

From: [Asuntos Legales](#)
To: [CELA](#)
Cc: [Sarah Rodríguez De Jesús](#); [Suzette Binet Guerrero](#); [Lisa Stevenson](#)
Subject: MUR No. 7772
Date: Wednesday, September 23, 2020 1:49:53 PM
Attachments: [Determination OCE-Q-2020-005 \(Comite Pedro Pierluisi, Inc. & Salvemos a PR, Inc.\)\(9.18.2020\) English version.pdf](#)
[Q-2020-05-Salvemos-A-Puerto Rico-1st-Requirement-of-Information.pdf](#)
[Answer to OCE Info Requirement 8.13.20.pdf](#)
[Wires Transaction History 6.25.20.pdf](#)

To whom it may concern:

As determined by the Election Comptroller of Puerto Rico, I hereby notify the Federal Election Commission ("FEC") with the official translation of the Determination issued on local case OCE-Q-2020-005, which was dismissed due to lack of jurisdiction of the Office of the Election Comptroller ("OEC") on matters regarding a non connected committee registered before the Federal Election Commission. The complaint filed before the OEC is similar to a complaint filed by Jorge L. Dávila Torres at the FEC, with case number **MUR No. 7772**.

Also enclosed is a copy a Request of Information served by the OEC to *Salvemos a Puerto Rico* and the answers they provided, through its President Joseph Fuentes.

Should you need any information from the OEC or have any doubt of the referenced matters, feel free to contact us. Also, if you have any difficulty getting any information or public records from a local Governmental agency in Puerto Rico, we may be able to help.

Regards,

Ángel Vargas Carcaña
Abogado
Asuntos Legales
E. avargas@oce.pr.gov
T. 787-332-2050 ext. 2554



Oficina del Contralor Electoral

235 Ave. Arterial Hostos
Edificio Capital Center
Torre Norte Piso 7
San Juan, PR, 00918
<https://oce.pr.gov>



IN RE:
Comité Pedro Pierluisi, Inc.
Salvemos a Puerto Rico, Inc.

OCE-Q-2020-005
MATTER:
Law 222-2011

DETERMINATION

I. Introduction and Procedural Background:

The Office of the Election Comptroller (hereinafter "OEC") investigated the Complaint of reference, filed on July 28, 2020 by Jorge L. Dávila-Torres against the Comité Pedro Pierluisi, Inc. (hereinafter "Committee") and the independent expenditure committee Salvemos a Puerto Rico (hereinafter "SPR").

In the Complaint, the complainant claimed, in short, the following:

1. By publication made on June 25, 2020, of the Center for Investigative Journalism expounded that the corporation Foundation for Progress, Inc., was incorporated on June 10, 2020 and, seven minutes thereafter the Foundation Pro Igualdad, Inc. (hereinafter we will refer to both as "Corporations". The Corporations failed to establish their physical address, failed to identify their officers. Likewise, Foundation for Progress, Inc. provided a telephone number that belonged to a restaurant, while Fundación Pro Igualdad provided a telephone number that is out of service. The complainant submits that he corroborated such information in the Registry of Corporations of the Department of State.
2. The intention to incorporate the Corporations without the information described is to conceal information and lie. Due to the Corporations' lack of compliance with the General Act of Corporations, the Corporations must be canceled by the Department of State.
3. SPR is registered with the Federal Elections Commission (hereinafter "FEC") as a Super PAC and its *Statement of Organization* has suffered two amendments, one to change its name from PRP PAC to Salvemos a Puerto Rico and another to add a website, www.salvemospr.com.
4. In the *Statement of Organization*, SPR established that it intends to support or oppose one of the federal candidates.
5. No record or reports of income and expenses of SPR or PRP PAC were found in the OEC's electronic archives.
6. In the report submitted by SPR to the FEC for the period of May 19, 2020 and June 30, 2020 only two donations appear, one from Foundation for Progress and another from Fundación Pro Igualdad, for \$75,000 and \$175,000, respectively, which were made on June 25, 2020.
7. The complainant requests the OEC to forbid that the money donated by the Corporations be expended in the elections in Puerto Rico because it would constitute an irreparable harm for that money to influence the voters in the Primary.
8. SPR's intention is to influence a local and non-federal electoral process, supporting the election of Pedro Pierluisi as a candidate for governor in the New Progressive Party primaries, reason why he had to register with the OEC and comply with the requirements of Law 222-2011, as amended (hereinafter Law 222").
9. SPR registered with the FEC to evade the requirements of Law 222 that seek that voters be cognizant of who pays for advertisements that attempt to influence their vote, making it difficult for the OEC to oversee whether or not the Corporations are coordinating with the candidates they support.

10. From the examination of the SPR website it is deduced that it was created to support Pedro Pierluisi's candidacy for the governorship by the NPP.
11. In the past election cycle, José Fuentes-Fernández, founder of SPR, registered the Super PAC called PRP PAC, whose donors included Michael Pierluisi and Anthony Pierluisi, sons of Pedro Pierluisi.
12. The complainant requested the OEC to issue a cease-and-desist order against SPR to stop the posting of advertisements against Wanda Vázquez-Garced's candidacy for the NPP governance.

The Complaint was notified to the Committee and SPR.

Having examined *prima facie* the allegations of the Complaint, the OEC examined its records and corroborated that, in compliance with Article 6.000(d) of Law 222 and Circular Letter OCE-CC-2020-03, the committee on independent expenditures (known in English as Super PAC) SPR submitted a copy of its registration form before the FEC (known as "FEC Form 1") and a copy of the *Report of Receipts and Disbursements* (known as "FEC Form 3x") covering the period from May 19, 2020 to June 30, 2020. In said report, the OEC was able to corroborate that during this period Salvemos a Puerto Rico reported to the FEC that it received a donation from Foundation for Progress and another from Fundación Pro Igualdad, for \$75,000 and \$175,000 respectively, received on June 25, 2020.

Since the claims brought forward by the Complainant against the Corporations were to be entertained by the Puerto Rico Department of State, the entity responsible for maintaining the Corporate Registry, the OEC requested on July 30, 2020 to said instrumentality to evaluate the records of the aforementioned corporations and notify the OEC of any action taken. On August 3, 2020, the Department of State notified the OEC that the Corporations would be canceled because they had been registered against the provisions of the General Act of Corporations, Law 164-2009, as amended, a fact that occurred on August 4, 2020.¹

Likewise, on August 3, 2020, the OEC required SPR to provide it with an accurate copy of the checks or any instrument of payment by the Corporations to make the donations reported to the FEC in the *Report of Receipts and Disbursements* for the period of May 19, 2020 to June 30, 2020; name, address, telephone and email of the officers or representatives of the Corporations known to the President and Treasurer of SPR. Likewise, it was also required from SPR to provide the legal, regulatory, and juridical framework that allows SPR to register with the FEC to conduct electoral expenses in local elections, non-federal, in Puerto Rico.

In view of the Requirement, on August 13, 2020, SPR provided a copy of a screen print that presents electronic transfers made by the Corporations to gather the donations to the SPR and indicated that it does not know who are the non-natural persons that act as officers or representatives of the Corporations.² It further raised that SPR "[...] is an Independent Expenditure-Only Committee and, as such, it was required to file a Statement of Organization (FEC Form 1) and check box 5(f) as indicated by the FEC. Therefore, the legal, regulatory and juridical framework that allows Super PACs or SPR to exit [*sic*] are possible by two judicial decisions in 2010: *Citizens United v. Federal Election Commission* and, two months later, *SpeechNow.org v. FEC*. In addition, SPR clarified that the intent to function as a committee by including the following language on the FEC Form 1: "This committee intends to make unlimited independent expenditures, and consistent with the U.S. Court of Appeals for the District of Columbia Circuit decision in *SpeechNow.org v. FEC*, it therefore intends to raise funds in unlimited amount. This committee will not use those funds to make contributions, whether direct in-kind, or via coordinated communications, to federal candidates or committees."

Subsequently, on August 20, 2020, the Committee submitted its response to the complaint requesting its dismissal alleging that it does not provide evidence of its claims and merely alleges that SPR

¹ That determination of the Department of State was set aside by the Court of First Instance by virtue of Resolution and Order in Civil Case No. SJ2020CV04243 on September 1st, 2020, which as of the date of this letter is not final, firm or unappealable.

² In view of the Determination notified through this document, the OEC does not pass judgment on the credibility, if any, that should be given to the response provided by Salvemos a Puerto Rico as to the knowledge of the officers or representatives of the Corporations.

was created to support Pedro R. Pierluisi and request a cease and desist order against Salvemos a Puerto Rico, without presenting any allegation or evidence whatsoever against the Committee. The Committee submitted that the complaint did not include documents or evidence that demonstrate coordination of expenditures between SPR and the Committee, in accordance with Article 2.004(35) of Law 222: (i) requested by the committee or one of its representatives; (ii) the content has been coordinated with the committee; or (iii) that the same supplier was used. In the light of the above, the Committee requested the dismissal of the complaint.

II. Determination:

The allegations of the Complaint and the response provided by the Committee were examined by the Legal Affairs Division of the OEC in light of SPR's response to the Request for Information issued by the OEC, files in the OEC archives, the income and expense reports submitted by SPR to the FEC and the OEC, the files of the Corporations with the Department of State, and the judicial file of case Civil No. SJ2020CV04243 filed by the Corporations against the Commonwealth.

As it arises from the Complaint and as corroborated by the OEC, SPR is an independent expenditure committee that was registered with the FEC on **May 19, 2020** as the **PRP PAC**. Its founder, treasurer and custodian of records is Joseph Fuentes-Fernández. Through amendment to the Declaration of Organization (FEC FORM 1) submitted on **May 27, 2020**, the PRP PAC became SPR. On **June 23, 2020**, SPR amended its organizational statement to add its website salvemospr.com, which has the following content in its home page:³



In its registration with the FEC, SPR marked the option of Political Action Committee and under said option, the alternative of "This Committee supports/opposes **more than one Federal candidate**, and is not a separate segregated fund or party committee. (i.e. nonconnected committee)." (Emphasis ours). At the end of FEC Form 1, Salvemos a Puerto Rico expressed under "miscellaneous text": "This committee intends to make independent expenditures, and consistent with the U.S. Court of Appeals for District of Columbia Circuit decision in *SpeechNow v. FEC*, it therefore intends to raise funds in unlimited amounts. This committee will not use those funds to make contributions, whether direct, in kind, or via coordinated communications to federal candidates or committees." Note that the case cited by SPR is the same case it cited as a legal framework for participating as an independent expenditure committee and to make expenditures in the local election, **non-federal**, in Puerto Rico.

In its *Report of Receipts and Disbursements* (known as "FEC Form 3x"), which covers the period from May 19, 2020 to June 30, 2020, SPR reported to the FEC that it had received a donation from the Foundation for Progress and another from Fundación Pro Igualdad, for \$75,000 and \$175,000 respectively, on **June 25, 2020**. The Corporations were registered as non-profit with the Department of State of Puerto Rico on **June 10, 2020**, sharing the same postal address. Both Corporations identified their form of organization as "foundation" and its category "social services". As of the date donations were made to SPR, the Corporations had not identified a natural person or physical address, but identified as

³ Last review to www.salvemospr.com on September 1st, 2020.

its resident agent and as incorporator the corporate entity created and only provided the postal address PO Box 10051, San Juan, PR 00908.

Both corporate incorporation documents included the following text (one in English and one in Spanish), but both with identical content:

The Foundation is organized and will operate exclusively for charitable and/or educational purposes, for the promotion of social welfare in the Commonwealth of Puerto Rico or any purpose that allows the Foundation to qualify as an exempt of taxes organization under the provisions of Section 1101.01(a)(2)(A) of 2011 of the Internal Revenue Code for a New Puerto Rico (the "Code PR") and/or 501 (c)(4) of the 1986 U.S. Internal Revenue Code (the "U.S. Code"), according to these sections are [sic] periodically modified, or the equivalent sections of any law that may substitute or replace Code PR or the U.S. Code.

Taking into account all of the above, as well as the large expenditures with electioneering purposes made by SPR to pay electioneering communications against the aspirant to the governorship of Puerto Rico of the NPP Wanda Vázquez-Garced, and in favor of aspirant Pedro Pierluisi-Urrutia, which as of July 31, 2020 was around \$140,000, as recorded in the media reports filed with the OEC by advertising and media agencies, it is clear that the main purpose of Salvemos a Puerto Rico, at least during the first months of its existence, is to make expenditures with electoral purposes in Puerto Rico.

In view of the above, we examined the cases of Citizens United v. FEC, 558 US 310 (2010) and Speechnow.org v. FEC, 599 F3d 686 (DC Cir. 2010), cited by SPR as a legal ground to register itself as a committee with the FEC, a federal agency that regulates the financing of **federal** election campaigns, although its main purpose is to carry out campaign expenditures in favor of and against **state** candidates in Puerto Rico. From our analysis it emerged that both cases allow that independent expenditure committees that support or oppose federal candidates receive donations from natural or legal persons without being subjected to any ceiling whatsoever, subject to compliance with the requirement of submitting reports disclosing the source of their income and expenses. On the other hand, in Citizens United, supra, it was validated that any natural or legal person who does not have the primary purpose of campaigning can make independent expenditures without the need to register a committee, although it need disclose information about financing and expenses incurred.⁴ It does **not** arise from the analysis of FECA and jurisprudence that an organized committee with the main purpose of making campaign expenditures to favor or oppose **state** candidates is required to register with the FEC.

Thus, it is for the FEC to pass judgment on whether SPR should have been registered with said federal agency, or not, and on what were the real reasons for Salvemos a Puerto Rico to register with the FEC, even if it had no intention of making expenditures with electioneering purposes in favor of or against **federal** candidates. Likewise, it is for the FEC to pass judgment on the Corporations and other donors of SPR to determine whether the donations are legal, taking into account, among other factors, the chronological proximity between the organization of SPR as a committee, the registration of the Corporations, and the date of the donations. It should also be determine what relationship, if any, SPR has with the complained Committee.

As a matter of fact, official knowledge is taken of the fact that the complainant in this case filed a complaint with the FEC on August 5, 2020, to which case number MUR No. 7772 was assigned to.

As to its allegations against the Committee, the complainant merely claims that SPR "[...] was created to support the candidacy of Pedro R. Pierluisi [...]" and that, by registering with the FEC, "[...] places the OEC in a situation of not being able to oversee if in effect such corporations are coordinating or not with the candidates they support. [...]" The complainant adds that "[d]uring the last election cycle Fuentes-Fernández registered the Super PAC PRP and among its donors were Michael Pierluisi and Anthony Pierluisi, sons of the candidate". In other words, there are no direct allegations against the complained committee. This does not constitute a basis for the OEC to allow the Complaint, since the allegations do not constitute facts of personal knowledge that would present a possible violation of Law 222 for the coordination of expenditures between Salvemos a Puerto Rico and the Committee.⁵

⁴ It does not escape our attention that Salvemos a Puerto Rico, as an independent expenditure committee, had it register with the OEC under the laws of Puerto Rico, the same rules as in the FEC would have applied to it, that is, they could have receive donations from corporations or natural persons with no limit whatsoever as to amounts.

⁵ It should be noted that the complainant's argument may have had weight before the resolution of Citizens United, supra, which sat aside several provisions of the Federal Election Campaign Act. In the dissenting opinion, signed by

Now, what is resolved in the disposition of this Complaint does not constitute an impediment for the OEC to take the appropriate measures under Law 222 if it finds evidence of coordination occurrences, either when conducting its audits or during any other investigation that is commenced upon receipt of authenticated documents and/or declarations from persons that have personal knowledge of facts that point to the coordination of expenditures between any natural or legal person, whether or not registered as a committee, and a campaign committee.

WHEREFORE, given that the OEC lacks jurisdiction to entertain a Complaint that mostly concerns a committee before the Federal Election Commission and since no claims that constitute basis to sustain a complaint were found against the Comité Pedro Pierluisi, it was determined to dismiss the same in accordance with Section 4.5 of Regulation No. 13 regarding Adjudicative Proceedings before the Office of the Election Comptroller. It is also determined:

1. A copy of this Determination, duly translated, will be send to the Federal Election Commission, together with the information provided by Salvemos a Puerto Rico to the OEC to be part of the MUR No. 7772 complaint filed with that federal agency.

REGISTER and NOTIFY.

In San Juan, Puerto Rico, today, September 18, 2020.



Walter Vélez Martínez

Election Comptroller

4 of the 9 judges, the following was expressed in favor of the then in effect rule of law prior to the decision of Citizens United, *supra*:

The District Court that adjudicated the initial challenge to BCRA pored over this record. In careful analysis, Judge Kollar-Kotelly made numerous findings about the corrupting consequences of corporate and union independent expenditures in the years preceding BCRA's passage. See McConnell, 251 F. Supp. 2d, at 555-560, 622-625; see also Id. at 804-805, 813, n. 143 (Lion, J.) (indicating agreement). As summarized in her own words:

"The factual findings of the Court illustrate that corporations and labor unions routinely notify Members of Congress as soon as they air electioneering communications relevant to the Members' elections. The record also indicates that Members express appreciation to organizations for the airing of these election-related advertisements. Indeed, **Members of Congress are particularly grateful when negative issue advertisements are run by these organizations, leaving the candidates free to run positive advertisements and be seen as 'above the fray.'** Political consultants testify that campaigns are quite aware of who is running advertisements on the candidate's behalf, when they are being run, and where they are being run. Likewise, a prominent lobbyist testifies that these organizations use issue advocacy as a means to influence various Members of Congress.

"The Findings also demonstrate that Members of Congress seek to have corporations and unions run these advertisements on their behalf. The Findings show that Members suggest that corporations or individuals make donations to interest groups with the understanding that the money contributed to these groups will assist the Member in a campaign. After the election, these organizations often seek credit for their support. ... Finally, a large majority of Americans (80%) are of the view that corporations and other organizations that engage in electioneering communications, which benefit specific elected officials, receive a special consideration from those officials when matters arise that affect these corporations and organizations." Id. at 623-624 (citations and footnote omitted).

United Citizens, *supra*, pp. 48-449. (Emphasis ours).

However, even taking into account the above, the majority opinion in Citizens United, *supra*, did **not** consider that such situations constitute a situation that allows the limitation of independent expenditures (note that the situations described above do not constitute coordination), so it gave the green light to the realization of independent expenditures without limitations as to their amounts or the quantity of donations that can be obtained from natural or legal persons to make them.

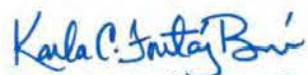
I CERTIFY that a copy of this Determination was notified by email to:

Joseph Fuentes Fernández
President and Treasurer
Salvemos a Puerto Rico
joey@fuentes-fernandez.com

Attorney Juan R. González Galarza, Attorney Pedro Pierluisi
Urrutia and Eduardo Ferrer Ramírez de Arellano
Comité Pedro Pierluisi
jgonzalez@gmlex.net
prpierluisi@gmail.com
empferrer@aol.com

Jorge L. Dávila Torres
jorgedav@gmail.com

In San Juan, Puerto Rico, today, September 18, 2020.



Karla C. Fontáñez Berríos
Secretary
Office of the Election Comptroller



IN RE:
Comité Pedro Pierluisi, Inc.;
Salvemos a Puerto Rico

OCE-NMA-2020-005

MATTER:
Act 222-2011, as amended

FIRST REQUIREMENT OF INFORMATION

To: **Joseph Fuentes Fernández**
President and Treasurer, Salvemos a Puerto Rico
joey@fuentes-fernandez.com

Pursuant to Article 3.016 of Puerto Rico Act 222-2011, as amended, and Section 4.4 of Regulation No. 13, *Reglamento de Procedimientos Adjudicativos ante la Oficina del Contralor Electoral*, currently only available in Spanish at our webpage, www.oce.pr.gov, we require you to provide the following information regarding electioneering expenditures made by Salvemos a Puerto Rico related to the local Puerto Rico primary elections, as part of the investigation of the sworn complaint of reference:

1. Provide true and exact copies of all the checks or any other instrument of payment used by **Foundation for Progress and Fundación Pro Igualdad**, to make monetary contributions to Salvemos a Puerto Rico up to today's date.
2. Provide the name, address, physical address, phone numbers and email addresses of the natural persons that act as officials and/or representatives of **Foundation for Progress and Fundación Pro Igualdad** known to you, as President and Treasurer of Salvemos a Puerto Rico.
3. Under the FEC 1 Form, Salvemos a Puerto Rico was registered as a political action committee, specifying that "[t]his Committee supports/opposes **more than one Federal candidate**, and is not a separate segregated fundo or party committee. (i.e. nonconnected committee)." (Our emphasis). Provide the legal, regulatory, and juridical framework which allows Salvemos a Puerto Rico to register before the Federal Election Commission to mainly make electioneering expenditures related to local elections in Puerto Rico (which are not federal elections) instead of registering before the Office of the Election Comptroller, which is the agency overseeing local Puerto Rico electioneering expenditures and contributions.

Required information shall be provided within **ten (10) consecutive days** counted from the day of notification of the requirement or, in the alternative, you may provide the information along with your answer to the sworn complaint.

Be advised that, if you fail to respond to this requirement, pursuant to Article 3.016 of Act 222-2011, as amended, the Election Comptroller could seek an order from the Court with jurisdiction to make you comply and/or impose an administrative fine of \$1,000.00 to \$2,500.00 for each itemized requirement with which you fail to comply, pursuant to Infraction 15 of Regulation No. 14, *Reglamento para la Imposición de Multas Administrativas de la Oficina del Contralor Electoral*, currently available only in Spanish at our webpage, *supra*.

Required information can be sent via email to asuntoslegales@oce.pr.gov, providing the complaint number given above.

All information provided is subject to corroboration. You may be requested to provide additional information during this investigation or other related investigations conducted by the Office of the Election Comptroller.

In San Juan, Puerto Rico, today August 3rd, 2020.


Ángel J. Vargas-Carcaña, Esq.
Attorney at Law
Legal Affairs Division

IN RE:

OCE:NMA-2020-005

Comité Pedro Pierluisi, Inc.

MATTER:

Salvemos a Puerto Rico

Act 222-2011, as amended

To: Ángel J. Vargas-Carcaña
Attorney at Law
Legal Affairs Division
Office of the Election Comptroller
Email: asuntoslegales@oce.pr.gov

From: Joseph A. Fuentes-Fernandez
Treasurer, Salvemos a Puerto Rico
Email: joey@fuentes-fernandez.com

Response to First Requirement of Information Dated August 3rd, 2020

1. Attached copy of two wires received on June 25th, 2020
2. I don't know who the natural persons are acting as officials and/or representatives of Foundation for Progress and Fundación Pro Igualdad.
3. Salvemos a Puerto Rico (SPR) is an Independent Expenditure-Only Committee and as such it was required to file a Statement of Organization (FEC Form 1) and check box 5(f) as indicated by the FEC. Therefore, the legal, regulatory, and juridical framework that allows Super PACs or SPR to exit are possible by two judicial decisions in 2010: [Citizens United v. Federal Election Commission](#) and, two months later, [SpeechNow.org v. FEC](#). In addition, SPR clarified that the intent to function as a committee by including the following language on the FEC Form 1: "This committee intends to make unlimited independent expenditures, and consistent with the U.S. Court of Appeal for the District of Columbia Circuit decision in [SpeechNow.org v. FEC](#), it therefore intends to raise funds in unlimited amount. This committee will not use those funds to make contributions, whether direct in-kind, or via coordinated communications, to federal candidates or committees."

Finally, on May 29th SPR submitted by email to the OCE FEC Form 1 as required by Law 222 Section 6.000 Section (d), acknowledging receipt that same day the Legal Affairs Office, and on July 10th, 2020 FEC Form 3X (Financial Report) for the quarter ended June 30th, 2020.

Submitted today, August 13th, 2020



Joseph A Fuentes-Fernandez, CPA
Treasurer-Salvemos a Puerto Rico



Printed on: 2020-08-11 11:58:53

Account Details

Business Checking

Information for

Transaction History - PERIOD 2020-06-25
- FILTER Credits

Results for: Jun 25, 2020

Date	Description	Debit	Credit
Jun 25, 2020	INCOMING WIRE WIRE FROM FUNDACION PRO IG062520UALDAD INC		\$175,000.00
Jun 25, 2020	INCOMING WIRE WIRE FROM FOUNDATION FOR P062520ROGRESS INC		\$75,000.00

Account activity is provided for your information only and is subject to revisions. It is not a substitute for your periodic statement, which is the official record of your account.