



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**VIA CERTIFIED MAIL**

The Honorable Governor Ralph G. Torres  
Commonwealth of the Northern Mariana Islands  
Juan A. Sablan Memorial Building, Capitol Hill  
Saipan, MP 96950

AUG 01 2019

RE: MUR 7624

Dear Governor Torres:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting that you and the Ralph G. Torres Campaign may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). The Commission, on July 25, 2019, found reason to believe that Ralph G. Torres and the Ralph G. Torres Campaign violated 52 U.S.C. § 30121(a)(2) by accepting foreign national contributions. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is enclosed for your information.

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed toward reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to you as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that you violated the law. Enclosed is a conciliation agreement for your consideration.

[REDACTED]

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519.

If you are interested in engaging in pre-probable cause conciliation, please contact Elena Paoli, the attorney assigned to this matter, at (202) 694-1548 or (800) 424-9530, or [epaoli@fec.gov](mailto:epaoli@fec.gov), within seven days of receipt of this letter. During conciliation, you may submit

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any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. *See* 52 U.S.C. § 30109(a); 11 C.F.R. Part 111 (Subpart A). Conversely, if you are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at <http://www.fec.gov/respondent.guide.pdf>.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed Statement of Designation of Counsel form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.<sup>1</sup>

This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act.

We look forward to your response.

On behalf of the Commission,

*Ellen L. Weintraub*  
 Ellen L. Weintraub  
 Chair

Enclosures

Factual and Legal Analysis

<sup>1</sup> The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

# FEDERAL ELECTION COMMISSION

## FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Ralph G. Torres  
Ralph Torres Campaign

MUR 7624

## I. INTRODUCTION

8        This matter was generated based on information ascertained by the Federal Election  
9        Commission (“Commission”) in the normal course of carrying out its supervisory  
10      responsibilities. *See 52 U.S.C. § 30109(a)(2).*

## II. FACTS

12 Ralph G. Torres is the Governor of the Commonwealth of the Northern Mariana Islands  
13 (“CNMI”). The Ralph G. Torres Campaign is his campaign committee. In the 2014 election  
14 cycle, Ralph Torres ran for CNMI Lieutenant Governor on the Republican ticket with Eloy  
15 Songao Inos. Because no candidate in that election received a majority vote, a run-off election  
16 was held on November 21, 2014, and Inos and Torres won.<sup>1</sup> Torres ran for re-election in 2018.

17 Torres did not respond

18 The CNMI is a commonwealth government comprised of 14 islands in the West Pacific.  
19 Following World War II, the United Nations established the “Trust Territory of the Pacific  
20 Islands,” which included the CNMI, the Republic of Palau, the Marshall Islands, and the  
21 Federated States of Micronesia. The United States initially functioned as a trustee over the Trust  
22 Territory, with the CNMI eventually seeking to form its own relationship with the United States,  
23 apart from the other islands. Negotiations between U.S. and CNMI representatives resulted in

<sup>1</sup> See Commonwealth Election Comm'n, 2014 General Election Results, VOTE CNMI (Nov. 30, 2014), available at <https://web.archive.org/web/20141130161053/http://www.votecnmi.gov.mp/election-2014/election-2014-results>. Inos died in office on December 28, 2015, elevating Torres to Governor.

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1 the creation of a governing document, the Covenant to Establish a Commonwealth of the  
 2 Northern Mariana Islands in Political Union with the United States of America (the “Covenant”),  
 3 which, *inter alia*, sets forth the applicability of U.S. laws to the CNMI. CNMI voters adopted  
 4 the Covenant in 1975, and it was signed into law on March 24, 1976.<sup>2</sup>

5 The Covenant establishes that “[T]he CNMI is under the sovereignty of the United States  
 6 but retains ‘the right of local self-government.’”<sup>3</sup> In relevant part, section 502(a) provides that  
 7 “laws of the United States in existence on the effective date of this Section and subsequent  
 8 amendments to such laws will apply to the Northern Mariana Islands, except as otherwise  
 9 provided in this Covenant.”<sup>4</sup> The Covenant does not exclude the Federal Election Campaign Act  
 10 of 1971, as amended (“Act”), and states that the CNMI will be subject to U.S. laws “which are  
 11 applicable to Guam and which are of general application to the several States as they are  
 12 applicable to the several states.”<sup>5</sup>

13 The Commonwealth Election Commission is the government agency in charge of  
 14 election and voting matters in the CNMI, including collecting candidate financial statements and  
 15 processing voter registrations.<sup>6</sup> It appears that the CNMI imposes no limitations on campaign  
 16 contributions, whether contribution amounts or particular sources.<sup>7</sup>

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<sup>2</sup> See Covenant, 48 U.S.C. § 1801 et seq.

<sup>3</sup> *CNMI v. United States*, 399 F.3d 1057, 1058 (9th Cir. 2005) (explaining that the United States has paramount interest in submerged lands adjacent to CNMI) (citations omitted).

<sup>4</sup> Covenant, § 502.

<sup>5</sup> *Id.* § 502(a)(2).

<sup>6</sup> See COMMONWEALTH ELECTION COMMISSION, <https://www.votecnmi.gov.mp/> (last visited May 17, 2019).

<sup>7</sup> See generally Commonwealth Election Commission Regulations, Part 700 *et seq.*

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### 1     III.    LEGAL ANALYSIS

2                 The Act and Commission regulations prohibit any “foreign national” from directly or  
 3     indirectly making a contribution or donation of money or other thing of value, or an expenditure,  
 4     independent expenditure, or disbursement, in connection with a federal, state, or local election.<sup>8</sup>  
 5     The Act’s definition of “foreign national” includes an individual who is not a citizen or national  
 6     of the United States and who is not lawfully admitted for permanent residence, as well as a  
 7     “foreign principal” as defined at 22 U.S.C. § 611(b), which, in turn, includes a “partnership,  
 8     association, corporation, organization, or other combination of persons organized under the laws  
 9     of or having its principal place of business in a foreign country.”<sup>9</sup>

10                In the Bipartisan Campaign Reform Act of 2002 (“BCRA”),<sup>10</sup> Congress expanded the  
 11    Act’s foreign national prohibition to expressly prohibit “donations” in addition to contributions.  
 12    It also codified the Commission’s longstanding interpretation of the prohibition, expressly  
 13    applying it to state and local elections as well as to federal elections.<sup>11</sup>

14                Commission regulations implementing the Act’s foreign national prohibition provide:

15                A foreign national shall not direct, dictate, control, or directly or  
 16     indirectly participate in the decision-making process of any person,  
 17     such as a corporation, labor organization, political committee, or

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<sup>8</sup>               52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.20(b), (c), (e), (f). 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).

<sup>9</sup>               52 U.S.C. § 30121(b); 22 U.S.C. § 611(b)(3); *see also* 11 C.F.R. § 110.20(a)(3).

<sup>10</sup>               Pub. Law 107-155, 116 Stat. 81 (Mar. 27, 2002).

<sup>11</sup>               *See* 52 U.S.C. § 30121(a); Contribution Limits and Prohibitions, 67 Fed. Reg. 69,928, 69,940 (Nov. 19, 2002) (“Prohibitions E&J”); *see also* Advisory Op. 1999-28 (Bacardi-Martini USA) at 2 (quoting *United States v. Kanchanalak*, 192 F.3d 1037 (D.C. Cir. 1999) (recognizing that the Commission had “consistently interpreted . . . since 1976” the foreign national prohibition to extend to state and local elections)).

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1 political organization with regard to such person's Federal or non-  
 2 Federal election-related activities, such as decisions concerning the  
 3 making of contributions, donations, expenditures, or  
 4 disbursements. . . or decisions concerning the administration of a  
 5 political committee.<sup>12</sup>

6  
 7 The Commission has consistently found a violation of the foreign national prohibition

8 where foreign national officers or directors of a U.S. company participated in the company's  
 9 decisions to make contributions or in the management of its separate segregated fund,<sup>13</sup> or where  
 10 foreign funds were used by a U.S. subsidiary of a foreign corporation to make contributions or  
 11 donations in connection with U.S. elections.<sup>14</sup>

12 The regulations also provide that no person shall "knowingly provide substantial

13 assistance" in the solicitation, making, acceptance, or receipt of a prohibited foreign national

14 contribution or donation, or the making of a prohibited foreign national expenditure, independent

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<sup>12</sup> 11 C.F.R. § 110.20(i). The Commission has explained that this provision also bars foreign nationals from "involvement in the management of a political committee." Prohibitions E&J, 67 Fed. Reg. at 69946; *see also* Advisory Op. 2004-26 at 2-3 (Weller) (noting that foreign national prohibition at section 110.20(i) is broad and concluding that, while a foreign national fiancé 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.").

<sup>13</sup> *See, e.g.*, Conciliation Agreement, MUR 6093 (Transurban Grp.) (U.S. subsidiary violated Act by making contributions after its foreign parent company's board of directors directly participated in determining whether to continue political contributions policy of its U.S. subsidiaries); Conciliation Agreement, MUR 6184 (Skyway Concession Company, LLC) (U.S. company violated Act by making contributions after its foreign national CEO participated in company's election-related activities by vetting campaign solicitations or deciding which nonfederal committees would receive company contributions, authorizing release of company funds to make contributions, and signing contribution checks); Conciliation Agreement, MUR 7122 (American Pacific International Capital, Inc. ("APIC")) (U.S. corporation owned by foreign company violated Act by making contribution after its board of directors, which included foreign nationals, approved proposal by U.S. citizen corporate officer to contribute).

<sup>14</sup> *See* MUR 6203 (Itinere North America).

1 expenditure, or disbursement.<sup>15</sup> The Act further prohibits persons from soliciting, accepting, or  
 2 receiving a contribution or donation from a foreign national.<sup>16</sup>

3 **A. The Foreign National Prohibition Applies to the CNMI**

4 Section 502 of the Covenant provides that the CNMI is subject to laws “in existence on  
 5 the effective date of this Section and subsequent amendments to such laws . . . which are  
 6 applicable to Guam and which are of general application the several States as they are applicable  
 7 to the several States.”<sup>17</sup> The Act, including the provision containing the prohibition on foreign  
 8 national contributions in local elections, applies to “the several states,” was enacted prior to the  
 9 March 24, 1976 effective date of the Covenant, and was not specifically excluded in the  
 10 Covenant.<sup>18</sup> The Covenant also applies to “subsequent amendments to such laws.”<sup>19</sup>  
 11 Furthermore, the Commission has previously applied the Act’s foreign national prohibition to  
 12 corporate contributions of a respondent in Guam.<sup>20</sup>

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<sup>15</sup> 11 C.F.R. § 110.20(h). The Commission has explained that substantial assistance “means active involvement in the solicitation, making, receipt or acceptance of a foreign national contribution or donation with an intent to facilitate successful completion of the transaction.” Assisting Foreign National Contributions or Donations, 67 Fed. Reg. 66928, 66945 (Nov. 19, 2002). Moreover, substantial assistance “covers, but is not limited to, those persons who act as conduits or intermediaries for foreign national contributions or donations.” *Id.* at 66945.

<sup>16</sup> 52 U.S.C. § 30121(a)(2). The Commission’s regulations employ a “knowingly” standard. 11 C.F.R. § 110.20(g). A person knowingly accepts a prohibited foreign national contribution or donation if that person has actual knowledge that funds originated from a foreign national, is aware of facts that would lead a reasonable person to conclude that there is a substantial probability that the funds originated from a foreign national, or is aware of facts that would lead a reasonable person to inquire whether the funds originated from a foreign national but failed to conduct a reasonable inquiry. 11 C.F.R. § 110.20(a)(4).

<sup>17</sup> Covenant § 502(a)(2).

<sup>18</sup> See also FEC Act Amendments of 1974, Pub. L. No. 93-443, § 101(d), 88 Stat. 1263, 1267.

<sup>19</sup> Covenant § 502(a)(2).

<sup>20</sup> See MUR 3437 (The Guam Tribune) (Commission found reason to believe that respondent violated prohibition on corporate contributions; closed after investigation).

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1        The Act does not attempt to regulate how local communities conduct their elections; it  
2 instead regulates the financing of such elections, in all States and territories to which the Act  
3 applies, in service of a compelling Congressional purpose. As the court in *Bluman v. FEC*  
4 explained:

5                [P]olitical contributions . . . are an integral aspect of the process by  
6 which Americans elect officials to federal, state, and local  
7 government offices. . . . [Section 30121] serves the compelling  
8 interest of limiting the participation of *non-Americans* in the  
9 activities of democratic self-government. A statute that excludes  
10 foreign nationals from political spending is therefore tailored to  
11 achieve that compelling interest.<sup>21</sup>

12                Here, not only has CNMI accepted the application of the Act through the Covenant, but  
13 the Act's purposes are furthered by such application. Just like in the 50 states, the CNMI holds  
14 elections for governor and lieutenant governor every four years and for representatives to its  
15 lower house every two years, and the CNMI and the states administer their elections as they  
16 desire, limited by Constitutional considerations.<sup>22</sup> But Congress's interest in protecting the  
17 political process from foreign influence is as important to democratic self-governance in the  
18 CNMI, as it is everywhere else in the United States. Like the District of Columbia, the CNMI  
19 elects a non-voting Member of the U.S. House of Representatives. Thus, the Act, its  
20 amendments, and corresponding Commission regulations are applicable to the financing of local  
21 elections in the CNMI, including the prohibition regarding foreign national contributions.

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<sup>21</sup>                800 F. Supp. 2d 281, 288-89 (D.D.C. 2011), *aff'd* 132 S. Ct. 1087 (2012) (emphasis added); *see also* *Singh*, 924 F.3d 1030 (upholding constitutionality of section 30121(a)(1) as to state and local elections based on Congress's broad powers over foreign affairs and immigration and citing *Bluman* as precluding appellant's First Amendment challenge).

<sup>22</sup>                *See, e.g., Bush v. Gore*, 531 U.S. 98 (2000) (holding, in part, that Florida's method of selecting electors violated the Constitution).

1                   **B. Foreign National Contributions**

2                   A review of Torres's campaign finance reports indicates that Torres knowingly accepted  
 3                   at least nine contributions totaling \$90,000 from four foreign national corporations in connection  
 4                   with his 2014 and 2018 campaigns for lieutenant governor and governor:

Contributions to Torres Campaigns		
Date	Source	Amount
January 11, 2015 <sup>23</sup>	Imperial Pacific <sup>24</sup>	\$10,000
	Alter City <sup>25</sup>	\$20,000
	Honest Profit <sup>26</sup>	\$20,000
	Hong Kong Entertainment <sup>27</sup>	\$15,000
August 4, 2017 <sup>28</sup>	Honest Profit	\$5,000
	Imperial Pacific	\$10,000 (refunded)
	Alter City	\$10,000
December 29, 2017 <sup>29</sup>	Alter City	\$5,000
	<b>Total Contributions</b>	<b>\$90,000</b>

5  
 6                   Therefore, the Commission finds reason to believe that Respondents Ralph G. Torres and  
 7                   the Ralph Torres Campaign accepted at least \$90,000 in prohibited foreign national contributions  
 8                   from four corporations, in violation of 52 U.S.C. § 30121(a)(2).

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<sup>23</sup> Inos/Torres 2014 Campaign Statement of Account (Jan. 26, 2015) ("Torres 2014").

<sup>24</sup> Imperial Pacific International Holdings is a Chinese corporation that also established a domestic subsidiary, Imperial Pacific (CNMI) LLC in 2014. Information in the record suggests that Imperial Pacific (CNMI) did not appear to have had any domestic revenues until November 2015 and that foreign nationals may have participated in the decision to make the August 2017 donations.

<sup>25</sup> Alter City Group Holdings Limited is registered in the British Virgin Islands and has its principal place of business in Macau.

<sup>26</sup> Honest Profit International Limited is based in Hong Kong.

<sup>27</sup> Hong Kong Entertainment is a Chinese subsidiary corporation.

<sup>28</sup> Torres/Palacios 2018 Campaign Statement of Account (Jan. 17, 2019) ("Torres 2018").

<sup>29</sup> *Id.*