



FEDERAL ELECTION COMMISSION  
WASHINGTON, D C 20463

THIS IS THE BEGINNING OF MUR # 9064

DATE FILMED 6/22/90 CAMERA NO. 4

CAMERAMAN AS

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**REPORTS ANALYSIS REFERRAL**  
**TO**  
**OFFICE OF GENERAL COUNSEL**

**DATE:** \_\_\_\_\_

**ANALYST:** Robert B. DiNardo

**I. COMMITTEE:** American Resort & Residential Development  
Association Political Action Committee  
(C00129932)  
Thomas C. Franks, Treasurer  
1220 L Street, NW 5th Floor  
Washington, DC 20005

**II. RELEVANT STATUTE:** 11 CFR 114.5(b)(3)

**III. BACKGROUND:**

**Receipt of Funds from the Connected Organization**

The American Resort & Residential Development Association Political Action Committee (the "Committee") received \$27,321.68 in transfers from its connected organization the American Resort & Residential Development Association (the "Association"), as reimbursements for administrative expenses during the 1989 Mid-Year reporting period (Attachment 2).

On August 30, 1989, a Request for Additional Information ("RFAI") was sent to the Committee advising it that it could be reimbursed by its connected organization for administrative expenses, provided the reimbursement was received within thirty (30) days of the original disbursement(s). The RFAI recommended a transfer to the Association of those reimbursement(s) occurring after the thirty (30) day limit. The RFAI requested the Committee to provide the date(s) of the original disbursement(s) and/or a photocopy of a refund check (Attachment 3).

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On September 5, 1989, an officer of the Committee, Mr. Joe Winklemann, called the Reports Analysis Division ("RAD") analyst. Mr. Winkleman said \$20,000 was reimbursed within thirty (30) days of the original disbursement, while \$7,321.68 was not. He said a refund was made to the Association of the amount occurring after the thirty (30) day limit (Attachment 4).

On September 8, 1989, the Committee responded by letter. The Committee provided dates for the original disbursements (January 10, 1989-\$23,110.00; February 1, 1989-\$7,321.68) which revealed that the \$7,321.68 reimbursement occurred after the thirty (30) day limit. The Committee also provided a photocopy of the refund check, totalling \$7,321.68, dated September 5, 1989 (Attachment 5).

IV. OTHER PENDING MATTERS INIATED BY RAD:

None

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FEDERAL ELECTION COMMISSION  
 1989-1990  
 COMMITTEE INDEX OF DISCLOSURE DOCUMENTS - (C)

Attachment #1  
 DATE 20SEP89

COMMITTEE	DOCUMENT	RECEIPTS	DISBURSEMENTS	COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
						TYPE OF FILER
AMERICAN RESORT & RESIDENTIAL DEVELOPMENT ASS'N POLITICAL ACTION COMMITTEE				ID #C00129932 NON-PARTY QUALIFIED		
CONNECTED ORGANIZATION: AMER RESORT & RESIDENTIAL DEVELOP ASSOC						
1989	MISCELLANEOUS REPORT FROM FEC			21JUL89	1	89FEC/602/0049
	STATEMENT OF ORGANIZATION - AMENDMENT			9AUG89	3	89FEC/606/3980
	MID-YEAR REPORT	49,152	52,781	1JAN89 -30JUN89	12	89FEC/601/5222
	MID-YEAR REPORT - AMENDMENT	-	-	1JAN89 -30JUN89	6	89FEC/608/5171
	REQUEST FOR ADDITIONAL INFORMATION			1JAN89 -30JUN89	3	89FEC/608/2561
	TOTAL	49,152	0 52,781		0	25 TOTAL PAGES

All reports listed have been reviewed.

Ending cash-on-hand as of 6/30/89: \$43,497.71

Debts and obligations owed to the committee as of 6/30/89: \$0

Debts and obligations owed by the committee as of 6/30/89: \$0

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FEDERAL ELECTION COMMISSION

WASHINGTON DC 20541

89-2

ME 20 1989

Thomas C. Franks, Treasurer  
American Resort & Residential  
Development Association  
Political Action Committee  
1220 L Street, NW 5th Floor  
Washington, DC 20005

Identification Number: C00129932

Reference: 1989 Mid-Year Report (1/1/89-6/30/89)

Dear Mr. Franks:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Schedule A of your report discloses the receipt of funds from your connected organization (pertinent portion(s) attached). 2 U.S.C. §441b prohibits the receipt of funds from national banks, corporations, and labor organizations. Under 11 CFR 114.5(b)(3), however, a separate segregated fund may be reimbursed for any solicitation or other administrative expense provided that the reimbursement is made no later than thirty (30) days after the expense was paid by the separate segregated fund.

Please provide further clarifying information regarding the date that your committee made payments for any solicitation or other administrative expenses. To the extent that the reimbursement was made beyond the thirty (30) days permitted under 11 CFR 114.5(b)(3), the Commission recommends that you refund the full amount to the donor in accordance with 11 CFR 103.3(b). Alternatively, if you choose to transfer the funds to an account not used to influence federal elections, the Commission advises that you inform the contributor in writing and provide the contributor with the option of receiving a refund. You may wish to seek a written authorization (either before or after the transfer-out) from the donor for any transfer-out to protect the donor's interests.

Please inform the Commission immediately in writing and provide a photocopy of your check for the refund or

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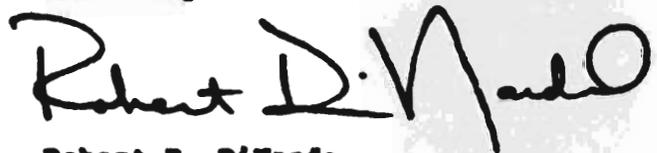
transfer-out. In the best interests of the committee, all refunds and transfers-out should be made within thirty (30) days of the treasurer's receipt of the funds. See 11 CFR 103.3(b). Refunds and transfers-out should be disclosed on a supporting Schedule B for Line 26 or 20 of the report covering the period during which they are made.

If the contribution(s) in question was incompletely or incorrectly disclosed, you should amend your original report with the clarifying information.

Although the Commission may take further legal steps concerning the acceptance of a prohibited contribution, prompt action by your committee to refund or transfer-out the amount will be taken into consideration.

A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 376-2480.

Sincerely,



Robert B. DiMardo  
Reports Analyst  
Reports Analysis Division

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**MEMORANDUM TO THE FILES:**

**COMMITTEE:** American Resort & Residential Development Association PAC  
**I.D. NUMBER:** C00129932  
**CONTACT:** Mr. Joe Winklemann  
**DATE:** September 5, 1989  
**ANALYST:** Robert B. DiNardo  
**SUBJECT:** Reimbursements from connected organization

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Mr. Winklemann called at 10:30 regarding the reimbursements from the committee's connected organization. He stated that \$20,000 was reimbursed within 30 days of the original disbursement, while the remaining \$7,321.68 was not. Mr. Winklemann said a refund was made to the connected organization in the amount of \$7,321.68. I told him to provide a written letter outlining the dates of the original disbursements and a photocopy of the refund check. He said he would do so.

Robert S. Williams  
Special Analysis Division  
Federal Election Commission  
Washington, D.C. 20463

Identification Number: C00129932

Reference: 1989 Mid-Year Report (1/1/89-6/30/89)

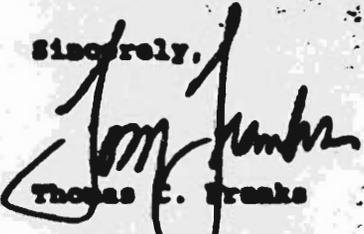
Dear Mr. DiMarco:

Reference is made to your letter dated August 30, 1989, and to your conversation with Joe Winkelmann on September 5, 1989.

As requested, below is a table of expenses incurred by the PAC, and the dates on which the association, as the connected organization, sought to reimburse those expenses.

As indicated by the information, \$20,000 was reimbursed in a timely fashion within the 30-day limit required, while \$7,321.68 was reimbursed beyond the allowed 30-day limit. That amount has now been refunded to the connected organization as required. A copy of the refund check is enclosed, and we will report the refund on either line 19 or line 20 of the 1989 Year-End report as a "refund of administrative reimbursement occurring outside the 30-day limit", as you suggested.

We regret the error, and appreciate your discovering it during your review of our 1989 Mid-Year report. I hope the steps we have taken adequately correct the problem.

Sincerely,  
  
Thomas E. Franks

Addendum: Table of operating expenses and reimbursements

DATE	AMOUNT	EXPENSE (REIMBURSEMENT)
1/10/89	\$23,110.00	Operating Expense for PAC Trustee meeting activities  (\$20,000 partial reimbursement 2/9/89)
2/1/89	\$ 7,024.70	Operating Expense for fundraising and administration  (\$7024.70 reimbursement 3/22/89)
2/1/89	\$ 296.98	Operating Expense for photography services  \$296.98 reimbursement

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*James*

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WASHINGTON, D.C.

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**SENSITIVE**

FEDERAL ELECTION COMMISSION  
999 E Street, N.W.  
Washington, D.C. 20463

**FIRST GENERAL COUNSEL'S REPORT**

RAD Referral #89L-43  
STAFF MEMBER Noriega E. James

**SOURCE: INTERNALLY GENERATED**

**RESPONDENTS:** American Resort & Residential  
Development Association Political  
Action Committee and Thomas C.  
Franks, as treasurer  
American Resort & Residential  
Development Association

**RELEVANT STATUTES:** 2 U.S.C. § 441b(a)  
11 C.F.R. § 114.5(b)(3)

**INTERNAL REPORTS CHECKED:** Referral Materials

**FEDERAL AGENCIES CHECKED:** None

**I. GENERATION OF MATTER**

This matter was referred to the Office of the General Counsel from the Reports Analysis Division ("RAD") in accordance with the RAD Review and Referral Procedures for Authorized Committees.

**II. FACTUAL AND LEGAL ANALYSIS**

The 1989 Mid Year Report filed by the American Resort & Residential Development Association Political Action Committee (the "Committee") discloses that the Committee accepted reimbursements totaling \$27,321.68 for administrative expenses from its connected organization, the American Resort & Residential Development Association (the "Association"), an incorporated entity. The reimbursements were reported as

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receipts of \$20,000 and \$7,321.68 with receipts date of February 9, 1989, and March 22, 1989, respectively.

On August 30, 1989, RAD sent the Committee a Request for Additional Information ("RFAI") concerning the receipt of the reimbursements. The response from the Committee revealed that of the total amount, \$20,000 was reimbursed within thirty (30) calendar days after the expenses were paid for by American Resort & Residential Development Association Political Action Committee. However, the remaining amount of \$7,321.68<sup>1</sup> was not reimbursed until forty-nine (49) days after the expenses were paid.

According to 2 U.S.C. § 441b(a) it is unlawful for any corporation to make a contribution or expenditure in connection with any federal election or for any political committee to knowingly accept such contribution. And, 2 U.S.C. § 441b(b) defines contribution or expenditure to include any direct or indirect payment, loan, or any services, or anything of value. The statute excludes from this definition funds used for the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or a labor organization.

Additionally, Commission regulations provide that if the separate segregated fund pays any solicitation or other administrative expense from its own account, that could have

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1. In the response to the RFAI the Committee admitted that a violation of the Act had occurred and included a copy of a refund check to the Association for the \$7,321.68.

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been paid for as administrative expenses by its connected organization, the connected organization may reimburse the separate segregated fund no later than thirty (30) calendar days after the expense was paid by the separate segregated fund. 11 C.F.R. § 114.5(b)(3). The reimbursement for \$7,321.68 failed to comply with the regulation's thirty day time frame.

Therefore, the Office of the General Counsel recommends that the Commission find reason to believe the American Resort & Residential Development Association Political Action Committee and Thomas C. Franks, as treasurer, and the American Resort & Residential Development Association, violated 2 U.S.C.

§ 441b(a).

III. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that American Resort & Residential Development Association Political Action Committee and Thomas C. Franks, as treasurer, violated 2 U.S.C. § 441b(a).
3. Find reason to believe that American Resort & Residential Development Association violated 2 U.S.C. § 441b(a).
4. Approve the appropriate letters and Factual and Legal Analyses.

Lawrence M. Noble  
General Counsel

May 14, 1990  
Date

BY:

Lois G. Lerner  
Lois G. Lerner  
Associate General Counsel

Attachments:

1. Referral Materials
2. Factual and Legal Analyses(2)

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FEDERAL ELECTION COMMISSION  
WASHINGTON DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE  
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/DELORES HARRIS *MH*  
COMMISSION SECRETARY

DATE: MAY 17, 1990

SUBJECT: RAD REFERRAL #89L-43 - 1st GENERAL COUNSEL'S RPT.  
DATED MAY 14, 1990

The above-captioned document was circulated to the Commission on Tuesday, May 15, 1990 at 11:00 a.m.

Objection(s) have been received from the Commissioner(s) as indicated by the name(s) checked below:

Commissioner Aikens	<u>XXX</u>
Commissioner Elliott	<u>          </u>
Commissioner Josefiak	<u>          </u>
Commissioner McDonald	<u>          </u>
Commissioner McGarry	<u>          </u>
Commissioner Thomas	<u>          </u>

This matter will be placed on the meeting agenda for Tuesday, May 22, 1990.

Please notify us who will represent your Division before the Commission on this matter.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
American Resort & Residential Development ) RAD Referral  
Association Political Action Committee ) 89L-43  
and Thomas C. Franks, as treasurer )  
American Resort & Residential Development )  
Association )

(MUR  
3064)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of May 22, 1990, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions with respect to the above-captioned referral:

1. Open a MUR.
2. Find reason to believe that American Resort & Residential Development Association Political Action Committee and Thomas C. Franks, as treasurer, violated 2 U.S.C. § 441b(a).
3. Find reason to believe that American Resort & Residential Development Association violated 2 U.S.C. § 441b(a).
4. Approve the Factual and Legal Analyses attached to the General Counsel's Report dated May 14, 1990.

(continued)

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5. Close the file.
6. Direct the Office of General Counsel to send letters to the respondents advising them of the above-noted actions and admonishing them not to repeat the violations.

Commissioners Aikens, Elliott, Josefiak, McDonald,  
and Thomas voted affirmatively for the decision;  
Commissioner McGarry was not present.

Attest:

May 24, 1990  
Date

Marjorie W. Emmons  
Marjorie W. Emmons  
Secretary of the Commission

90040770903



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**CLOSED**

June 5, 1990

Thomas C. Franks, Treasurer  
American Resort & Residential Development  
Association Political Action Committee  
1220 L Street, N.W. 5th Floor  
Washington, DC 20005

RE: MUR 3064  
American Resort & Residential  
Development Association  
Political Action Committee  
and Thomas C. Franks, as  
treasurer

Dear Mr. Franks:

On May 22, 1990, the Federal Election Commission found reason to believe that American Resort & Residential Development Association Political Action Committee ("Committee") and you, as treasurer, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission also determined to close the file. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The Commission reminds you that accepting reimbursements for administrative expenses from a connected organization more than thirty (30) days after the expenses are paid is a violation of Commission regulations. You should take immediate steps to insure that this activity does not occur in the future.

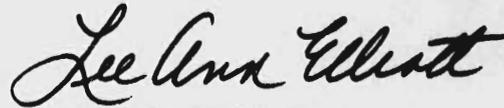
The file will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

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Mr. Franks  
Page 2

If you have any questions, please direct them to  
Noriega E. James, the staff member assigned to this matter, at  
(202) 376-8200.

Sincerely,



Lee Ann Elliott  
Chairman

Enclosure  
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: American Resort & Residential Development Association Political Action Committee and Thomas C. Franks, as Treasurer MUR: 3064

900407400  
The 1989 Mid Year Report filed by the American Resort & Residential Development Association Political Action Committee (the "Committee") disclosed that the Committee accepted reimbursements totaling \$27,321.68 for administrative expenses from its connected organization, the American Resort & Residential Development Association (the "Association"), an incorporated entity. The reimbursements were reported as receipts of \$20,000 and \$7,321.68 with receipts date of February 9, 1989, and March 22, 1989, respectively.

On August 30, 1989, the Reports Analysis Division sent the Committee a Request for Additional Information concerning the receipt of the reimbursements. The response from the Committee revealed that of the amount reimbursed, \$20,000 was reimbursed within thirty (30) calendar days after the expenses were paid for by the Committee. However, the remaining amount of \$7,321.68 was not reimbursed by the Association until forty-nine (49) days after the expenses were paid.

According to 2 U.S.C. § 441b(a) it is unlawful for any corporation to make a contribution or expenditure in connection with any federal election or for any political committee to knowingly accept such contribution. Additionally, 2 U.S.C. § 441b(b) defines contribution or expenditure to include any

(2)

direct or indirect payment, loan, or any services, or anything of value, but, does not include costs for the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or a labor organization.

Commission regulations provide that if the separate segregated fund pays any solicitation or other administrative expense from its own account, that could have been paid for as administrative expenses by its connected organization, the connected organization may reimburse the separate segregated fund no later than 30 calendar days after the expense was paid by the separate segregated fund. 11 C.F.R. § 114.5(b)(3). In this instance, the reimbursement failed to comply with the regulation's thirty day time frame.

Therefore, there is reason to believe American Resort & Residential Development Association Political Action Committee violated 2 U.S.C. § 441b(a) by accepting \$7,321.68 in reimbursements for administrative expenses from its connected organization, American Resort & Residential Development Association, more than thirty (30) days after the expenses were paid.

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FEDERAL ELECTION COMMISSION  
WASHINGTON, DC 20461

June 5, 1990

Mr. Gary A. Terry, President  
American Resort & Residential  
Development Association  
1220 L Street, N.W. 5th Floor  
Washington, DC 20005

RE: MUR 3064  
American Resort & Residential  
Development Association

Dear Mr. Terry:

On May 22, 1990, the Federal Election Commission found reason to believe that American Resort & Residential Development Association violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission also determined to close the file. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You are reminded that it is in violation of Commission regulations for a connected organization to reimburse it separate segregated fund for administrative expenses more than thirty (30) days after the expenses are paid. You should take immediate steps to insure that this activity does not occur in the future.

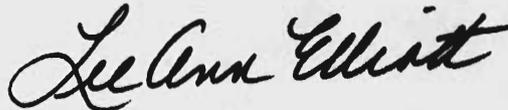
The file will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

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Mr. Terry  
Page 2

If you have any questions, please direct them to  
Noriega E. James, the staff member assigned to this matter, at  
(202) 376-8200.

Sincerely,



Lee Ann Elliott  
Chairman

Enclosure  
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: American Resort & Residential  
Development Association

MUR: 3064

The 1989 Mid Year Report filed by the American Resort & Residential Development Association Political Action Committee (the "Committee") disclosed that the Committee accepted reimbursements totaling \$27,321.68 for administrative expenses from its connected organization, the American Resort & Residential Development Association (the "Association"), an incorporated entity. The reimbursements was reported as receipts of \$20,000 and \$7,321.68 with receipts date of February 9, 1989, and March 22, 1989, respectively.

On August 30, 1989, the Reports Analysis Division sent the Committee a Request for Additional Information concerning the receipt of the reimbursements. The response from the Committee revealed that of the amount reimbursed, \$20,000 was reimbursed within thirty (30) calendar days after the expenses were paid for by American Resort & Residential Development Association Political Action Committee. However, the remaining amount of \$7,321.68 was not reimbursed by the Association until forty-nine (49) days after the expenses were paid.

According to 2 U.S.C. § 441b(a), it is unlawful for any corporation to make a contribution or expenditure in connection with any federal election or for any political committee to knowingly accept such contribution. Additionally, 2 U.S.C.

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§ 441b(b) defines contribution or expenditure to include any direct or indirect payment, loan, or any services, or anything of value, but, does not include costs for the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or a labor organization.

Commission regulations provide that if the separate segregated fund pays any solicitation or other administrative expense from its own account, that could have been paid for as administrative expenses by its connected organization, the connected organization may reimburse the separate segregated fund no later than 30 calendar days after the expense was paid by the separate segregated fund. 11 C.F.R. § 114.5(b)(3). The \$7,321.68 reimbursement failed to comply with the regulation's thirty day time frame.

Therefore, there is reason to believe American Resort & Residential Development Association violated 2 U.S.C. § 441b(a) by making \$7,321.68 in reimbursements for administrative expenses to American Resort & Residential Development Association Political Action Committee, its separate segregated fund, more than thirty (30) days after the expenses were paid.

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**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D.C. 20543

THIS IS THE END OF MUR # 3064

DATE FILMED 6/22/90 CAMERA NO. 4

CAMERAMAN AS

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THE FOLLOWING DOCUMENTATION IS ADDED TO  
THE PUBLIC RECORD IN CLOSED MUR 3064.

2004030048



**American Resort &  
Residential Development  
Association™**

1220 L Street, N.W., 5th Floor  
Washington, D.C. 20005  
(202) 371-8700

EGC 6517

**CLOSED**

President  
Gary A. Terry

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF GENERAL COUNSEL  
90 JUN 12 PM 4:10

RECEIVED  
FEDERAL ELECTION COMMISSION  
SECRETARIAT  
90 JUN 12 PM 12:34

June 8, 1990

Ms. Lee Ann Elliott  
Chairman  
Federal Election Commission  
Washington, DC 20463

Re: MUR 3064  
American Resort & Residential  
Development Association

Dear Ms. Elliott:

Thank you for your letter of June 5 informing me of our violation  
2 U.S.C. Section 441b(a), the Federal Election Campaign Act of  
1971, and the decision to close the file after notice to us.

I believe the violation to have been inadvertent and will make  
certain that steps are taken to monitor reimbursements more  
closely.

Sincerely yours,

*Gary A. Terry*  
Gary A. Terry

GAT/mm  
cc Noriega E. James  
Federal Election Commission

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