 851, 859 (D.D.C. 1996); Fed. Election Comm’n, MUR 5511 (Swift Boat Vets and POWs for Truth) Conciliation Agreement, at ¶¶ 31-36 (statements by member of organization’s Steering Committee as evidence that organization was operating for the major purpose of influencing federal elections). In examining an organization’s statements, the Commission has stated it will “giv[e] due weight to the form and nature of the statement, as well as the speaker’s position within the organization.” Political Committee Status Supplemental E&J at 5601.

⁷² *FEC v. Malenick*, 310 F. Supp. 2d 230, 234-36 (D.D.C. 2004).

⁷³ *FEC v. Mass. Citizens for Life*, 479 U.S. 238, 262 (1986).

⁷⁴ Political Committee Status Supplemental E&J at 5605.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ Fed. Election Comm’n, MUR 5492 (Cleaver for Congress) Conciliation Agreement at ¶ 14.

⁷⁸ See Fed. Election Comm’n, Adv. Op. 1994-05 n.1 (White); Fed. Election Comm’n, Adv. Op. 1984-11 (Serrette).

⁷⁹ *CREW v. FEC*, 209 F. Supp. 3d 77, 93-94 (D.D.C. 2016).

⁸⁰ Fed. Election Comm’n, MUR 6538R (Americans for Job Security), Factual & Legal Analysis at 14-15.

Commission also considers what the organization does *not* do.⁸¹ Specifically, the Commission will assess “whether the organization engaged in any activities that were *not* campaign related.”⁸²

Here, No Labels appears to be doing very little—if anything—except for campaign-related activity to influence the defeat of Joe Biden and Donald Trump. There are *no other* major projects listed on No Labels’ Form 990s for 2021 or 2022. No Labels is no longer actively coordinating the Problem Solvers Caucus in the U.S. House of Representatives. Each of its other public activities are directly related to defeating Joe Biden, Donald Trump, or both candidates. No Labels’ ballot access petition drives, convention planning, town hall and event preparations, research and modeling, and payments to officers, staff, and consultants for communications, fundraising, and strategy are *all* related to its efforts to defeat Joe Biden and Donald Trump in 2024. There is no other available information, including from No Labels’ own statements and governmental filings, that suggests it conducted any activity in 2022 or since other than its efforts in connection with the 2024 election to defeat Joe Biden and Donald Trump.

Statements by No Labels’ board members and officers in their official capacities likewise demonstrate that the organization’s primary goal is to influence the 2024 presidential election. Margaret White, No-Labels’ co-executive director, refers to No Labels’ work as creating an “insurance policy.”⁸³ No Labels’ insurance policy is not merely an attempt to influence the policy debate occurring among the major parties’ presidential contenders. It is an electoral strategy. The “insurance policy” that the organization’s leaders often reference *is* a viable third-party presidential ticket which can defeat Joe Biden and Donald Trump. As President Nancy Jacobson put it bluntly, “[t]he only reason to do this [work] is to win.”⁸⁴

The organization’s public communications, which deride both Joe Biden and Donald Trump, additionally demonstrate that No Labels’ 2024 efforts are intended to defeat the two candidates and its major purpose is campaign-related activity. These statements include: “Joe Biden has failed to bring the nation together,”⁸⁵ “The country needs some sort of insurance policy to make sure that Trump can’t just

⁸¹ Political Committee Status Supplemental E&J at 5605.

⁸² *Id.* (emphasis added).

⁸³ Margaret White, *Just Like in 2016, False Confidence Against Trump Could Be Our Downfall in 2024*, HILL (May 15, 2023), https://thehill.com/opinion/congress-blog/4005249-just-like-in-2016-false-confidence-against-trump-could-be-our-downfall-in-2024/?fbclid=IwAR2PZvFA_6704PoEC0FDSFE9iyx-GH_KmgIyL8B7nbTJ83w9QhS84YTnXYw.

⁸⁴ Vaughn Hillyard & Dan Gallo, *No Labels CEO Defends 2024 Ticket Against Spoiler Charges*, NBC (July 18, 2023, 5:00 P.M. ET), <https://www.nbcnews.com/politics/2024-election/no-labels-ceo-defends-2024-ticket-spoiler-charges-rcna94378>.

⁸⁵ Margaret White, *America Needs a New Alternative*, HILL (Apr. 7, 2023, 6:00 P.M. ET), <https://thehill.com/opinion/congress-blog/3939951-america-needs-a-new-alternative/?fbclid=IwAR0R3G9OgkF-mGN7V1Uwn8XrAvczVVKLKY7MdTocWu9pG07EicvRht7ECI8>.

slip through and into office again,”⁸⁶ “Donald Trump should never again be president of the United States,”⁸⁷ “One of them [Joe Biden or Donald Trump] by necessity would win, but the country would lose.”⁸⁸

No Labels’ financial statements establish that the group has the major purpose of influencing federal elections. The FEC has recently found an organization to be a political committee when its campaign-related spending exceeds 50% of organizational spending.⁸⁹ The D.C. District Court counseled the Commission to consider changes in an organization’s spending on campaign related activity over time and give weight to an organization’s most recent calendar year activities.⁹⁰

While the proportion of No Labels’ campaign-related expenditures compared to its non-campaign-related expenditures may not have encompassed a majority of the organization’s spending at its founding or even three years ago, it certainly does now. Since No Labels began its presidential Unity Ticket “insurance policy” efforts in late 2021, No Labels’ spending on campaign-activity, including ballot access efforts, convention planning, research and strategy costs, consulting fees related to 2024 strategy, legal and compliance expenses, events and meetings costs, and staff and officer compensation has vastly exceeded 50% of the organization’s budget. While No Labels has not yet filed its 2023 financial statements with the IRS, based on public reporting of No Labels’ activities and the organization’s own self reports of its efforts, the proportion of campaign-related spending has certainly surpassed 2022 levels and undoubtedly constitutes a majority of the organization’s current spending.

Taken together, there is reason to believe No Labels’ major purpose is to achieve a particular outcome in the 2024 presidential election—specifically to defeat Joe Biden and Donald Trump. This is exactly the type of campaign-related activity the major purpose test seeks to capture, and that Congress designed the Act to regulate.

b. Draft Groups

⁸⁶ Margaret White, *Just Like in 2016, False Confidence Against Trump Could Be Our Downfall in 2024*, HILL (May 15, 2023), https://thehill.com/opinion/congress-blog/4005249-just-like-in-2016-false-confidence-against-trump-could-be-our-downfall-in-2024/?fbclid=IwAR2PZvFA_6704PoEC0FDSFE9iyx-GH_KmgIyL8B7nbTJ83w9QhS84YTnXYw.

⁸⁷ NO LABELS, DONALD TRUMP SHOULD NEVER AGAIN BE PRESIDENT, <https://www.nolabels.org/no-labels-donald-trump-president> (last accessed Jan. 1, 2024). *See also* NO LABELS, UNITY TICKET FAQs (adopting the views of the authors in “Donald Trump Should Never Again Be President” as the views of No Labels).

⁸⁸ Margaret White, *America Needs a New Alternative*, HILL (Apr. 7, 2023, 6:00 P.M. ET), <https://thehill.com/opinion/congress-blog/3939951-america-needs-a-new-alternative/?fbclid=IwAR0R3G9OgkF-mGN7V1Uwn8XrAvczVVKLKY7MdTocWu9pG07EicvRht7ECI8>.

⁸⁹ Fed. Election Comm’n, MUR 6538R (Americans for Job Security), Factual & Legal Analysis at 14-15.

⁹⁰ *CREW v. FEC*, 209 F. Supp. 3d 77, 93-94 (D.D.C. 2016). Fed. Election Comm’n, MUR 6538R (Americans for Job Security), Factual & Legal Analysis at 14-15.

Respondent publicly claims they are not required to register under the D.C. Circuit's holding in *Unity08 v. FEC* because No Labels is a draft group not under the control of a candidate or supporting a clearly identified candidate, and therefore does not have the major purpose of influencing federal elections.⁹¹ Respondent's position both misreads and misapplies the Court's holding in *Unity08*.

In *Unity08*, the Court held that a group formed to gain ballot access for a third party in the 2008 presidential election, which had “never supported a clearly identified candidate in the past and d[id] not have any fixed intention of supporting selected candidates” was not a political committee under the Act.⁹² The Court's holding relied on the D.C. Circuit's precedent in *FEC v. Machinists Non-Partisan Political League* to determine that draft groups “whose activities are not under the control of a ‘candidate’ or directly related to promoting or defeating a clearly identified ‘candidate’” enjoyed protection from regulation under the Act.⁹³ In that case, the draft group, Unity08, did not seek to promote or defeat any clearly identified candidate. Therefore, the Court held Unity08 did not have the major purpose of influencing a federal election and it was not required to register as a political committee.

In asserting that *Unity08* exempts No Labels' regulation as a political committee, Respondent ignores two crucial distinctions between its activity and that of Unity08's almost two decades ago.

First, *Unity08* addressed only the narrow circumstance in which a draft group had never, in its history, supported federal candidates. Here, No Labels has a long history of endorsements and direct political activity in support of its clearly identified endorsed candidates (*e.g.*, canvassing, contributions, and independent expenditures).

Second, while No Labels may not have selected a clearly identified candidate to support in the 2024 presidential election, its activities are directly related to defeating two clearly identified federal candidates. The D.C. Circuit's precedent is clear: if a draft group's activities are “directly related” to “defeating a clearly identified candidate” it may have the major purpose of influencing federal elections and will be regulable as a federal political committee.⁹⁴

No Labels is unambiguously and unabashedly working to defeat and oppose two clearly identified candidates: Donald Trump and Joe Biden. Respondent has made no efforts to hide that the intent of its ballot access work and other campaign-related activities is to influence the presidential

⁹¹ See NO LABELS, *No Labels is Conducting its Unity Ticket Project Under the Safe Harbor of the Unity08 Ruling* (Dec. 22, 2023), <https://www.nolabels.org/no-labels-is-conducting-its-unity-ticket-project-under-the-safe-harbor-of-the-unity08-ruling>.

⁹² *Unity08 v. FEC*, 596 F.3d 861, 867 (D.C. Cir. 2010).

⁹³ *Id.* (emphasis added) (citing *FEC v. Machinists Non-Partisan Political League*, 655 F.2d 380, 393 (D.C. Cir. 1981)).

⁹⁴ *Unity08*, 596 F.3d at 867 (citing *Machinists*, 655 F.2d at 393).

election by defeating those two clearly identified federal candidates. Indeed, No Labels actively touts that purpose in its public communications to gain supporters.

Thus, Respondent's activities and attempts to evade public accountability are not covered by *Machinists and Unity08*.⁹⁵

c. Statutory Threshold

To qualify as a political committee under the Act, an organization must also meet the statutory threshold, which (in relevant part) is satisfied if an organization makes expenditures of \$1,000 or more in a calendar year.⁹⁶ The Commission requires that spending on expenditures for purposes of this threshold be “spending on any of an organization’s communications made independently of a candidate constitut[ing] express advocacy.”⁹⁷ Under Commission regulations, a communication contains express advocacy if it uses phrases such as “vote for,” “vote against,” “defeat,” or “[w]hen taken as a whole and with limited reference to external events, such as the proximity to the election,” it “could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s)” because it contains an “electoral portion” that is “unmistakable, unambiguous, and suggestive of only one meaning,” and “[r]easonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action.”⁹⁸

No Labels has certainly met the \$1,000 expenditure threshold to expressly advocate against two clearly identified candidates—Joe Biden and Donald Trump. Its digital advertisements on Facebook alone likely meet the \$1,000 threshold, and they constitute express advocacy because the ads contain an “electoral portion” that is “unmistakable, unambiguous, and suggestive of only one meaning,” and “[r]easonable minds could not differ” that it encourages “actions to . . . defeat one or more clearly identified candidate(s).”⁹⁹ The copy “No one is looking forward to a 2020 rematch next fall, but what if the #2024election had a new option?” is a clear, unambiguous reference to Joe Biden and Donald Trump,

⁹⁵ Even if No Labels is not a political committee, it is still subject to the Act’s disclosure provisions. In 1979, Congress amended FECA to require draft groups to file reports. The House Report on the FECA Amendments of 1979 stated that the amendments “insure that organizations set up to ‘draft’ individuals who are not actually candidates will be required to report.” *Machinists*, 655 F.2d at 395 (citing H. REP. NO. 96-422 (96th Cong., 1st Sess.) (1979)).

⁹⁶ 52 U.S.C. § 30101(4).

⁹⁷ Fed. Election Comm’n, MUR 7527 (News for Democracy), First General Counsel’s Report at 15 (citing Political Committee Status Supplemental E&J at 5606).

⁹⁸ 11 C.F.R. § 100.22(b). The term “clearly identified” means “the candidate’s name, nickname, photograph, or drawing appears, or the identity of the candidate is otherwise apparent through an unambiguous reference such as ‘the President,’ ‘your Congressman,’ or the ‘the incumbent,’ or through an unambiguous reference to his or her status as a candidate such as ‘the Democratic presidential nominee.’” 11 C.F.R. § 100.17.

⁹⁹ 11 C.F.R. § 100.22(b).

the two major-party candidates during the 2020 presidential election. Likewise, the copy “America doesn’t deserve a repeat of the 2020 election” is a clear reference to defeating the nomination or election of Joe Biden and Donald Trump, and unambiguously encourages the viewer to vote against Joe Biden and Donald Trump.

The overhead costs for salary, consulting, and communications staff to produce co-executive director, Margaret White’s opinion pieces in *The Hill*, and the statement by No Labels’ board members on its website entitled “Donald Trump Should Never Again Be President,” both communications which expressly advocate for the defeat of Donald Trump and Joe Biden, also certainly exceed \$1,000.

Lastly, by even a conservative estimate, No Labels has spent upwards of \$10 million to date on ballot access efforts—and has pledged to spend tens of millions more. No Labels is not simply getting ballot access for an unnamed candidate. Instead, No Labels’ public communications (e.g., opinion pieces, news interviews, public statements on its website, reporting of its poll results, and statements to the media) are intended to convey to Americans that neither Joe Biden nor Donald Trump are fit to be president, and they should be defeated. In essence, No Labels’ multi-million-dollar efforts to elect a Unity ticket in 2024 is an unmistakable and unambiguous communicative effort in itself which is suggestive of only one meaning: Americans cannot afford to elect either Joe Biden or Donald Trump; both candidates must be defeated. No Labels’ entire 2024 effort expressly advocates the defeat of two clearly identified candidates, and No Labels has undoubtedly exceeded the statute’s \$1,000 expenditure threshold for this work in allocated overhead alone.

d. Legal Standard

The Commission’s threshold legal determination at this stage is whether there is “reason to believe” a violation has occurred, and therefore, sufficient legal justification to open an investigation.¹⁰⁰ The “reason-to-believe standard represents” a “low bar.”¹⁰¹ It “does not require ‘conclusive evidence’ that a violation occurred or even ‘evidence supporting probable cause’ for finding a violation.”¹⁰² Instead, it requires “only a credible allegation” that Respondent meets the definition of a political committee and has failed to register and file required reports with the Commission.¹⁰³ We have easily met that standard.

Respondent’s conduct and communications, as detailed in this Complaint, provide a credible allegation that No Labels now has the major purpose of influencing federal elections. Statements from

¹⁰⁰ See Guidebook for Complainants and Respondents on the FEC Enforcement Process, May 2012, available at: http://www.fec.gov/em/respondent_guide.pdf.

¹⁰¹ *Campaign Legal Ctr. v. FEC*, 646 F. Supp. 3d 57, 67 (D.D.C. 2022).

¹⁰² *Id.* (internal citations omitted).

¹⁰³ *Id.*

Respondent's officers and directors, the organization's public communications, and the breadth and scope of No Labels' political activities and expenditures compared to its other ventures, put forth sufficient evidence to constitute a credible allegation. Likewise, there is sufficient evidence for a credible allegation that No Labels has spent over \$1,000 on express advocacy communications—at the very least on allocable overhead costs—against two clearly identified federal candidates, Joe Biden and Donald Trump. To date, however, No Labels has not filed a Statement of Organization nor filed Form 3X with the Commission. As such, there is a credible allegation that a violation has occurred, and the Commission should open an investigation.

ACTION REQUESTED

As a political committee that has failed to organize, register, and report to the Commission, No Labels appears to be intentionally circumventing the Act's requirements, flouting the Commission's regulatory scheme, and frustrating Congressional intent in a blatant effort to keep its donors' identities secret. As such, we request the Commission find reason to believe No Labels is a political committee that has failed to register and file required reports under the Act, initiate an investigation, and take appropriate remedial action against Respondent.

Sincerely,



Tiffany Muller
President, End Citizens United
PO Box 66005
Washington, DC 20035

SUBSCRIBED AND SWORN to before me this 23rd day of January 2024.



Notary Public
My Commission Expires:

MARK ANDREWS
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires July 14, 2024

