



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

July 27, 2022

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Joseph Wendt

Tampa, FL 33647

RE: MUR 7320  
Libertarian Party of Miami Dade  
Libertarian Party of Florida and Richard  
Perez in his official capacity as treasurer  
Marco Miralles  
Pierre Crevaux

Dear Mr. Wendt:

This is in reference to the complaint you filed with the Federal Election Commission on February 14, 2018, alleging possible violations of the Federal Election Campaign Act of 1971, as amended (the "Act"). Based on the complaint and other available information, the Commission found that there was reason to believe that Pierre Crevaux, the Libertarian Party of Miami-Dade ("LPMD"), and the Libertarian Party of Florida and James Morris in his official capacity as treasurer ("LPF") violated 52 U.S.C. § 30121(a)(2), the Act's foreign national prohibition.

An investigation was conducted in this matter and the Commission, on July 12, 2022, voted to take no further action against Crevaux, LPMD, and LPF. The Commission dismissed the allegations against former LPF Chair, Marcos Miralles, and closed the file.

The Factual and Legal Analyses, which more fully explain the basis for the Commission's reason-to-believe findings are enclosed. 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 Act allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8).

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Lisa J. Stevenson  
Acting General Counsel

*Ana J. Peña-Wallace*

BY: Ana J. Peña-Wallace  
Assistant General Counsel

Enclosures  
Factual and Legal Analyses

# FEDERAL ELECTION COMMISSION

## FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Pierre Crevaux MUR 7320

### I. INTRODUCTION

The Complaint alleges that the Libertarian Party of Miami-Dade ("LPMD"), the Libertarian Party of Florida ("LPF"), LPF Chairman Marcos Miralles, and Pierre Crevaux violated the provisions of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations that prohibit foreign nationals from directly or indirectly participating in the decision making processes of a political committee or political organization's contributions, donations, expenditures, or disbursements in connection with a federal, state, or local election. The Complaint further alleges that Crevaux contributed \$100 to LPMD, \$38 to a state candidate, and \$5 to LPF in violation of the Act's foreign national ban.

### II. FACTUAL AND LEGAL ANALYSIS

#### A. Background

LPF is a state committee of a political party registered with both the Commission and with the state of Florida.<sup>1</sup> Marcos Miralles is the Chair of the LPF and, according to the Complaint, an LPMD board member.<sup>2</sup> The record includes an undated communication from Crevaux in which he identifies himself as Chief of Staff to LPF Chairman Miralles.<sup>3</sup> LPMD is a

<sup>1</sup> See Advisory Op. 2010-13 (LPF) (recognizing the LPF's state party committee status); FLORIDA DEPARTMENT OF STATE, *Committee Tracking System*, <http://dos.elections.myflorida.com/committees/ComDetail.asp?account=3402> (last visited Sept. 18, 2018).

<sup>2</sup> Compl. at 1.

<sup>3</sup> *Id.* at 8.

1 local political committee registered in Miami-Dade County, Florida.<sup>4</sup> Until at least September  
 2 2018, LPMD's website stated that Crevaux is its Executive Director, and "has been involved  
 3 with the Libertarian Party since 2012, managing several local campaigns and serving as the  
 4 County Chair of the 2014 Adrian Wyllie for Governor campaign and the 2016 Gary Johnson for  
 5 President campaign."<sup>5</sup> It is unclear whether Crevaux served in his positions at LPMD and LPF  
 6 as a volunteer or a paid staff member.

7 The record indicates that Crevaux is a foreign national.<sup>6</sup> The record includes an email  
 8 dated May 5, 2017, from Crevaux, in which he states that "I'm an immigrant. I'm still in the  
 9 process of getting my paperwork done, and I'm a Libertarian volunteer."<sup>7</sup> The record also  
 10 includes an email from Miralles sent on October 13, 2017, in which he acknowledges the  
 11 frustration some party members have with his Chief of Staff being an "undocumented  
 12 immigrant."<sup>8</sup>

13 The LPMD website sets forth LPMD's bylaws, which state that the Executive Director's  
 14 responsibilities include:  
 15

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<sup>4</sup> See MIAMI-DADE COUNTY, *Political Committees*, [https://www.voterfocus.com/CampaignFinance/candidate\\_pr.php?c=miamidade&el=13&c=miamidade&el=13](https://www.voterfocus.com/CampaignFinance/candidate_pr.php?c=miamidade&el=13&c=miamidade&el=13) (last visited June 28, 2018). LPMD has not reported any activity to the Commission or the Florida Division of Elections, but LPMD has reported financial receipts, in-kind contributions, and expenditures/disbursements to Miami-Dade County's Elections Department. In 2017, LPMD reported receipts of \$14,976.63 and disbursements of \$9,133.27. See MIAMI-DADE COUNTY, *Political Committees, Libertarian Party of Miami-Dade County*, [https://www.voterfocus.com/CampaignFinance/candidate\\_pr.php?op=cv&e=13&c=miamidade&ca=1254&rellevel=3&committee=Y](https://www.voterfocus.com/CampaignFinance/candidate_pr.php?op=cv&e=13&c=miamidade&ca=1254&rellevel=3&committee=Y) (last visited Sept. 18, 2018). From January 1, 2018, to August 23, 2018, LPMD reported LPMD reported receipts of \$533 and disbursements of \$1,793.19. See *id.*

<sup>5</sup> See LIBERTARIAN PARTY OF MIAMI-DADE, *The Team*, <http://www.lpmdade.org/staff/> (last visited Sept. 18, 2018).

<sup>6</sup> See *id.* at 1, 4-6.

<sup>7</sup> Compl. at 6.

<sup>8</sup> *Id.* at 5.

- a. Overseeing the works of the standing committees;
- b. Assisting the officers with their respective duties;
- c. Helping executive committee members with their responsibilities and facilitating communications between executive committee members;
- d. Assigning membership to a standing committee for all precinct delegates that have not joined a standing committee within fifteen days of the beginning of the term of such precinct delegates;
- e. Serving as interim standing committee director in the event of a vacancy;
- f. Redacting some public records to protect essential secrecy of the affiliate's works;
- g. Providing rules on the request for proposal process for the procurement of goods and services;
- h. Appointing, at most, one precinct delegate to the convention committee;
- i. Serving on the committee of the whole; and
- j. Performing any other duties as assigned by the Chairperson or the Executive Committee.<sup>9</sup>

The record also indicates that Miralles, in his capacity as Chairman of LPF, appointed Crevaux as his Chief of Staff and granted him certain supervisory powers.<sup>10</sup> Further, Crevaux made a \$100 contribution to the LPMD and a \$5 contribution to the LPF, which LPF refunded on the same day.<sup>11</sup> The record includes a receipt from godaddy.com showing that Crevaux

<sup>9</sup> See *id.* at 3-4; BY-LAWS OF THE LIBERTARIAN PARTY OF MIAMI-DADE, [https://docs.google.com/document/d/1kjVuGcADYn\\_fnyoXz23wLFkIia-1Esb9tIO0ETNzDSY/edit](https://docs.google.com/document/d/1kjVuGcADYn_fnyoXz23wLFkIia-1Esb9tIO0ETNzDSY/edit) (last visited Aug. 16, 2018) (including, also, definitions of various terms).

<sup>10</sup> Compl. at 1, 5, 8.

<sup>11</sup> See *id.* at 12; MIAMI-DADE COUNTY, *Political Committees, Libertarian Party of Miami-Dade County, Q2 2017*, [https://www.voterfocus.com/CampaignFinance/candidate\\_pr.php?op=rp&e=13&c=miamidade&ca=1254&sdc=837&cname=+Libertarian+Party+of+Miami-Dade+County+&coffice=Party+Executive+Committee&rptdate=17Q2<br>\(4/1/2017 - 6/30/2017\)&rellevel=3&dhc=14315&committee=Y](https://www.voterfocus.com/CampaignFinance/candidate_pr.php?op=rp&e=13&c=miamidade&ca=1254&sdc=837&cname=+Libertarian+Party+of+Miami-Dade+County+&coffice=Party+Executive+Committee&rptdate=17Q2<br>(4/1/2017 - 6/30/2017)&rellevel=3&dhc=14315&committee=Y) (last visited Aug. 14, 2018) (evidencing that Crevaux made a \$100 contribution to LPMD). The Florida Department of Election campaign finance database does not appear to show Crevaux's attempted \$5 contribution to LPF.

made a \$5 contribution,<sup>12</sup> emails between officers and directors of LPF discussing Crevaux's foreign national status, and the refund of the \$5 contribution.<sup>13</sup>

### **B. Legal Analysis**

The Act and Commission regulations prohibit any "foreign national" from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure, independent expenditure, or disbursement, in connection with a federal, state, or local election.<sup>14</sup> The Act's definition of "foreign national" includes an individual who is not a citizen or national of the United States and who is not lawfully admitted for permanent residence, as well as a "foreign principal" as defined at 22 U.S.C. § 611(b).<sup>15</sup> Commission regulations implementing the Act's foreign national prohibition provide:

A foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person, such as a corporation, labor organization, political committee, or political organization with regard to such person's Federal or non-Federal election-related activities, such as decisions concerning the making of contributions, donations, expenditures, or disbursements. . . or decisions concerning the administration of a political committee.<sup>16</sup>

The Commission has explained that this provision also bars foreign nationals from "involvement

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<sup>12</sup> Compl. at 11-13.

<sup>13</sup> *Id.* at 14-15.

<sup>14</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>15</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>16</sup> 11 C.F.R. § 110.20(i).

1 in the management of a political committee.”<sup>17</sup>

2 In light of these provisions, Commission regulations permit any person or company —  
3 foreign or domestic — to provide goods or services to a political committee, without making a  
4 contribution, if that person or company does so as a “commercial vendor,” *i.e.*, in the ordinary  
5 course of business, and at the usual and normal charge, as long as foreign nationals do not  
6 directly or indirectly participate in any committee’s management or decision-making process in  
7 connection with its election-related activities.<sup>18</sup> For example, in MUR 5998, the Commission  
8 found that the foreign national owners of a venue did not make or facilitate a contribution to a  
9 political committee by allowing the committee to rent the venue for a fundraising event.<sup>19</sup> The  
10 venue at issue was rented out for events in the ordinary course of business, and the owners  
11 charged the committee the usual and normal amount for the service.<sup>20</sup> The Commission noted  
12 that there was no available information to suggest — and the foreign nationals and political  
13 committee expressly denied — that the foreign nationals had any “decision-making role in the

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<sup>17</sup> Contribution Limitations and Prohibitions, 67 Fed. Reg. 69928, 69946 (Nov. 19, 2002); *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>18</sup> 11 C.F.R. § 114.2(f)(1); *see* 11 C.F.R. § 116.1(c) (defining “commercial vendor” as “any persons providing goods or services to a candidate or political committee whose usual and normal business involves the sale, rental, lease or provision of those goods or services). The Act defines a contribution to include “anything of value,” which in turn includes all “in-kind contributions,” such as “the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services.” 11 C.F.R. § 100.52(d)(1); *see* 52 U.S.C. § 30101(8). Goods or services provided at the usual and normal charge do not constitute a contribution under the Act. However, soliciting, accepting, or receiving information in connection with an election from a foreign national, as opposed to purchasing the information at the usual and normal charge or hiring a foreign national in a bona fide commercial transaction to perform services for a federal campaign, could potentially result in the receipt of a prohibited in-kind contribution.

<sup>19</sup> Factual and Legal Analysis at 4-6, MUR 5998 (Lord Jacob Rothschild).

<sup>20</sup> *Id.*

1 event.”<sup>21</sup>

2       The Commission has found that not all participation by foreign nationals in the election-  
3 related activities of others will violate the Act. In MUR 6959, for example, the Commission  
4 found no reason to believe that a foreign national violated 52 U.S.C. § 30121 by performing  
5 clerical duties, such as online research and translations, during a one month-long internship with  
6 a party committee.<sup>22</sup> Similarly, in MURs 5987, 5995, and 6015, the Commission found no  
7 reason to believe that a foreign national violated 52 U.S.C. § 30121 by volunteering his services  
8 to perform at a campaign fundraiser and agreeing to let the political committee use his name and  
9 likeness in its emails promoting the concert and soliciting support, where the record did not  
10 indicate that the foreign national had been involved in the committee’s decision-making process  
11 in connection with the making of contributions, donations, expenditures, or disbursements.<sup>23</sup> By  
12 contrast, the Commission has consistently found a violation of the foreign national prohibition

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<sup>21</sup> *Id.* at 5.

<sup>22</sup> Factual and Legal Analysis at 4-5, MUR 6959 (Cindy Nava) (noting that the available information, which was based on two press reports that did not detail the foreign national’s activities, did not indicate that the foreign national participated in any political committee’s decision-making process). The Commission also found that a \$3,000 stipend that the foreign national received from third parties resulted in an in-kind contribution from the third parties to the committee, but the value of the foreign national volunteer’s services to the committee was not a contribution. *Id.* at 4-5 (citing 52 U.S.C. § 30101(8)(A)(ii); 11 C.F.R. § 100.54; Advisory Op. 1982-04 (Apodaca)).

<sup>23</sup> Factual and Legal Analysis at 6-9, MURs 5987, 5995, and 6015 (Sir Elton John); *see also* Factual and Legal Analysis at 5, MUR 5998 (Lord Jacob Rothschild); Advisory Op. 2004-26 (Weller).



where foreign national officers or directors of a U.S. company participated in the company's decisions to make contributions or in the management of its separate segregated fund.<sup>24</sup>

Based on the description of his duties as LPMD's Executive Director, it appears that Crevaux managed and participated in LPMD's decision-making processes with respect to its election-related spending. For example, according to LPMD's by-laws, the Executive Director is responsible for overseeing the works of the standing committees, serving as interim director of those committees in the event of a vacancy, and appointing members to those committees.<sup>25</sup> LPMD's bylaws provide for six standing committees, including an Elections Committee that will, among other things, seek libertarian candidates for office, assist those candidates who become libertarian nominees, and make proposals regarding LPMD's official endorsements.<sup>26</sup> LPMD's by-laws also state the Executive Director shall serve on the Committee of the Whole, which is responsible for deciding LPMD's mission.<sup>27</sup> Additionally, the LPMD Executive Director's duties include assisting LPMD's officers with *their* respective duties, which include, for the office of Treasurer, collecting and maintaining all funds, signing checks, and preparing a

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<sup>24</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>25</sup> Compl. at 3.

<sup>26</sup> See BY-LAWS OF THE LIBERTARIAN PARTY OF MIAMI-DADE, Art. V, §§ 1, 4, *supra* note 10.

<sup>27</sup> See Compl. at 3; BY-LAWS OF THE LIBERTARIAN PARTY OF MIAMI-DADE, Art. V, § 10, *supra* note 10.



1 budget.<sup>28</sup> Such duties and responsibilities almost certainly contemplate the Executive Director  
2 participating in LPMD's management or decision-making processes in connection with LPMD's  
3 election-related spending.

4 Further, there is information in the record indicating that Crevaux participated in  
5 decision-making processes in connection with LPF's election-related spending in his role as  
6 Chief of Staff to LPF Chairman Miralles.<sup>29</sup> While the information does not detail the duties for  
7 this position, the record does indicate that the Chair is the top position within LPF.<sup>30</sup> Given  
8 Crevaux's position as Chief of Staff to LPF's Chairman, it is likely that he participated in LPF's  
9 management or decision-making processes in connection with LPF's election-related spending.  
10 In fact, the record contains a communication from Crevaux, in his capacity as "Chief of Staff to  
11 the Chair," to "Regional Representatives" with instructions to acquire signatures from county-  
12 level affiliates in order to proceed with the Chair's "Operation: First Step" electoral strategy and  
13 an email from a "Regional Representative" expressing concern that a foreign national is involved  
14 in the committee's decision-making.<sup>31</sup>

15 Because it appears that Crevaux served in positions for LPMD and LPF in which he was  
16 involved in the committees' management and decision-making processes in connection with the  
17 committees' election-related spending, there is reason to believe that Crevaux violated the Act's

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<sup>28</sup> BY-LAWS OF THE LIBERTARIAN PARTY OF MIAMI-DADE, Art. IV, § 4, *supra* note 10.

<sup>29</sup> *See* Compl. at 8.

<sup>30</sup> *See* LIBERTARIAN PARTY OF FLORIDA, *Officers*, <https://lpf.org/party/leadership/> (last visited Sept. 18, 2018).

<sup>31</sup> *See* Compl. at 8, 9.

1 foreign national prohibition.<sup>32</sup>

2 With respect to Crevaux's direct contributions, LPF apparently refunded Crevaux's \$5  
3 contribution the same day, which is within the ten-day timeframe allowed for a treasurer to  
4 refund a foreign national contribution.<sup>33</sup> However, the available information provides reason to  
5 believe that Crevaux violated the ban on foreign national contributions by making a \$100  
6 contribution to LPMD. Further, this contribution has not been refunded.<sup>34</sup>

7 Based on the foregoing, the Commission finds reason to believe that Pierre Crevaux  
8 violated 52 U.S.C. § 30121(a).

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<sup>32</sup> See 52 U.S.C. § 30121(a); 11 C.F.R. § 110.20(i); Advisory Op. 2004-26 at 2; MUR 6184 (Skyway Concession Company, LLC, *et al.*)

<sup>33</sup> See 11 C.F.R. 103.3(b).

<sup>34</sup> See Compl. at 12; MIAMI-DADE COUNTY, *Political Committees, Libertarian Party of Miami-Dade County, Q2 2017*, *supra* note 12.

## FEDERAL ELECTION COMMISSION

### FACTUAL AND LEGAL ANALYSIS

RESPONDENT:      Libertarian Party of Miami-Dade      MUR 7320

#### I. INTRODUCTION

The Complaint alleges that the Libertarian Party of Miami-Dade (“LPMD”) violated the Federal Election Campaign Act of 1971, as amended (the “Act”) and Commission regulations that prohibit foreign nationals from participating in the decision making processes of a political committee or political organization’s contributions, donations, expenditures, or disbursements in connection with a federal, state, or local election. The Complaint alleges that Pierre Crevaux, a foreign national, served as LPMD’s Executive Director. The Complaint further alleges that Crevaux contributed \$100 to LPMD.

#### II. FACTUAL AND LEGAL ANALYSIS

##### A. Background

LPMD is a local political committee registered in Miami-Dade County, Florida.<sup>1</sup> Until at least September 2018, LPMD’s website stated that Crevaux was its Executive Director, and “has been involved with the Libertarian Party since 2012, managing several local campaigns and serving as the County Chair of the 2014 Adrian Wyllie for Governor campaign and the 2016

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<sup>1</sup> See MIAMI-DADE COUNTY, *Political Committees*, [https://www.voterfocus.com/CampaignFinance/candidate\\_pr.php?c=miamidade&el=13&c=miamidade&el=13](https://www.voterfocus.com/CampaignFinance/candidate_pr.php?c=miamidade&el=13&c=miamidade&el=13) (last visited June 28, 2018). LPMD has not reported any activity to the Commission or the Florida Division of Elections, but LPMD has reported financial receipts, in-kind contributions, and expenditures/disbursements to Miami-Dade County’s Elections Department. In 2017, LPMD reported receipts of \$14,976.63 and disbursements of \$9,133.27. See MIAMI-DADE COUNTY, *Political Committees, Libertarian Party of Miami-Dade County*, [https://www.voterfocus.com/CampaignFinance/candidate\\_pr.php?op=cv&e=13&c=miamidade&ca=1254&rellevel=3&committee=Y](https://www.voterfocus.com/CampaignFinance/candidate_pr.php?op=cv&e=13&c=miamidade&ca=1254&rellevel=3&committee=Y) (last visited Sept. 18, 2018). From January 1, 2018, to August 23, 2018, LPMD reported LPMD reported receipts of \$533 and disbursements of \$1,793.19. See *id.*

Gary Johnson for President campaign.”<sup>2</sup> It is unclear whether Crevaux served in his position at LPMD as a volunteer or a paid staff member.

The record indicates that Crevaux is a foreign national.<sup>3</sup> The record includes an email dated May 5, 2017, from Crevaux, in which he states that “I’m an immigrant. I’m still in the process of getting my paperwork done, and I’m a Libertarian volunteer.”<sup>4</sup>

The LPMD website sets forth LPMD’s bylaws, which state that the Executive Director’s responsibilities include:

- a. Overseeing the works of the standing committees;
- b. Assisting the officers with their respective duties;
- c. Helping executive committee members with their responsibilities and facilitating communications between executive committee members;
- d. Assigning membership to a standing committee for all precinct delegates that have not joined a standing committee within fifteen days of the beginning of the term of such precinct delegates;
- e. Serving as interim standing committee director in the event of a vacancy;
- f. Redacting some public records to protect essential secrecy of the affiliate’s works;
- g. Providing rules on the request for proposal process for the procurement of goods and services;
- h. Appointing, at most, one precinct delegate to the convention committee;
- i. Serving on the committee of the whole; and
- j. Performing any other duties as assigned by the Chairperson or the Executive Committee.<sup>5</sup>

<sup>2</sup> See LIBERTARIAN PARTY OF MIAMI-DADE, *The Team*, <http://www.lpmdade.org/staff/> (last visited Sept. 18, 2018).

<sup>3</sup> See *id.* at 1, 4-6.

<sup>4</sup> Compl. at 6.

<sup>5</sup> See *id.* at 3-4; BY-LAWS OF THE LIBERTARIAN PARTY OF MIAMI-DADE, [https://docs.google.com/document/d/1kjVuGcADYn\\_fnyoXz23wLFkIia-1Esb9tIO0ETNzDSY/edit](https://docs.google.com/document/d/1kjVuGcADYn_fnyoXz23wLFkIia-1Esb9tIO0ETNzDSY/edit) (last visited Aug. 16, 2018) (including, also, definitions of various terms).

Further, on April 4, 2017, LPMD reported receiving a \$100 contribution from Crevaux.<sup>6</sup>

## **B. Legal Analysis**

The Act and Commission regulations prohibit any “foreign national” from directly or indirectly making a contribution or donation of money or other thing of value, or an independent expenditure, expenditure, or disbursement, in connection with a federal, state, or local election.<sup>7</sup>

The Act’s definition of “foreign national” includes an individual who is not a citizen or national of the United States and who is not lawfully admitted for permanent residence, as well as a “foreign principal” as defined at 22 U.S.C. § 611(b).<sup>8</sup> Commission regulations implementing the Act’s foreign national prohibition provide:

A foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person, such as a corporation, labor organization, political committee, or political organization with regard to such person’s Federal or non-Federal election-related activities, such as decisions concerning the making of contributions, donations, expenditures, or disbursements. . . or decisions concerning the administration of a political committee.<sup>9</sup>

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<sup>6</sup> See Compl. at 12; MIAMI-DADE COUNTY, *Political Committees, Libertarian Party of Miami-Dade County, Q2 2017*.

<sup>7</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>8</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>9</sup> 11 C.F.R. § 110.20(i).

1 The Commission has explained that this provision also bars foreign nationals from “involvement  
2 in the management of a political committee.”<sup>10</sup>

3 In light of these provisions, Commission regulations permit any person or company —  
4 foreign or domestic — to provide goods or services to a political committee, without making a  
5 contribution, if that person or company does so as a “commercial vendor,” *i.e.*, in the ordinary  
6 course of business, and at the usual and normal charge, as long as foreign nationals do not  
7 directly or indirectly participate in any committee’s management or decision-making process in  
8 connection with its election-related activities.<sup>11</sup> For example, in MUR 5998, the Commission  
9 found that the foreign national owners of a venue did not make or facilitate a contribution to a  
10 political committee by allowing the committee to rent the venue for a fundraising event.<sup>12</sup> The  
11 venue at issue was rented out for events in the ordinary course of business, and the owners  
12 charged the committee the usual and normal amount for the service.<sup>13</sup> The Commission noted

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<sup>10</sup> Contribution Limits and Prohibitions, 67 Fed. Reg. 69928, 69946 (Nov. 19, 2002); *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>11</sup> 11 C.F.R. § 114.2(f)(1); *see* 11 C.F.R. § 116.1(c) (defining “commercial vendor” as “any persons providing goods or services to a candidate or political committee whose usual and normal business involves the sale, rental, lease or provision of those goods or services). The Act defines a contribution to include “anything of value,” which in turn includes all “in-kind contributions,” such as “the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services.” 11 C.F.R. § 100.52(d)(1); *see* 52 U.S.C. § 30101(8). Goods or services provided at the usual and normal charge do not constitute a contribution under the Act. However, soliciting, accepting, or receiving information in connection with an election from a foreign national, as opposed to purchasing the information at the usual and normal charge or hiring a foreign national in a bona fide commercial transaction to perform services for a federal campaign, could potentially result in the receipt of a prohibited in-kind contribution.

<sup>12</sup> Factual and Legal Analysis at 4-6, MUR 5998 (Lord Jacob Rothschild).

<sup>13</sup> *Id.*

1 that there was no available information to suggest — and the foreign nationals and political  
2 committee expressly denied — that the foreign nationals had any “decision-making role in the  
3 event.”<sup>14</sup>

4 The Commission has found that not all participation by foreign nationals in the election-  
5 related activities of others will violate the Act. In MUR 6959, for example, the Commission  
6 found no reason to believe that a foreign national violated 52 U.S.C. § 30121 by performing  
7 clerical duties, such as online research and translations, during a one month-long internship with  
8 a party committee.<sup>15</sup> Similarly, in MURs 5987, 5995, and 6015, the Commission found no  
9 reason to believe that a foreign national violated 52 U.S.C. § 30121 by volunteering his services  
10 to perform at a campaign fundraiser and agreeing to let the political committee use his name and  
11 likeness in its emails promoting the concert and soliciting support, where the record did not  
12 indicate that the foreign national had been involved in the committee’s decision-making process  
13 in connection with the making of contributions, donations, expenditures, or disbursements.<sup>16</sup> By  
14 contrast, the Commission has consistently found a violation of the foreign national prohibition  
15 where foreign national officers or directors of a U.S. company participated in the company’s

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<sup>14</sup> *Id.* at 5.

<sup>15</sup> Factual and Legal Analysis at 4-5, MUR 6959 (Cindy Nava) (noting that the available information, which was based on two press reports that did not detail the foreign national’s activities, did not indicate that the foreign national participated in any political committee’s decision-making process). The Commission also found that a \$3,000 stipend that the foreign national received from third parties resulted in an in-kind contribution from the third parties to the committee, but the value of the foreign national volunteer’s services to the committee was not a contribution. *Id.* at 4-5 (citing 52 U.S.C. § 30101(8)(A)(ii); 11 C.F.R. § 100.54; Advisory Op. 1982-04 (Apodaca)).

<sup>16</sup> Factual and Legal Analysis at 6-9, MURs 5987, 5995, and 6015 (Sir Elton John); *see also* Factual and Legal Analysis at 5, MUR 5998 (Lord Jacob Rothschild); Advisory Op. 2004-26 (Weller).



1 decisions to make contributions or in the management of its separate segregated fund.<sup>17</sup>

2       Based on the description of his duties as LPMD's Executive Director, it appears that  
 3 Crevaux managed and participated in LPMD's decision-making processes in connection with its  
 4 election-related spending. For example, according to LPMD's by-laws, the Executive Director is  
 5 responsible for overseeing the works of the standing committees, serving as interim director of  
 6 those committees in the event of a vacancy, and appointing members to those committees.<sup>18</sup>  
 7 LPMD's bylaws provide for six standing committees, including an Elections Committee that  
 8 will, among other things, seek libertarian candidates for office, assist those candidates who  
 9 become libertarian nominees, and make proposals regarding LPMD's official endorsements.<sup>19</sup>  
 10 LPMD's by-laws also state the Executive Director shall serve on the Committee of the Whole,  
 11 which is responsible for deciding LPMD's mission.<sup>20</sup> Additionally, the LPMD Executive  
 12 Director's duties include assisting LPMD's officers with *their* respective duties, which include,  
 13 for the office of Treasurer, collecting and maintaining all funds, signing checks, and preparing a  
 14 budget.<sup>21</sup> Such duties and responsibilities almost certainly contemplate the Executive Director

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<sup>17</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>18</sup> Compl. at 3.

<sup>19</sup> See BY-LAWS OF THE LIBERTARIAN PARTY OF MIAMI-DADE, Art. V, §§ 1, 4, *supra* note 10.

<sup>20</sup> See Compl. at 3; BY-LAWS OF THE LIBERTARIAN PARTY OF MIAMI-DADE, Art. V, § 10, *supra* note 10.

<sup>21</sup> BY-LAWS OF THE LIBERTARIAN PARTY OF MIAMI-DADE, Art. IV, § 4, *supra* note 10.

1 participating in LPMD's management or decision-making processes in connection with LPMD's  
2 election-related spending.

3 Because it appears that Crevaux was involved in LPMD's management and decision-  
4 making processes in connection with its election-related spending, there is reason to believe that  
5 LPMD violated the Act's foreign national prohibition.<sup>22</sup>

6 With respect to Crevaux's direct contribution, the record provides reason to believe that  
7 LPMD violated the ban on foreign national contributions by accepting a \$100 contribution from  
8 Crevaux. Further, this contribution has not been refunded.<sup>23</sup>

9 Based on the foregoing, the Commission finds reason to believe that LPMD violated 52  
10 U.S.C. § 30121(a).

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<sup>22</sup> See 52 U.S.C. § 30121(a); 11 C.F.R. § 110.20(i); Advisory Op. 2004-26 at 2; MUR 6184 (Skyway Concession Company, LLC, *et al.*)

<sup>23</sup> See Compl. at 12; MIAMI-DADE COUNTY, *Political Committees, Libertarian Party of Miami-Dade County, Q2 2017*, *supra* note 12.

# FEDERAL ELECTION COMMISSION

## FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Libertarian Party of Florida and MUR 7320  
James C. Morris in his official capacity  
as treasurer

### I. INTRODUCTION

The Complaint alleges that the Libertarian Party of Florida and James C. Morris in his official capacity as treasurer ("LPF") violated the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations that prohibit foreign nationals from directly or indirectly participating in the decision making processes of a political committee's contributions or expenditures in connection with a federal election. The Complaint alleges that Pierre Crevaux, a foreign national, served as Chief of Staff to LPF Chairman Marcos Miralles. The Complaint further alleges that Crevaux contributed \$5 to LPF in violation of the Act's foreign national ban.

### II. FACTUAL AND LEGAL ANALYSIS

#### A. Background

LPF is a state committee of a political party registered with both the Commission and with the state of Florida.<sup>1</sup> Marcos Miralles is the Chairman of the LPF and, according to the Complaint, a Libertarian Party of Miami Dade County board member.<sup>2</sup> The record includes an undated communication from Crevaux in which he identifies himself as Chief of Staff to LPF

<sup>1</sup> See Advisory Op. 2010-13 (LPF) (recognizing the LPF's state party committee status); FLORIDA DEPARTMENT OF STATE, *Committee Tracking System*, <http://dos.elections.myflorida.com/committees/ComDetail.asp?account=3402> (last visited Sept. 18, 2018).

<sup>2</sup> Compl. at 1.

Chairman Miralles.<sup>3</sup> It is unclear whether Crevaux served in his position at LPF as a volunteer or a paid staff member.

The record indicates that Crevaux is a foreign national.<sup>4</sup> The record includes an email dated May 5, 2017, from Crevaux, in which he states that “I’m an immigrant. I’m still in the process of getting my paperwork done, and I’m a Libertarian volunteer.”<sup>5</sup> The record also includes an email from Miralles sent on October 13, 2017, in which he acknowledges the frustration some party members have with his Chief of Staff being an “undocumented immigrant.”<sup>6</sup>

The record also indicates that Miralles, in his capacity as Chairman of LPF, appointed Crevaux as his Chief of Staff and granted him certain supervisory powers.<sup>7</sup> Further, Crevaux made a \$5 contribution to the LPF, which LPF refunded on the same day.<sup>8</sup> The record includes a receipt from godaddy.com showing that Crevaux made a \$5 contribution,<sup>9</sup> emails between officers and directors of LPF discussing Crevaux’s foreign national status and the refund of the

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<sup>3</sup> *Id.* at 8.

<sup>4</sup> *See id.* at 1, 4-6.

<sup>5</sup> Compl. at 6.

<sup>6</sup> *Id.* at 5.

<sup>7</sup> *Id.* at 1, 5, 8.

<sup>8</sup> *See id.* at 12; MIAMI-DADE COUNTY, *Political Committees, Libertarian Party of Miami-Dade County, Q2 2017*, [https://www.voterfocus.com/CampaignFinance/candidate\\_pr.php?op=rp&e=13&c=miamidade&ca=1254&sdc=837&cname=+Libertarian+Party+of+Miami-Dade+County+&coffice=Party+Executive+Committee&rptdate=17Q2<br>\(4/1/2017 - 6/30/2017\)&rellevel=3&dhc=14315&committee=Y](https://www.voterfocus.com/CampaignFinance/candidate_pr.php?op=rp&e=13&c=miamidade&ca=1254&sdc=837&cname=+Libertarian+Party+of+Miami-Dade+County+&coffice=Party+Executive+Committee&rptdate=17Q2<br>(4/1/2017 - 6/30/2017)&rellevel=3&dhc=14315&committee=Y) (last visited Aug. 14, 2018) (evidencing that Crevaux made a \$100 contribution to LPMD). The Florida Department of Election campaign finance database does not appear to show Crevaux’s attempted \$5 contribution to LPF.

<sup>9</sup> Compl. at 11-13.

\$5 contribution.<sup>10</sup> LPF's response asserts only that Crevaux's contribution was returned on the same day it was received; LPF's treasurer attached a receipt for the refund.<sup>11</sup>

### **B. Legal Analysis**

The Act and Commission regulations prohibit any "foreign national" from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure, independent expenditure, or disbursement, in connection with a federal, state, or local election.<sup>12</sup> The Act's definition of "foreign national" includes an individual who is not a citizen or national of the United States and who is not lawfully admitted for permanent residence, as well as a "foreign principal" as defined at 22 U.S.C. § 611(b).<sup>13</sup> Commission regulations implementing the Act's foreign national prohibition provide:

A foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person, such as a corporation, labor organization, political committee, or political organization with regard to such person's Federal or non-Federal election-related activities, such as decisions concerning the making of contributions, donations, expenditures, or disbursements . . . or decisions concerning the administration of a political committee.<sup>14</sup>

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<sup>10</sup> *Id.* at 14-15.

<sup>11</sup> Resp. of Libertarian Party of Fla. (Feb. 27, 2018).

<sup>12</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>13</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>14</sup> 11 C.F.R. § 110.20(i).

1 The Commission has explained that this provision also bars foreign nationals from “involvement  
2 in the management of a political committee.”<sup>15</sup>

3 In light of these provisions, Commission regulations permit any person or company —  
4 foreign or domestic — to provide goods or services to a political committee, without making a  
5 contribution, if that person or company does so as a “commercial vendor,” *i.e.*, in the ordinary  
6 course of business, and at the usual and normal charge, as long as foreign nationals do not  
7 directly or indirectly participate in any committee’s management or decision-making process in  
8 connection with its election-related activities.<sup>16</sup> For example, in MUR 5998, the Commission  
9 found that the foreign national owners of a venue did not make or facilitate a contribution to a  
10 political committee by allowing the committee to rent the venue for a fundraising event.<sup>17</sup> The  
11 venue at issue was rented out for events in the ordinary course of business, and the owners  
12 charged the committee the usual and normal amount for the service.<sup>18</sup> The Commission noted  
13 that there was no available information to suggest — and the foreign nationals and political

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<sup>15</sup> Contribution Limits and Prohibitions, 67 Fed. Reg. 69928, 69946 (Nov. 19, 2002); *see also* Advisory Op. 2004-26 at 2-3 (Weller) (noting that the 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>16</sup> 11 C.F.R. § 114.2(f)(1); *see* 11 C.F.R. § 116.1(c) (defining “commercial vendor” as “any persons providing goods or services to a candidate or political committee whose usual and normal business involves the sale, rental, lease or provision of those goods or services). The Act defines a contribution to include “anything of value,” which in turn includes all “in-kind contributions,” such as “the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services.” 11 C.F.R. § 100.52(d)(1); *see* 52 U.S.C. § 30101(8). Goods or services provided at the usual and normal charge do not constitute a contribution under the Act. However, soliciting, accepting, or receiving information in connection with an election from a foreign national, as opposed to purchasing the information at the usual and normal charge or hiring a foreign national in a bona fide commercial transaction to perform services for a federal campaign, could potentially result in the receipt of a prohibited in-kind contribution.

<sup>17</sup> Factual and Legal Analysis at 4-6, MUR 5998 (Lord Jacob Rothschild).

<sup>18</sup> *Id.*

1 committee expressly denied — that the foreign nationals had any “decision-making role in the  
2 event.”<sup>19</sup>

3 The Commission has found that not all participation by foreign nationals in the election-  
4 related activities of others will violate the Act. In MUR 6959, for example, the Commission  
5 found no reason to believe that a foreign national violated 52 U.S.C. § 30121 by performing  
6 clerical duties, such as online research and translations, during a one month-long internship with  
7 a party committee.<sup>20</sup> Similarly, in MURs 5987, 5995, and 6015, the Commission found no  
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10 likeness in its emails promoting the concert and soliciting support, where the record did not  
11 indicate that the foreign national had been involved in the committee’s decision-making process  
12 in connection with the making of contributions, donations, expenditures, or disbursements.<sup>21</sup> By  
13 contrast, the Commission has consistently found a violation of the foreign national prohibition

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<sup>19</sup> *Id.* at 5.

<sup>20</sup> Factual and Legal Analysis at 4-5, MUR 6959 (Cindy Nava) (noting that the available information, which was based on two press reports that did not detail the foreign national’s activities, did not indicate that the foreign national participated in any political committee’s decision-making process). The Commission also found that a \$3,000 stipend that the foreign national received from third parties resulted in an in-kind contribution from the third parties to the committee, but the value of the foreign national volunteer’s services to the committee was not a contribution. *Id.* at 4-5 (citing 52 U.S.C. § 30101(8)(A)(ii); 11 C.F.R. § 100.54; Advisory Op. 1982-04 (Apodaca)).

<sup>21</sup> Factual and Legal Analysis at 6-9, MURs 5987, 5995, and 6015 (Sir Elton John); *see also* Factual and Legal Analysis at 5, MUR 5998 (Lord Jacob Rothschild); Advisory Op. 2004-26 (Weller).



where foreign national officers or directors of a U.S. company participated in the company's decisions to make contributions or in the management of its separate segregated fund.<sup>22</sup>

There is information that Crevaux participated in decision-making processes with in connection with LPF's election-related spending in his role as Chief of Staff to LPF Chairman Miralles.<sup>23</sup> While the record information does not detail the duties for this position, the record does indicate that the Chairman is the top position within LPF.<sup>24</sup> Given Crevaux's position as Chief of Staff to LPF's Chairman, it is likely that he participated in LPF's management or decision-making processes in connection with LPF's election-related spending. In fact, the record contains a communication from Crevaux, in his capacity as "Chief of Staff to the Chair," to "Regional Representatives" with instructions to acquire signatures from county-level affiliates in order to proceed with the Chair's "Operation: First Step" electoral strategy and an email from a "Regional Representative" expressing concern that a foreign national is involved in the committee's decision-making.<sup>25</sup>

Because it appears that Crevaux served in a position for LPF in which he was involved in the committee's management and decision-making processes in connection with the committees'

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<sup>22</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>23</sup> See Compl. at 8.

<sup>24</sup> See LIBERTARIAN PARTY OF FLORIDA, *Officers*, <https://lpf.org/party/leadership/> (last visited Sept. 18, 2018).

<sup>25</sup> See Compl. at 8, 9.

election-related spending, there is reason to believe that LPF violated the Act's foreign national prohibition.<sup>26</sup>

With respect to Crevaux's direct contribution, LPF apparently refunded Crevaux's \$5 contribution the same day, which is within the ten-day timeframe allowed for a treasurer to refund a foreign national contribution.<sup>27</sup>

Based on the foregoing, the Commission finds reason to believe that LPF violated 52 U.S.C. § 30121(a).

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<sup>26</sup> See 52 U.S.C. § 30121(a); 11 C.F.R. § 110.20(i); Advisory Op. 2004-26 at 2; MUR 6184 (Skyway Concession Company, LLC, *et al.*).

<sup>27</sup> See 11 C.F.R. § 103.3(b).