

**FINANCIAL OVERSIGHT AND MANAGEMENT BOARD  
FOR PUERTO RICO**



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Jaime A. El Koury  
General Counsel

May 8, 2018

The Honorable Paul Ryan  
Speaker  
U.S. House of Representatives  
1233 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Robert Bishop  
Chairman  
Committee on Natural Resources  
U.S. House of Representatives  
123 Cannon House Office Building  
Washington, DC 20515

Dear Speaker Ryan and Chairman Bishop:

I write to you on behalf of the Financial Oversight and Management Board for Puerto Rico (the “Board”). The purpose of this letter is to address the April 16, 2018 letter sent to you by a group purporting to be concerned about Board Member Ana Matosantos’ financial interests (the “Letter”).

As an initial matter, please be assured that each of the Board’s members, executive team, and other staff members is deeply committed to transparency and adherence to ethical standards above and beyond what are required by the Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”). The Board, for example, requires all new members and designated staff – including the Board’s Executive Director, General Counsel, and Revitalization Coordinator – to make full financial disclosures within thirty days after being appointed and every year thereafter, and to make disclosures of stock transactions quarterly. PROMESA does not contain any requirement for when or how frequently disclosures must be made (or updated); rather, it simply provides that disclosures must be made and identifies, through reference to Section 102 of the Ethics in Government Act (“EGA”), the contents of those disclosures. Neither PROMESA nor Section 102 of the EGA contains a quarterly transaction-reporting requirement.

In addition, the Board requires all financial disclosures to be automatically posted on its public website after they are reviewed by the Ethics Advisor. Again, this is not a requirement of PROMESA, but rather a step the Board took as part of its commitment to transparency.

The Board has also taken a number of other proactive steps reflecting its commitment to the highest ethical standards. These actions include: (1) adopting a rigorous Code of Conduct governing matters such as insider trading, kickbacks, and conflicts of interest; and (2) retaining an outside Ethics Advisor who is empowered to review all financial disclosures and determine whether any Board or staff member should be disqualified from involvement in any Board activities based upon a conflict of interest, among other things. Again, these measures were not mandated by PROMESA, but rather reflect the Board's commitment to ethical conduct in all of its operations.

Now that I have provided you with information about the Board's processes and ethical commitments, I would like to briefly address some of the Letter's specific concerns regarding Ms. Matosantos' financial interests.

The Letter suggests that Ms. Matosantos cannot impartially participate in Board decisions because of her alleged financial interests in Matosantos Commercial, Corp. ("MCC"), Gegloma Realty, Ltd. ("Gegloma Realty"), Organic Power LLC ("Organic Power") and Organic Fuel.<sup>1</sup> Specifically, the Letter cites the purported findings of another group, which the Letter alleges has "revealed a complex scheme by Ms. Matosantos and her family business to deceive the Puerto Rican people and creditors about her involvement in energy generation on the island" and "conceal[] Ms. Matosantos' financial stake in the privatization of the Puerto Rican Electric Power Authority (PREPA)." The Board takes very seriously any concerns about its members' transparency and ethics. Accordingly, the Board's Ethics Advisor has reviewed the allegations concerning Ms. Matosantos' financial interests contained in the Letter. As set forth more fully below, it appears the allegations are premised on speculation and misunderstandings of the facts.

For example, it is unclear on what basis the Letter concludes that MCC "secret[ly] own[s]" Organic Power and Organic Fuel, but whatever the case, the allegations appear to be false. From the Board's review, it appears that Ms. Matosantos and MCC have no ownership interest in Organic Power or Organic Fuel. As such, the allegation that Ms. Matosantos "failed to disclose th[e] financial link" between herself and Organic Power in violation of House Rule XI when she testified before the Committee on Natural Resources on "The Status of the Puerto Rico Electric Power Authority (PREPA) Restructuring Support Agreement" on March 22, 2017 appears to be without merit. As you are aware, House Rule XI requires, among other things, a witness appearing before a committee in a nongovernmental capacity to disclose "the amount and source of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) related to the subject matter of the hearing." If Ms. Matosantos does not have any interest in Organic Power,

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<sup>1</sup> Ms. Matosantos has been a member of the Board of Directors of MCC, in which she also owns a minority stake (4.72%), since 2016. She is also a minority shareholder of Gegloma Realty (6.67%). Ms. Matosantos does not have any ownership interest in Organic Power or Organic Fuel, either directly or through her interests in MCC and Gegloma Realty.

she did not have any obligation to disclose its grants or contracts with the U.S. Government to the Committee under House Rule XI.

The Letter's allegations concerning MCC's relationship with PREPA are similarly misplaced. The Letter, for example, alleges that Ms. Matosantos and MCC "continue to benefit from a previously hidden 'net metering' agreement" between MCC and PREPA. The Letter also alleges that MCC was benefiting from the net metering agreement as recently as March 28, 2018, when the Board rejected the elimination of net metering subsidies in the draft PREPA Fiscal Plan proposed by the Governor.

It is the Board's understanding that MCC's "hidden" net metering agreement with PREPA has not been in effect since August 2017. Additionally, MCC never received "payments from PREPA in the form of credits," as alleged in the Letter. Instead, MCC's net metering agreement with PREPA provides only for a one-to-one offset on MCC's energy utilization – an arrangement we understand to be standard for these agreements.

Significantly, MCC has not received an offset under the agreement since August 2017 and may never benefit from the agreement in the future. That is because, although MCC has solar panels that were previously connected to PREPA's grid, the Board understands that those solar panels were severely damaged as a result of Hurricanes Irma and Maria, have since been disabled, and may not be repairable. As a result, MCC does not presently have any business or financial relationships with PREPA, other than as a general electricity customer. Indeed, based on the information the Board has collected and reviewed, there is no evidence that MCC sells electricity to PREPA, has any surplus energy to sell to PREPA, or has any plans (or capacity) to do so in the foreseeable future.

To violate 18 U.S.C. § 208, the possibility of a financial effect "must be real, not speculative." 5 C.F.R. § 2635.402. The Letter, however, does not describe a close causal link that could lead to a real, as opposed to speculative, possibility of a gain or loss. Indeed, the Board is not aware of any evidence that Ms. Matosantos stands to realize or suffer any tangible, pecuniary gains or losses as a direct and/or predictable result of any vote or decision concerning PREPA because of her holdings in MCC and Gegloma Realty.<sup>2</sup>

Finally, it is important to note that Ms. Matosantos has been transparent concerning her financial interests, and the charges levied against her in the Letter are premised in part on information she disclosed on her financial disclosure forms which the Board has published on its website. Her financial interests were disclosed to the U.S. Government during her initial appointment to the Board and continue to be regularly disclosed and reviewed by the Board's Ethics Advisor as part of the Board's quarterly and annual financial disclosure processes. As a result of those

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<sup>2</sup> Although the Letter refers to Ms. Matosantos' reported assets from Gegloma Realty, it fails to provide any further explanation for its belief that Ms. Matosantos' ownership interest in Gegloma Realty constitutes a disqualifying conflict of interest. Based on our review, Gegloma Realty does not presently have any business or financial relationships with PREPA, other than as a general electricity customer.

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disclosures, neither the U.S. Government nor the Board's Ethics Advisor have found that Ms. Matosantos' positions and financial holdings present conflicts of interest or are inconsistent with her duties as a Board member.

Based on the foregoing, we respectfully suggest that the U.S. House of Representatives decline to investigate this matter. However, should you require any additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Jaime A. El Koury". The signature is stylized and written in a cursive-like font.

Jaime A. El Koury  
General Counsel

cc Members of the Financial Oversight and Management Board for Puerto Rico  
Andrea Bonime-Blanc, Ethics Advisor