



FEDERAL ELECTION COMMISSION
Washington, D.C. 20463

April 19, 2022

Via Electronic Mail

Gerardo De Jesús Annoni
PO Box 13713
San Juan, PR 00908-3713

RE: MUR 7688

Dear Mr. De Jesús Annoni:

On February 5, 2020, the Federal Election Commission notified your clients, Aníbal Acevedo-Vilá and Aníbal Comisionado 2020 and Jose Luis Mendoza in his official capacity as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On April 7, 2022, on the basis of information in the complaint and provided by the Respondents, the Commission found that there is no reason to believe that Aníbal Acevedo-Vilá violated 52 U.S.C. §§ 30102(e)(1), 30118(a) and 11 C.F.R. §§ 101.1(a), 114.2(d); and that there is no reason to believe that Aníbal Comisionado 2020 and Jose Luis Mendoza in his official capacity as treasurer violated 52 U.S.C. §§ 30103(a), 30104(b), 30118(a) and 11 C.F.R. §§ 102.1, 104.3(a), 114.2(d). Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Ray Wolcott, the attorney assigned to this matter, at (202) 694-1302 or rwolcott@fec.gov.

Sincerely,

Ana J. Peña-Wallace

Ana J. Peña-Wallace
Acting Assistant General Counsel

Enclosure
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

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3 RESPONDENTS: Aníbal Comisionado 2020 and Jose Luis MUR 7688
4 Mendoza in his official capacity as treasurer
5 Aníbal Acevedo-Vilá

I. INTRODUCTION

6
7 This matter was generated by a Complaint filed with the Federal Election Commission
8 alleging that Aníbal Acevedo-Vilá, a 2020 candidate for Resident Commissioner of Puerto Rico,
9 received prohibited in-kind corporate contributions from (1) Media Power Group, Inc. (“MPG”),
10 the corporation that paid to broadcast a daily political radio talk show hosted by Acevedo-Vilá;
11 and (2) an unspecified company, which Acevedo-Vilá identified as Publicaciones por Puerto
12 Rico (“PPR”), a corporation he owned, that paid costs for a book tour promoting Acevedo-Vilá’s
13 latest book about political issues in Puerto Rico, in violation of the Federal Election Campaign
14 Act of 1971, as amended (the “Act”). The Complaint also alleges that Acevedo-Vilá failed to
15 timely file his Statement of Candidacy and his authorized committee, Aníbal Comisionado 2020
16 and Jose Luis Mendoza in his official capacity as treasurer (the “Committee”), failed to timely
17 file its Statement of Organization.

18 As discussed below, the available information indicates that MPG’s corporate costs
19 related to Acevedo-Vilá’s radio show are covered by the press exemption and thus did not
20 constitute in-kind contributions. Similarly, the costs associated with Acevedo-Vilá’s book tour
21 appear to have been bona fide commercial activity exempt from the definition of “contribution.”
22 The Commission therefore finds no reason to believe that Acevedo-Vilá and the Committee
23 accepted prohibited in-kind corporate contributions in violation of 52 U.S.C. § 30118(a) and
24 11 C.F.R. § 114.2(d), and finds no reason to believe that the Committee violated 52 U.S.C.
25 § 30104(b) and 11 C.F.R. § 104.3(a) by failing to report in-kind contributions.

1 Lastly, Acevedo-Vilá and the Committee registered with the Commission five days after
2 Acevedo-Vilá exceeded the \$5,000 threshold for qualifying as candidate based on his reported
3 contributions. Accordingly, the Commission finds no reason to believe that Acevedo-Vilá
4 violated 52 U.S.C. § 30102(e)(1) and 11 C.F.R. § 101.1(a) by failing to timely file a Statement of
5 Candidacy, and finds no reason to believe that the Committee violated 52 U.S.C. § 30103(a) and
6 11 C.F.R. § 102.1(a) by failing to timely file a Statement of Organization.

7 **II. FACTUAL BACKGROUND**

8 Acevedo-Vilá was a 2020 Democratic candidate for Resident Commissioner of Puerto
9 Rico.¹ Aníbal Comisionado 2020 is his authorized campaign committee and Jose Luis Mendoza
10 is the committee's treasurer.² Acevedo-Vilá previously served as Resident Commissioner of
11 Puerto Rico from 2001 to 2005 and as Governor of Puerto Rico from 2005 to 2009.³ After
12 leaving public office in 2009, as described below, Acevedo-Vilá hosted a radio talk show and
13 published multiple books.

14 **A. Candidacy and Committee Registration**

15 Acevedo-Vilá publicly announced his intention to run for Resident Commissioner in a
16 video message posted to his Facebook page on December 10, 2019.⁴ Committee disclosure
17 reports show that the Committee received its first contribution on January 13, 2020, and reached

¹ Acevedo-Vilá, Amended Statement of Candidacy (Feb. 21, 2020). The Resident Commissioner of Puerto Rico, a non-voting Member of the U.S. House of Representatives, is a federal office. 11 C.F.R. § 100.4.

² Aníbal Comisionado 2020, Amended Statement of Org. (May 12, 2020).

³ U.S. House of Representatives, History, Art & Archives, *Acevedo-Vilá, Anibal*, https://history.house.gov/People/Detail/8754?current_search_qs=%3Ffilter%3D11%26PreviousSearch%3D%26CurrentPage%3D1%26SortOrder%3DLastName%26ResultType%3DGrid (last visited Sep. 13, 2020).

⁴ Compl. at 2 (Jan. 29, 2020); Aníbal Acevedo-Vilá (@anibalacevedo), TWITTER (Dec. 10, 2019), <https://twitter.com/anibalacevedo/status/1204542159971586049?s=20c> (“Acevedo-Vilá Twitter Account”).

1 \$5,000 in aggregate contributions on February 7, 2020.⁵ Its first reported expenditure was on
2 March 6, 2020.⁶ On February 12, 2020, Acevedo-Vilá filed a Statement of Candidacy with the
3 Commission and, on the same day, the Committee filed a Statement of Organization.⁷ Acevedo-
4 Vilá ran unopposed for his party's nomination in the primary election held on August 9, 2020,
5 but lost the general election.⁸

6 **B. Radio Show**

7 MPG is a corporation, registered in Puerto Rico since 2003, that owns and operates a
8 network of four AM radio stations broadcasting “talk-news” programming under the trade name
9 “Radio Isla.”⁹ MPG states that its programming includes talk news shows hosted by former
10 politicians who “analyze and share . . . their different political and social views and perspectives
11 related to current news and events.”¹⁰ MPG states that it has distributed content created by
12 members of multiple political parties, including the party in opposition to Acevedo-Vilá's

⁵ Committee 2020 April Quarterly Report at 7, 9, 11, 15 (Apr. 15, 2020) (reporting receipt of a \$2,500 contribution on Jan. 13, 2020, and three contributions totaling \$8,100 on Feb. 7, 2020).

⁶ *Id.* at 21.

⁷ Anibal Comisionado 2020, Statement of Org. (Feb. 14, 2020); Acevedo-Vilá, Statement of Candidacy (Feb. 14, 2020).

⁸ Puerto Rico State Election Commission, List of 2020 Party Primary Candidates, <https://www.ceepur.org/primarias/docs/ListadoAspirantesPrimaria.pdf>. Jennifer González, the sitting Resident Commissioner at the time of the events described in the Complaint, won reelection in the general election. Puerto Rico State Election Commission, 2020 Resident Commissioner General Election Results, https://elecciones2020.ceepur.org/Noche_del_Evento_92/index.html#es/default/COMISIONADO_RESIDENTE_Resumen.xml (reporting that González won reelection with 40.85% of the vote and Acevedo-Vilá finished second with 32.05% of the vote).

⁹ MPG Resp. at 1 (May 6, 2020). MPG asserts, and public records confirm, that “Radio Isla” is a trade name for a network of four AM radio stations in Puerto Rico owned and operated by MPG, WDEP, WSKN, WKFE, and WLEY. *Id.*; Public Files, Radio Isla, <https://radioisla.tv/public-files> (last visited Oct. 15, 2020) (listing the four stations operating under the Radio Isla trade name); AM Query Broadcast Station Search, <https://www.fcc.gov/media/radio/am-query> (search for call signs “WDEP,” “WSKN,” “WKFE,” and “WLEY” in “PR - Puerto Rico”) (listing Media Power Group, Inc. as the owner of all four stations).

¹⁰ MPG Resp. at 1.

1 party.¹¹ MPG describes itself as a “traditional press corporation” and asserts that it is not owned
2 or controlled by any political party or candidate.¹²

3 In January 2017, Acevedo-Vilá signed a contract with MPG to produce and host a
4 morning radio talk show called “Sobre la Mesa” that focused on news, politics, and opinion.¹³
5 MPG paid Acevedo-Vilá \$4,500 per month (later decreased to \$3,500) to host and produce the
6 show, which MPG broadcast on the “Radio Isla” stations across Puerto Rico.¹⁴ MPG asserts that
7 it hired Acevedo-Vilá because, in addition to being a prominent former politician, he was a well-
8 known author and public figure in Puerto Rico.¹⁵ According to both Acevedo-Vilá and MPG,
9 “Sobre la Mesa” regularly hosted guests with diverse backgrounds, viewpoints, and political
10 party affiliations.¹⁶

11 In December 2019, Acevedo-Vilá informed MPG that he was considering running for
12 Resident Commissioner.¹⁷ After informing MPG of his intention to run for office, Acevedo-Vilá
13 and MPG mutually agreed that Communications Commission (“FCC”) regulations would require
14 him to cease hosting “Sobre la Mesa” when he became a “legally qualified candidate” as defined
15 by FCC rules.¹⁸ According to MPG, on advice of counsel, it determined Acevedo-Vilá would
16 become a candidate when he was certified by the Puerto Rico State Election Commission.¹⁹

¹¹ *Id.* at 2. Acevedo-Vilá was ultimately certified as a candidate by the Puerto Rican State Election Commission in March 2020. *Id.* at 4; Acevedo-Vilá Resp. at 2 (July 31, 2020).

¹² MPG Resp. at 4; *see also id.* at 1 (listing shareholders).

¹³ Acevedo-Vilá Resp. at 1; MPG Resp. at 1.

¹⁴ Acevedo-Vilá Resp. at 1; MPG Resp. at 2.

¹⁵ MPG Resp. at 4.

¹⁶ *Id.* at 3; Acevedo-Vilá Resp. at 1.

¹⁷ MPG Resp. at 3; Acevedo-Vilá Resp. at 2.

¹⁸ MPG Resp. at 3; Acevedo-Vilá Resp. at 2.

¹⁹ Acevedo-Vilá Resp. at 2; MPG Resp. at 3.

1 Though Acevedo-Vilá did not become a certified candidate until March 2020, on February 28,
2 2020, Acevedo-Vilá and MPG mutually agreed to terminate his contract.²⁰

3 Acevedo-Vilá and MPG state that the format and content of “Sobre la Mesa” did not
4 change during the approximately three-month period between Acevedo-Vilá’s announcement of
5 his intention to run for Resident Commissioner in December 2019, and his departure from the
6 show in February 2020.²¹ Acevedo-Vilá denies ever using “Sobre la Mesa” to “campaign in
7 favor or against any political candidate or party, or [his] candidacy” or to solicit contributions,
8 and asserts that he did not run any ads for his campaign during the show.²²

9 The Complaint alleges that Acevedo-Vilá used his radio show “as a platform for his
10 campaign for Congress, and to attack other candidates,” and claims that he also used other shows
11 broadcast by MPG to “promote his political campaign.”²³ As an example, the Complaint claims
12 that on January 14, 2020, Acevedo-Vilá used his radio show to “move public opinion against” a
13 competing political talk radio host who the Complaint claims is a “severe critic” of Acevedo-
14 Vilá and his party, and supports ideas that conflict with Acevedo-Vilá’s policy positions
15 regarding Puerto Rican statehood.²⁴ In the same broadcast, the Complaint alleges, Acevedo-Vilá
16 expressed support for the Mayor of San Juan, who is a member of his political party.²⁵ A review
17 of the portion of the broadcast cited in the Complaint, which includes a clip of another host’s

²⁰ MPG Resp. at 3-4; Acevedo-Vilá Resp. at 2. After Acevedo-Vilá’s contract was terminated, MPG states that it continued to broadcast “Sobre la Mesa” with the same format, but with a new host. MPG Resp. at 4.

²¹ MPG Resp. at 4; Acevedo-Vilá Resp. at 2.

²² Acevedo-Vilá Resp. at 2.

²³ Compl. at 5.

²⁴ *Id.*

²⁵ *Id.*

1 comments about the Mayor of San Juan, shows that the other host used a vulgar term to describe
2 the mayor, and Acevedo-Vilá criticized the host for using such language that he described as
3 discriminatory against women.²⁶ A review of the segment does not reveal that Acevedo-Vilá
4 made any statements related to the election.

5 The Complaint further alleges that on January 16, 2020, Acevedo-Vilá used his show to
6 criticize the current Resident Commissioner, Jennifer González, who would later become one of
7 his opponents in, and go on to win, the general election, and Donald Trump for a delay in signing
8 a federal disaster declaration in response to the earthquakes in December 2019.²⁷ A review of
9 the broadcast, however, shows that he mentioned González in passing, along with the current
10 Governor of Puerto Rico, in the context of discussing an article in the *Washington Post* from the
11 previous day reporting on the federal government's release of disaster aid.²⁸

12 The Complaint alleges that by paying Acevedo-Vilá to produce his show and paying to
13 broadcast “Sobre la Mesa,” which the Complaint characterizes as a “platform to advance
14 [Acevedo-Vilá’s] campaign,” MPG made prohibited in-kind corporate contributions that
15 Acevedo-Vilá accepted and did not report.²⁹ Both MPG and Acevedo-Vilá assert that their
16 contractual relationship was a bona fide employment relationship that was independent from his

²⁶ A nine-minute clip of the January 14, 2020, episode is hosted on the Radio Isla website and available at a link provided in the Complaint. Compl. at 5 (citing <https://radioisla.tv/acevedo-vila-arremete-contra-analista-politico-por-insultar-a-carmen-yulin>).

²⁷ *Id.* at 6; *supra* note 8.

²⁸ A video broadcast of the January 16, 2019, episode of “Sobre la Mesa” can be found on Acevedo-Vilá’s Facebook page. <https://www.facebook.com/acevedovila.net/videos/643827736362052> (“Jan. 16 Broadcast”). In the broadcast, Acevedo-Vilá stated: “The Washington Post published a story yesterday—incredibly—the Washington Post said that the White House, and Donald Trump, and Jennifer González, and [Puerto Rican Governor] Wanda Vázquez—because Wanda is a Republican—are going to put more conditions on the release of federal funds. *Id.*”

²⁹ Compl. at 12.

1 current candidacy.³⁰ Respondents further argue that MPG’s payments to produce and broadcast
2 Acevedo-Vilá’s radio show fall under the press exemption.³¹

3 C. Book Tour

4 Since leaving public office in January 2009, Acevedo-Vilá has written and published five
5 politically-themed books.³² His latest book, entitled *Crisis en la Agenda, Agenda para la Crisis*,
6 (“*Crisis*”) was published in November 2019.³³ In his Response, Acevedo-Vilá describes the
7 book as consisting of “reflections and recommendations on the prospective agenda for Puerto
8 Rico” after the events of the summer of 2019 that “forced the resignation of” the Governor.³⁴
9 *Crisis* was published by PPR, a corporation wholly owned by Acevedo-Vilá, and distributed by
10 Libros el Navegante, a local distributor.³⁵

11 According to Acevedo-Vilá, PPR organized book-signing events at various locations in
12 Puerto Rico to publicize *Crisis* in November and December 2019.³⁶ Acevedo-Vilá explains that
13 PPR paid to rent a space at a private foundation for the debut event of the book tour, but that he
14 was otherwise personally responsible for the “promotion and marketing of the book.”³⁷ The
15 events included guests such as Carmen Yulín Cruz, Mayor of San Juan and one of the Popular

³⁰ Acevedo-Vilá Resp. at 4; MPG Resp. at 4.

³¹ MPG Resp. at 4; Acevedo-Vilá Resp. at 4-5.

³² Acevedo-Vilá Resp. at 3.

³³ The book appears to have been released on November 24, 2019. Acevedo-Vilá Twitter Account (Nov. 24, 2019), <https://twitter.com/anibalacevedo/status/1198783943656521728?s=20>.

³⁴ Acevedo-Vilá Resp. at 3.

³⁵ *Id.*

³⁶ Acevedo-Vilá Resp. at 3. Acevedo-Vilá publicized these events on Twitter. *E.g.*, Acevedo-Vilá Twitter Account (Nov. 16, 2019), <https://twitter.com/anibalacevedo/status/1195708034749796352?s=20>; Acevedo-Vilá Twitter Account (Nov. 18, 2019), <https://twitter.com/anibalacevedo/status/1196454891230826498?s=20>; Acevedo-Vilá Twitter Account (Dec. 10, 2019), <https://twitter.com/anibalacevedo/status/1204532981907496965?s=20>.

³⁷ Acevedo-Vilá Resp. at 3, 7.

1 Democratic Party’s candidacy for Governor of Puerto Rico, and Rafael Cox-Alomar, a former
2 candidate for Resident Commissioner.³⁸ There is no available information regarding the actual
3 or estimated costs of the book tour or the content of Acevedo-Vilá’s statements at any of the
4 events.³⁹

5 The Complaint alleges that Acevedo-Vilá timed the publication of *Crisis* to immediately
6 precede the filing date for Puerto Rico candidates, and that the subsequent book tour “served as a
7 series of campaign events . . . to advocate his candidacy and discuss his politics with the voters
8 of Puerto Rico.”⁴⁰ The Complaint asserts that book tour was “inextricably linked” to Acevedo-
9 Vilá’s campaign, and thus alleges that the company funding the tour made prohibited in-kind
10 corporate contributions to Acevedo-Vilá, which the Committee as failed to report.⁴¹

11 Acevedo-Vilá and the Committee argue that the Complaint is “devoid of any substance”
12 and “simply does not allege any discernible violation of the Act” in connection with the book
13 tour.⁴² They argue that the Commission should find no reason to believe that Respondents
14 violated the Act in connection with the book tour.⁴³

³⁸ Compl. at 7.

³⁹ Acevedo-Vilá appears to have attended similar events to promote his 2014 book, *Toward the Economic Refounding of Puerto Rico and its Commonwealth Status*, which was also published by PPR. *E.g.*, Acevedo-Vilá Twitter Account (Sept. 25, 2014), <https://twitter.com/anibalacevedo/status/515169242514489344?s=20>.

⁴⁰ Compl. at 7, 14.

⁴¹ *Id.*

⁴² Acevedo-Vilá Resp. at 7.

⁴³ *Id.*

1 **III. LEGAL ANALYSIS**

2 **A. Radio Show**

3 The Act defines the term “contribution” to include “any gift, subscription, loan, advance,
4 or deposit of money or anything of value made by any person for the purpose of influencing any
5 election for Federal office.”⁴⁴ The term “anything of value” includes in-kind contributions, such
6 as goods or services provided without charge or at a charge that is less than the usual and normal
7 charge for such goods or services.⁴⁵ The Act and Commission regulations prohibit corporations
8 from making contributions to a candidate or authorized committee.⁴⁶ Likewise, it is unlawful for
9 any candidate, political committee, or other person to knowingly accept or receive a prohibited
10 corporate contribution.⁴⁷ Authorized committee treasurers are required to disclose the
11 identification of each person who makes one or more contributions to the committee aggregating
12 in excess of \$200 within the election cycle, together with the date and amount of any such
13 contribution.⁴⁸

14 The Act and Commission regulations exempt from the definitions of contribution and
15 expenditure, “[a]ny cost incurred in covering or carrying a news story, commentary, or editorial
16 by any broadcasting station . . . unless the facility is owned or controlled by any political party,
17 political committee, or candidate.”⁴⁹ This exemption is generally referred to as the “press

⁴⁴ 52 U.S.C. § 30101(8)(A)(i); *see also id.* § 30101(9)(A)(i) (defining “expenditure” as “any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office”).

⁴⁵ 11 C.F.R. § 100.52(d)(1).

⁴⁶ 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b).

⁴⁷ 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b), (d)-(e).

⁴⁸ 52 U.S.C. § 30104(b)(3)(A); 11 C.F.R. § 104.3(a).

⁴⁹ *Id.* §§ 100.73, 100.132; *see* 52 U.S.C. § 30101(9)(B)(i).

1 exemption” or “media exemption.” The Commission has determined whether the exemption
2 applies by first assessing whether the entity that engaged in the challenged activity is a “press
3 entity.”⁵⁰ Second, the Commission determines the scope of the exemption by applying the two-
4 part analysis presented in *Reader’s Digest Ass’n v. FEC*: (1) whether the entity is owned or
5 controlled by a political party, political committee, or candidate; and (2) whether the entity is
6 acting within its “legitimate press function.”⁵¹

7 The Complaint alleges that MPG made prohibited in-kind corporate contributions to
8 Acevedo-Vilá by paying to broadcast his radio talk show program, which the Committee failed
9 to report. As discussed below, MPG’s activities are covered by the press exemption and, thus,
10 any payments by MPG in connection with “Sobre la Mesa” are not in-kind contributions.

11 First, MPG is a press entity. “[T]he Commission has focused on whether the entity in
12 question produces on a regular basis a program that disseminates news stories, commentary,
13 and/or editorials.”⁵² That description applies here. MPG states that it owns and operates four
14 AM radio stations that broadcast news and “talk-news” programming.⁵³ MPG further explains
15 that its talk-news programs hosted by “prestigious professionals, including politicians, who
16 analyze and share with [MPG’s] audience their different political and social views and
17 perspectives related to current news and events.”⁵⁴ A review of MPG’s public website and
18 available programming generally confirms these descriptions.

⁵⁰ See, e.g., Advisory Op. 2011-11 at 6-7 (Colbert) (“AO”) (collecting cases); AO 2010-08 at 5-6 (Citizens United); AO 2005-16 at 5 (Fired Up!).

⁵¹ See *Reader’s Digest*, 509 F. Supp. 1210, 1215 (S.D.N.Y. 1981); AO 2011-11 at 7-9 (Colbert); AO 2010-08 at 6-7 (Citizens United); AO 2005-16 at 6 (Fired Up!).

⁵² Advisory Op. 2010-08 (Citizens United) at 7 (“AO 2010-08”).

⁵³ MPG Resp. at 1, 4.

⁵⁴ *Id.* at 1.

1 Second, there is no suggestion or information that MPG is owned or controlled by a
2 political party, political committee, or candidate.⁵⁵ MPG identified its shareholders, none of
3 whom are political parties, political committees, or candidates, and specifically denies that any
4 such person or entity owns or controls MPG, and the Commission is not aware of any
5 information to the contrary.⁵⁶ Although Acevedo-Vilá announced his intention to run on
6 December 10, 2019, registered with the Commission on February 12, 2020, and did not terminate
7 his contract with MPG until February 28, 2020, this overlap does not establish that MPG was
8 owned or controlled by a candidate. The Commission has previously concluded that a
9 “host/candidate” does not own or control the media entity for purposes of the press exemption
10 “on the basis that the host/candidate had a role in determining program content.”⁵⁷ By contrast,
11 in MUR 7073 (Meluskey for U.S. Senate), the Commission determined that the press exemption
12 did not apply because “Meluskey was not a paid radio host employed by the radio station,” but
13 “purchased airtime and related services [using companies that he owned and controlled].”⁵⁸ As
14 explained above, Acevedo-Vilá was paid by MPG to host “Sobre la Mesa,” and MPG was
15 responsible for airing the show on its radio stations.

16 Third, there is no indication that MPG acted outside of its legitimate press function in
17 connection with its broadcasting of Acevedo-Vilá’s radio program, “Sobre la Mesa.” When
18 determining whether an entity was acting within in a legitimate press function, the Commission

⁵⁵ See *Readers Digest Ass’n. v. FEC*, 509 F. Supp. 1210, 1214-15 (S.D.N.Y. 1981).

⁵⁶ MPG Resp. at 1.

⁵⁷ Factual & Legal Analysis at 5, MUR 6242 (J.D. Hayworth 2010); (citing MUR 5555 (Friends of Dave Ross); MUR 4689 (Robert Dornan)).

⁵⁸ Factual & Legal Analysis at 7-8, MUR 7073 (Meluskey for U.S. Senate).

1 considers two factors: (1) whether the entity’s materials are available to the general public; and
2 (2) whether they are comparable in form to those ordinarily issued by the entity.⁵⁹

3 Here, “Sobre la Mesa” was broadcast on multiple AM radio channels throughout Puerto
4 Rico, making it readily available to the public.⁶⁰ Further, the available information indicates that
5 “Sobre la Mesa” was comparable in form to other programming regularly aired by MPG; the
6 format and content of the show itself did not change after Acevedo-Vilá announced his intention
7 to become a candidate; and MPG continues to air the show with the same format and different
8 host.⁶¹

9 The Complaint argues that two of Acevedo-Vilá’s statements on “Sobre la Mesa”
10 undercut the application of the press exemption because they effectively “converted [the show]
11 to a vehicle to promote Anibal Acevedo-Vila's purely private interests, namely, his candidacy.”⁶²
12 As an initial matter, the Commission has long recognized that an entity otherwise eligible for the
13 exemption “would not lose its eligibility merely because of a lack of objectivity in a news story,

⁵⁹ See *Readers Digest*, 509 F. Supp. at 1215; Factual & Legal Analysis at 4, MUR 7231 (CNN, *et al.*); Advisory Op. 2016-01 at 3 (Ethiq); Advisory Op. 2010-08 at 6 (Citizens United). When distinguishing between an entity’s press functions and its participation in campaign functions, the Commission has applied the “considerations of form” analysis described in *FEC v. Mass. Citizens for Life*, 479 U.S. 238, 251 (1986), and has examined whether the activity in question is comparable in form to the press entity’s regular activities and has approved of activities and content produced in the same manner, using the same people, and subject to the same review and distribution as the press entity’s general activities. Advisory Op. 2011-11 (Colbert) at 8.

⁶⁰ Compl. at 4; MPG Resp. at 1-2.

⁶¹ See Factual & Legal Analysis at 5-6, MUR 6242 (J.D. Hayworth 2010) (determining that the press exemption applied with respect to a radio show host who was testing the waters, and later became a candidate, where the broadcasts during the testing-the-waters period were similar in form to those broadcast before the host began testing the waters); Certification, MUR 5555 (Ross) (Feb. 10, 2006) (finding no reason to believe under the press exemption with respect to a radio show host who became a candidate where the program format did not change after he began to consider candidacy); Certification, MUR 4689 (Dornan) (Aug. 15, 1999) (finding no reason to believe under the press exemption with respect to radio guest-host who later became a candidate where there was no indication that the formats, distribution, or other aspects of productions when the candidate hosted than they were when the regular host was present); see also Factual & Legal Analysis at 5-6, MUR 6242 (J.D. Hayworth 2010) (describing the Commission’s holdings in MURs 4689 and 5555).

⁶² Compl. at 5-6, 11.

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1 commentary, or editorial, even if the news story, commentary, or editorial expressly advocates
2 the election or defeat of a clearly identified candidate for Federal office.”⁶³ Moreover, there is
3 no information indicating that his statements referenced his own campaign or materially differed
4 from the normal content of his show, which regularly addressed Puerto Rico law, policy, and
5 politics. Regarding the January 14, 2020, episode in which Acevedo-Vilá used his radio show to
6 criticize a competing political talk show host and express support for the Mayor of San Juan, a
7 review of that broadcast does not reveal that Acevedo-Vilá made any statements related to his
8 election.⁶⁴ Regarding the January 16, 2020, episode in which Acevedo-Vilá allegedly criticized
9 his opponent, Jennifer González, a review of the broadcast shows that he mentioned González’s
10 name in passing during a segment in which he criticized actions by the federal government.⁶⁵ In
11 the segment, Acevedo-Vilá criticized González for supporting the federal government’s decision
12 not to release federal disaster funds to Puerto Rico following the December 2019 earthquake.⁶⁶
13 In MUR 4689 (Dornan), the Commission determined that the press exemption applied where a
14 radio guest host who later became a candidate made comments critical of his eventual opponent
15 but there was “no indication that formats, distribution, or other aspects of production” were any
16 different when the candidate hosted than they were when a guest host was present.⁶⁷ Based on
17 the available information, Acevedo-Vilá’s statements criticizing sitting government officials for

⁶³ F&LA at 5, MUR 7206 (Bonneville International Corp.) (quoting AO 2005-16 at 6; Factual & Legal Analysis at 3, MUR 6579 (ABC News, Inc.) (July 5, 2012)).

⁶⁴ *Supra* note 26 and accompanying text.

⁶⁵ *Supra* note 28.

⁶⁶ *Id.*

⁶⁷ Certification, MUR 4689 (Dornan); Statement of Reasons, Comm’rs Wold, Elliott, Mason & Sandstrom at 2, MUR 4689; *see also* Factual & Legal Analysis at 6, MUR 6242 (J.D. Hayworth 2010) (stating the Commission’s holding in MUR 4689).

1 policy decisions affecting Puerto Rico appear to be a regular feature of his show and no different
2 that the format and content of the programming prior to his announcement that he intended to
3 become a candidate. In sum, there is no reasonable basis to conclude that MPG acted outside of
4 its legitimate press function.

5 Therefore, given the available information, the Commission concludes that MPG's
6 payments for the production and distribution of "Sobre la Mesa" are entitled to the press
7 exemption and are thus not considered in-kind contributions to Acevedo-Vilá or the
8 Committee.⁶⁸ The Commission therefore finds no reason to believe that Acevedo-Vilá and the
9 Committee accepted prohibited in-kind corporate contributions in violation of 52 U.S.C.
10 § 30118(a) and 11 C.F.R. § 114.2(d) in connection with the radio show, and finds no reason to
11 believe that the Committee failed to report those contributions in violation of 52 U.S.C.
12 § 30104(b) and 11 C.F.R. § 104.3(a).

13 **B. Book Tour**

14 The Complaint alleges that Acevedo-Vilá's "corporate-funded" book tour in November
15 and December 2019 to promote *Crisis* resulted in an unidentified corporate entity making, and
16 Acevedo-Vilá and the Committee knowingly accepting, in-kind corporate contributions that the
17 Committee failed to report.⁶⁹ The Complaint does not identify a specific corporate entity that
18 made payments in connection with the book tour. In his Response, Acevedo-Vilá explained that
19 PPR, "a Puerto Rico corporation wholly owned by me, paid [for] the book printing, which I

⁶⁸ See Factual & Legal Analysis at 4-7, MUR 6481 (RTTV) (applying the press exemption to a media entity that co-produced and broadcast a radio program hosted by an independent contractor where, as here, the independent contractor host maintained editorial control).

⁶⁹ Compl. at 14.

1 began promoting and marketing . . . through a variety of events, in coordination with a local
2 distributor (Libros el Navegante), that included book signings around Puerto Rico.”⁷⁰

3 In previous similar matters, the Commission has analyzed allegations of impermissible
4 in-kind corporate contributions involving books written by candidates and associated publisher-
5 funded promotional activities under the press exemption, discussed above, and the bona fide
6 commercial activity exemption.⁷¹ Here, the press exemption appears to be inapplicable with
7 respect to PPR because it wholly owned by Acevedo-Vilá, a candidate.⁷² There is no
8 information on the record before the Commission regarding Libros el Navegante to analyze
9 whether the exemption applies. In any event, the promotional tour for *Crisis* appears to be a
10 bona fide commercial activity undertaken prior to and independent of his candidacy.

11 The Act and Commission regulations limit the term “contribution” to “any gift,
12 subscription, loan, advance, or deposit of money or anything of value made by any person *for the*
13 *purpose of influencing any election for Federal office.*”⁷³ For corporations, “the term
14 ‘contribution or expenditure’ . . . also includes any direct or indirect payment, distribution, loan,
15 advance, deposit, or gift of money, or any services, or anything of value . . . to any candidate . . .
16 *in connection with any election.*”⁷⁴ A corporation’s bona fide commercial activity is neither “for

⁷⁰ Acevedo-Vilá Resp. at 3.

⁷¹ *E.g.*, Factual & Legal Analysis at 8-12, n.61, MUR 6989 (Ben Carson) (analyzing similar allegations involving a promotional book tour, and stating that the publisher’s payments associated with the tour “fall within the media exemption for corporate contributions and expenditures and are exempt from the Act’s disclosure, disclaimer, and reporting requirements,” and, further, that “[the publisher’s] payments for the tour also appeared to be covered by the bona fide commercial activity exception”).

⁷² See 11 C.F.R. § 100.73 (explaining that the exemption does not apply with respect to an entity “owned or controlled by any political party, political committee, or candidate”).

⁷³ 52 U.S.C. § 30101(8)(a)(i) (emphasis added); *see also* 11 C.F.R. § 100.52.

⁷⁴ 52 U.S.C. § 30118(b)(2) (emphasis added).

1 the purpose of influencing any election for federal office” nor “in connection with any election”
2 and thus is not a contribution or otherwise subject to regulation under the Act.⁷⁵ In determining
3 whether activity is bona fide commercial activity, the Commission has identified a number of
4 factors, including: “(1) whether the sales of the merchandise involve fundraising activity or
5 solicitations for political contributions; (2) whether the activity is engaged in by the vendor for
6 genuinely commercial purposes and not for the purpose of influencing an election; (3) whether
7 the items are sold at the vendor’s usual and normal charge; and (4) whether the purchases are
8 made by individuals for their personal use.”⁷⁶

9 There is no available information either regarding the sales of *Crisis* or the book tour to
10 suggest there was any fundraising activity for Acevedo-Vilá’s campaign, or that Acevedo-Vilá
11 discussed his campaign, his opponents, or the election at any of the book tour events. The
12 Complaint asserts, without providing specifics, that the tour “promoted” and was “linked to” his
13 campaign.⁷⁷ The Complaint also cites to information that several of the book tour events were
14 attended by Popular Democratic Party leadership, the Mayor of San Juan and the party’s
15 candidate for Governor of Puerto Rico, and a past candidate for Resident Commissioner.⁷⁸ Their
16 presence at certain book tour events (relating to a politically-themed book), however, does not

⁷⁵ Advisory Op. 2014-06 (Ryan) at 9 (citing First Gen. Counsel’s Rpt. at 13-17, MUR 5474 and 5539 (Dog Eat Dog Films, Inc.) (May 25, 2005)) (“Ryan AO”); Advisory Opinion 1994-30 (Conservative Concepts/Pence) at 3-7; Advisory Opinion 1989-21 (Create-a-Craft) at 4.

⁷⁶ Factual & Legal Analysis at 12 n.61, MUR 6989 (Ben Carson) (citing Advisory Op. 2014-06 at 9).

⁷⁷ The Complaint relies almost exclusively on the temporal link between the book tour and Acevedo-Vilá’s announcement that he intended to run for office, yet—in contrast to the information indicating that MPG paid to distribute “Sobre la Mesa” after December 10, 2019—provides no information indicating that PPR paid for any costs associated with any book tour events after Acevedo-Vilá announced his intention to run. *See* Statement of Reasons, Comm’rs. Mason, Sandstrom, Smith & Thomas at 3, MUR 4960 (Hillary Rodham Clinton for Senate) (“[P]urely speculative charges, especially when accompanied by a direct refutation, do not form an adequate basis to find reason to believe that a violation of the [Act] has occurred.”) (citation omitted).

⁷⁸ Compl. at 7.

1 itself indicate that there was campaign-related activity. The available information concerning the
2 tour does not include any identifiable instances where Acevedo-Vilá or his guests mentioned the
3 campaign, advocated for his election, or solicited a contribution.⁷⁹ Furthermore, the Complaint
4 does not allege—and there is available information that would suggest—that copies of *Crisis*
5 were sold for anything other than the usual and normal price or purchased for other than personal
6 use, or that PPR’s activity related to *Crisis* differed in any material way from the publishing and
7 promotion of Acevedo-Vilá’s previous books. In sum, it appears that the publishing and
8 promotion of *Crisis* were bona fide commercial activities and thus exempt from the definition of
9 contributions.⁸⁰

10 Accordingly, the Commission finds no reason to believe that Acevedo-Vilá and the
11 Committee accepted prohibited in-kind corporate contributions associated with the book tour in
12 violation of 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(d), and finds no reason to believe that
13 the Committee failed to report in-kind contributions in violation of 52 U.S.C. § 30104(b) and
14 11 C.F.R. § 104.3(a).

⁷⁹ The Complaint only cites one statement during the book tour that references the 2020 election: a news article announcing the Nov. 21, 2019, book launch event that quotes Acevedo-Vilá describing his book as “a bottom-up conversation that I have crafted in the interest of being vetted, supported, amended, criticized, or dismissed by all candidates for elected office in 2020” and urging all 2020 candidates to “air out and discuss” the issues raised in *Crisis*. Compl. at 7, n.11 (citing *Anibal Acevedo Vilá Publica Libro Sobre el Verano del 2019*, EL VOCERO (Nov. 19, 2019), available at https://www.elvocero.com/gobierno/an-bal-acevedo-vil-publica-libro-sobre-el-verano-del/article_796ee5b8-0b05-11ea-b539-affc55cdd658.html (translated from the original Spanish using Google Translate). This statement predated Acevedo-Vilá’s announcement that he intended to become a candidate, did not specifically reference the Resident Commissioner election, and does not advocate for or against any candidate in any federal election.

⁸⁰ See Ryan AO at 9-10 (explaining that a publisher’s activity involving only the publication, promotion, and sale of a candidate’s book at usual and normal prices represent *bona fide* commercial activity, and thus “are outside the scope of the Act’s regulation” where the activity does not involve any fundraising activity or solicitations for contributions); Factual & Legal Analysis at 8-12, n.61, MUR 6989 (Ben Carson) (determining that a publisher’s payments for a promotional book tour were *bona fide* commercial activity where the books were sold to the general public at the normal market rate and there was no information indicating that the tour involved any fundraising activity or solicitations for political contributions).

1 **C. Candidacy and Committee Registration**

2 The Act and Commission regulations define a “candidate” as an individual who seeks
3 nomination or election to federal office and provide that a person shall be deemed to be seeking
4 nomination or election if they receive in excess of \$5,000 in contributions or make in excess of
5 \$5,000 in expenditures.⁸¹ Within 15 days of becoming a candidate, each candidate must
6 designate a principal campaign committee in writing by filing a Statement of Candidacy with the
7 Commission.⁸² Each authorized campaign committee must file a statement of organization no
8 later than 10 days after being designated.⁸³

9 Because there is no basis to conclude that Acevedo-Vilá or the Committee received
10 unreported in-kind contributions relating to his radio show or book tour, our analysis of when
11 Acevedo-Vilá became a candidate focuses on the contributions and expenditures reported in the
12 Committee’s disclosure reports. The record indicates that Acevedo-Vilá exceeded the \$5,000
13 threshold for contributions on February 7, 2020.⁸⁴ Five days later, on February 12, 2020, and
14 thus within the 15-day filing period, Acevedo-Vilá filed his Statement of Candidacy and, on the
15 same day, the Committee filed its Statement of Organization.⁸⁵ Accordingly, the Commission
16 finds no reason to believe that Acevedo-Vilá and the Committee failed to properly register with
17 the Commission in violation of 52 U.S.C. § 30102(e)(1), 30103(a) and 11 C.F.R. §§ 101.1(a),
18 102.1(a).

⁸¹ 52 U.S.C. § 30101(2); 11 C.F.R. § 100.3(a).

⁸² 52 U.S.C. § 30102(e)(1); 11 C.F.R. § 101.1(a).

⁸³ 52 U.S.C. § 30103(a); 11 C.F.R. 102.1(a).

⁸⁴ *Supra* note 5. The Committee’s earliest reported expenditure was on March 6, 2020. *Id.*

⁸⁵ *Supra* note 7.