

**From:** David Rivera  
**To:** [Ana Pena-Wallace](#)  
**Subject:** Re: MUR 6655 - documents  
**Date:** Thursday, December 08, 2016 1:49:35 PM

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Dear Ms. Pena-Wallace,

Sorry I am just now emailing you, but my email access is very sporadic as you can imagine.

Thank you for your email from last week. I tried calling you several times this week, but each time the call went to your voicemail. I realize you must be busy, but as I mentioned in our conversation, the orphanage here in Haiti does not have a landline with international calling. We have a local Digicel cell phone, but because Digicel is a monopoly here the cost for international calls is exorbitant and unavailable on this phone. When I travel to Port au Prince, which takes several hours with the crazy traffic, I am able to make international calls from the offices of an international humanitarian NGO that helps our orphanage. Perhaps you can give me a window of time I can call you next week? It is very difficult for me to travel to Port au Prince and I am usually only able to do it once a week.

Thank you for the documents you attached in your email. However, there are still a few documents that seem to be missing from this set as well as from the documents your office provided to Ms. Collazo three years ago that are of utmost relevance. Specifically, can you please send me the following:

1. The initial complaint filed by Roland Sanchez-Medina on October 3, 2012, with accompanying attachments and exhibits referenced in footnote 1 of the Factual and Legal Analysis. As you may be aware, Mr. Sanchez-Medina was a named plaintiff in the litigation challenging the Florida Legislature's boundaries of the Congressional District I was running to retain in 2012. He was also a high school and law school classmate of my Democratic opponent, Joe Garcia. Since this document appears to be the primary impetus upon which this action was pursued by your office and your predecessors -- other than the speculation and factual inaccuracies reported in the print media -- I am sure you can understand its importance to me if I am to provide the response that you have requested.
2. The Sternad Supplemental Response referenced in footnote 23 of the Factual and Legal Analysis. This is the same document that was requested over three years ago by Ms. Collazo. Again, due to the reliance in your proposed probable cause findings based exclusively upon this document and the Sanchez-Medina complaint, I am sure you can understand why I need access to this document if I am to formulate any meaningful response. Particularly since I will not be providing comment or response to any unsubstantiated Miami Herald or media speculation.
3. Any Department of Justice reports, recordings, documents or communications you may have reviewed, accessed, relied on or received alleging, referencing or implying my status or involvement as a "co-conspirator" or "unindicted co-conspirator,"

together with any other government or court documents in your possession alleging same. I am wholly unaware that I have ever been investigated, identified or targeted as a "co-conspirator" by the Department or its agents in relation to the Sternad investigation -- media reports notwithstanding. It is difficult for me to believe the Federal Elections Commission would use such an inflammatory or conclusory term as "co-conspirator" without reviewing documentation from the Department of Justice that, if accessed by your office, would render such documentation subject to FOIA disclosure to me.

4. Finally, on page five of the Factual and Legal Analysis you sent me there is a chart with ten alleged direct and in-kind contributions to Mr. Sternad. However, I do not see my name associated with any of these contributions on your chart. Please specify precisely in which of these ten actions the Commission is alleging my involvement. Please also cite any evidence or factual basis for alleging my involvement. As you can imagine, your requested telephone interview would be greatly facilitated by my knowing exactly what involvement of mine you are alleging.

In our telephone conversation you stated the reason the Commission has not contacted me in over three years was due to "press reports" citing the possible existence of other investigative activities. However, based on this batch of documents, it also appears that no new investigative activity was conducted by your office in the last three-and-a-half years either. You stated to me the Commission's desire to interview me as a "witness" to events related to MUR-6655 (although I have never witnessed anything related to Mr. Sternad or his campaign). Please advise me if any other "witnesses" have been interviewed by the Commission and please provide me with any available transcripts, summaries or reports of such witness interviews.

However, if indeed no new investigative activity by your office has occurred in the last three-and-a-half years and your desire to interview me now is a function of press/media dormancy and the desire to close a stale MUR, then I simply reiterate what was stated to the Commission in Ms. Collazo's September 25, 2013, response letter, to wit:

"Please be advised that Mr. Rivera denies violating the Federal Election Campaign Act of 1971 (the "Act"), as alleged by the Commission, by making contributions in the name of another, making excessive individual contributions, and making excessive currency contributions.

The Factual and Legal Analysis provided by the Commission bases its allegations against Mr. Rivera on two sources: unattributed allegations contained in Miami Herald newspaper articles and an unsubstantiated allegation contained in a Supplemental Response by former congressional candidate Mr. Justin Lamar Sternad.

As stated above, all of the statements and allegations cited by the Commission from the Miami Herald articles are either unattributed or specifically acknowledged as anonymous sources. None of the statements or allegations cited by the Commission

from the Miami Herald articles provides any evidence or substantiation that Mr. Rivera made contributions in the name of another, made excessive individual contributions or made excessive currency contributions. Everything cited from the Miami Herald articles is based on hearsay, innuendo and anonymous sources and is therefore void of any validity or credibility whatsoever.

Mr. Sternad's Supplemental Response cited by the Commission was not enclosed with the Commission's September 11(2013) letter and therefore cannot be addressed specifically. However, it is important for the Commission to know that Mr. Rivera does not know Mr. Sternad, has never met Mr. Sternad, has never communicated or interacted with Mr. Sternad and had no role in Mr. Sternad's campaign. Any allegations to the contrary by Mr. Sternad against Mr. Rivera are an obvious attempt by an individual who has pled guilty to violating the Act either to mitigate the penalties for these misdeeds through the use of hearsay and innuendo or to deflect attention from his own misdeeds, or both. Just as those contained in the Miami Herald articles, these baseless allegations from Mr. Sternad are similarly void of any validity or credibility whatsoever."

In essence, the proposed Factual and Legal Basis you emailed me seems to be based on unsubstantiated newspaper accounts as well as recycled or repackaged allegations from Mr. Sternad, a self-confessed and convicted perjurer, as contained in both his initial indictment and subsequent Supplemental Response. This is precisely why I am making the request for other documents as outlined above, for the specific actions in the above-referenced chart where the Commission is alleging my involvement (as well as any evidence or factual basis for the allegations), and for the results of any investigative activity by your office over the course of the last three-and-a-half years. I hope you would agree that notice and the opportunity to be heard under the Substantive and Procedural Due Process Clauses of the Fifth and Fourteenth Amendments to the U.S. Constitution, as well as standards of professional and prosecutorial legal practice would call for no less and supersede the "procedures" your office referenced in prior communications denying me access to the evidentiary basis for the FEC actions thus far.

As Ms. Collazo wrote in her September 25, 2013, response letter, "I would expect that the Commission would rely on more than anonymously-sourced newspaper articles and unsubstantiated allegations by someone who has pled guilty to violating the Act before initiating probable cause proceedings against other individuals in such matters." In other words, as I'm sure you will now agree given the many media inaccuracies involved here and the delays they have caused, "press reports" can be very misleading. They should not serve as the basis for the government's judgment as to whether or not a regulatory action should be taken against a law-abiding citizen. This is particularly the case in a matter so hyper-politicized in its inception and timing as this one. Like any other American, I take my Constitutional rights very seriously and cannot meaningfully protect them under the present circumstances; a sentiment I am sure you share as an officer of the court sworn to defend and protect our Constitution and the Rule of Law.

I look forward to receiving the requested information as well as further discussing with you the possibility of arranging a telephone interview; which once again, would be facilitated by providing me the information I have requested in this email. Please advise when may be the best dates and times later this week or next week to try and reach you given my international calling limitations. Sorry for the long email, but my access is very sporadic and limited down here and needs to be optimized to the greatest extent possible.

Best regards,

David Rivera

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**From:** "Ana Pena-Wallace" <APena-Wallace@fec.gov>  
**To:** rivera2002@comcast.net  
**Cc:** "Jin Lee" <JLee@fec.gov>  
**Sent:** Friday, December 2, 2016 10:51:40 AM  
**Subject:** MUR 6655 - documents

Mr. Rivera-

Thank you for your call yesterday. As we discussed, I am sending you copies of the notifications that the Commission previously sent to you and your counsel, Yesenia Collazo. I am also attaching submissions that your counsel has made to date. As I explained during our phone call, we would like to schedule a telephone interview with you as part of the Commission's investigation of this matter. Kindly let me know if you will be representing yourself or will continue to be represented by Ms. Collazo or another attorney. I am attaching a designation of counsel form that would need to be completed and filed with us should you decide to retain a different attorney. Please let us know of your decision no later than Tuesday, December 6, 2016. We suggest the following dates for the interview: December 7, 8, 13 or 15. Please let me know which date works best for you. If we don't hear from you by next Tuesday we will proceed with additional recommendations to the Commission. I look forward to speaking with you soon.

Ana J. Peña-Wallace

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