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SECRETARIAT

2004 MAY 19 P 2:21

FEDERAL ELECTION COMMISSION

In the matter of : Bacardi U.S.A., Inc.

Political Action Committee and  
Robert M. Higdon, Treasurer

MUR No.: 5439

AMENDED COMPLAINT

**SENSITIVE**

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

2004 MAY 19 10:04

1. Citizens for Responsibility and Ethics in Washington hereby brings this complaint before the Federal Election Commission seeking an immediate FEC investigation of and enforcement action against Bacardi U.S.A., Inc. Political Action Committee and Treasurer Robert M. Higdon for violations of federal campaign finance law.

Complainant

2. Citizens for Responsibility and Ethics in Washington is a non-profit, non-partisan organization dedicated to ensuring accountability in public officials.

Respondents

3. Bacardi U.S.A. Inc., Political Action Committee is a political action committee subject to regulation by the Federal Election Commission ("FEC"). Robert M. Higdon is the Treasurer of Bacardi U.S.A., Inc. Political Action Committee.

Factual Allegations

4. Both the Federal Election Campaign Act ("FECA") and the FEC implementing regulations require the treasurer of a separate segregated fund to maintain

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and the office sought by the candidate, if any, for whom the disbursement is made. 2 U.S.C. §432(c)(5); 11 C.F.R. §102.9(b)(1).

5. Similarly, both FECA and the FEC's implementing regulations require the treasurer of a separate segregated fund to file periodic reports with the FEC that include, among other things, the name and address of each political committee, including, but not limited to: the authorized committees of candidates for federal office which have received a contribution from the reporting committee during the reporting period; the date and amount of any such contribution; and, in the case of a contribution to an authorized committee, the candidate's name and the office sought. 2 U.S.C. §434(b)(3)(5)(B); 11 C.F.R. §104.3(b)(3)(v).

6. The FEC regulations implementing the agency's administrative fine program indicate that when a required report is not filed within 30 days of its statutory due date, the report is not considered to have been filed at all. 11 C.F.R. 1143(e)(1).

#### COUNT I

7. The Bacardi U.S.A., Inc. PAC was required by the FECA and by FEC regulations to file a report covering its activities in the first quarter of 2004 in electronic form with the FEC by April 15, 2004. The Bacardi U.S.A. Inc. PAC and its treasurer, Robert M. Higdon have failed to file the required quarterly report.

#### COUNT II

8. On April 2, 2004, the FEC's Reports Analysis Division sent a telegram to Robert M. Higdon indicating that the PAC's failure to file its 2003 Year End Report in electronic form meant that the PAC had failed to fulfill its reporting obligation for the second half of 2003. 11 C.F.R. 104.18.

9. More than a month after receiving the Report Analysis Division's telegram, the Bacardi U.S.A. Inc. PAC and its treasurer, Robert M. Higdon have failed to file a complete 2003 Year End Report in electronic form.

COUNT III

10. The Bacardi U.S.A. Inc. PAC and its treasurer, Robert m. Higdon, have failed to disclose the identify of any federal candidate or committee that received a contribution from the PAC between July 1, 2003 and March 31, 2004.

11. The paper version of the 2003 Year End Report that the Bacardi U.S.A., Inc. PAC filed with the FEC indicated that the PAC made \$8,500 in contributions between July 1, 2003 and December 31, 2003, but failed to identify the recipients of those contributions. CREW's own investigation, however, has identified the recipients of two contributions from the Bacardi U.S.A. Inc. PAC during this time period:

a) On October 31, 2003, the Bacardi U.S.A., Inc. PAC made a \$1,000 contribution to the Grassley Committee, Inc., the principal campaign committee of Senator Charles Grassley (R-IA); and

b) On December 2, 2003, the Bacardi U.S.A. Inc. PAC made a contribution to the Democracy Believers Political Action Committee, a leadership PAC jointly sponsored by Rep. Lincoln Diaz-Balart (R-FL) and Rep. Mario Diaz-Balart (R-FL).

12. Similarly, CREW's own investigation has identified the recipients of three contributions made by the Bacardi U.S.A. Inc. PAC between January 1, 2004 and March 31, 2004, that the PAC has never disclosed to the FEC:

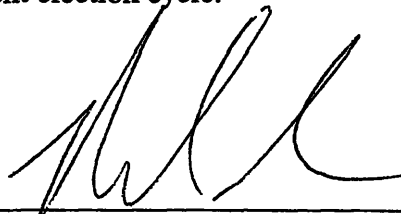
a) On January 22, 2004, the Bacardi U.S.A. Inc. PAC made a \$2,500 contribution to the Americans for a Republican Majority Political Action Committee, a leadership PAC established by Rep. Tom DeLay (R-TX);

b) On February 14, 2004, the Bacardi U.S.A. Inc. PAC made a \$1,000 contribution to the Bill Nelson for U.S. Senate Campaign Committee, the principal campaign committee of Senator Bill Nelson (D-FL); and

c) On March 31, 2004, the Bacardi U.S.A. Inc. PAC made a \$1,000 contribution to Friends of Connie Mack, the principal campaign committee of Connie Mack.

#### Conclusion

WHEREFORE, the Bacardi U.S.A. Inc. PACS's failure to respond to the Reports Analysis Division's April 4, 2004 telegram indicates that the PAC is in knowing and willful violation of the FECA and the FEC implementing regulations. The Commission should immediately expand its investigation of the Bacardi U.S.A. Inc. PAC to include its failure to file the required April 15<sup>th</sup> Quarterly Report and should conduct an audit of the PAC's entire operation for the current election cycle.



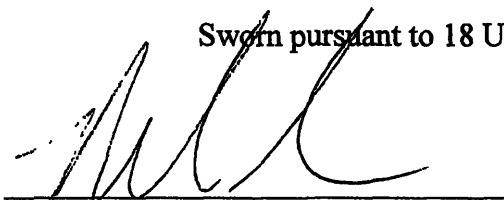
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Melanie Sloan, Executive Director  
Citizens for Responsibility and Ethics in  
Washington  
2<sup>nd</sup> Floor  
11 DuPont Circle, N.W.  
Washington, D.C. 20036  
(202) 588-5565

**Verification**

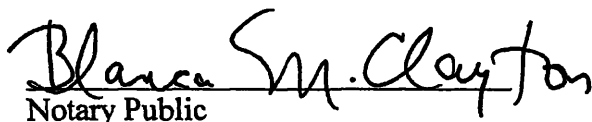
Citizens for Responsibility and Ethics in Washington, acting through Melanie Sloan, hereby verifies that the statements made in the attached Complaint are, upon information and belief, true.

Sworn pursuant to 18 U.S.C. § 1001.



Melanie Sloan

Sworn to and subscribed before me this 18<sup>th</sup> day of May, 2004.



Notary Public

Blanca M. Clayton  
Notary Public, District of Columbia  
My Commission Expires 04-30-2007

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