

ADR

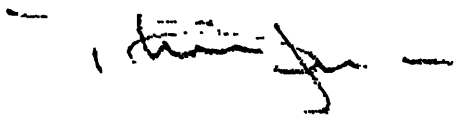
ShawPittman LLP

A Limited Liability Partnership Including Professional Corporation

TO:	Jeff S. Jordan	DATE:	June 2, 2004
ORGANIZATION:	Federal Election Commission		
FAX NUMBER:	202.219.3923	PHONE NUMBER:	202.694.1650
TOTAL PAGES (INCLUDING COVER):	6		
FROM:	Thomas J. Spulak	PHONE NUMBER:	202.663.8118
E-MAIL ADDRESS:	thomas.spulak@shawpittman.com	FAX NUMBER:	202.663.8007

As we discussed yesterday, please find attached a designation of counsel form and response to MUR 5439.

Please call me if you have any questions.



RECEIVED
 FEDERAL ELECTION
 COMMISSION
 OFFICE OF GENERAL
 COUNSEL
 2004 JUN -3 A 9:04

If you do not receive all pages, please call 202.663.8613

Fax Department Information

REQUEST TRANSMISSION BY:

CLIENT NUMBER: 41155-0002

04 JUN 2 PM 6

TIME TRANSMITTED:

USER ID NUMBER: 3556

This fax message is intended only for the use of the individuals to whom it is addressed. It may contain information that is privileged and confidential. If you are not the intended recipient, any dissemination, distribution or copying of any information contained in this communication is strictly prohibited, except to the extent necessary to return this communication to the sender. If you have received this communication in error, please notify us immediately by telephone at 202.663.8613. Thank you.

24-19-025-3657

ShawPittman LLP

A Limited Liability Partnership In and on Professional Corporations

THOMAS J. SPULAK
(202) 663 8118
thomas.spulak@shawpittman.com

June 2, 2004

Jeff S. Jordan
Supervisory Attorney
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

**RE: Bacardi U.S.A., Inc. Political Action Committee and
Robert M. Higdon, Treasurer
MUR 5439**

Dear Mr. Jordan:

I am writing in regard to MUR 5439 involving the Bacardi U.S.A., Inc. Political Action Committee, FEC Identification Number C00160838 ("BAC-PAC"), and to follow up on our conversation of June 1, 2004.

I was retained to represent BAC-PAC with regard to the instant matter late last week. Based on our conversation yesterday, I understand the Federal Election Commission (the "Commission") may begin to take action on this matter in the immediate future. Therefore, in order to communicate BAC-PAC's interest in resolving this matter in a timely and complete fashion, I am submitting this letter on behalf of BAC-PAC as an initial response to the original and amended complaints (the "Complaints") filed by Citizens for Responsibility in Washington ("CREW"). Additional information and any further explanation of the circumstances, as deemed necessary by the Commission, will be provided in subsequent communications.

It is my understanding at this time that, as a result of actions taken by BAC-PAC in the last several weeks, the issues raised by CREW in its Complaints have been corrected and at present, BAC-PAC has met all of its filing and reporting requirements.

FACTUAL BACKGROUND

The following describes the underlying facts as understood by BAC-PAC.

Robert M. Higdon has been BAC-PAC's treasurer from June 2000 to the present. From June 2000 until September 2003, BAC-PAC had no receipts and no disbursements. In August 2002, BAC-PAC voluntarily elected to file electronically; even though it had never exceeded the \$50,000 yearly contribution or expenditure thresholds, nor did it have reason to expect to exceed these thresholds.

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
2004 JUN -3 9:04

2004 JUN 24 11:44

ShawPittman LLP

Jeff S. Jordan
June 2, 2004
Page Two

In January 2004, because of difficulties with the installation of existing computer software into a new computer, BAC-PAC's treasurer elected to file the 2003 Year End Report in paper form. The treasurer was unaware of the requirement to continue to file electronically once he began doing so voluntarily. (Since BAC-PAC was a voluntary electronic filer, it could have ceased to file electronically but only beginning with the 2004 April Quarterly Report.) BAC-PAC's 2003 Year End Report was timely filed, albeit in a paper format, and its receipt was acknowledged by the Commission by certified mail. At the beginning of April 2004, BAC-PAC was notified by the Commission that it was required to file the 2003 Year End Report electronically. Thereafter, BAC-PAC engaged in discussions with the Reports Analysis Division to correct any deficiencies in its reporting requirements regarding the 2003 Year End Report. On May 5, 2004, BAC-PAC became aware that it had failed to file its 2004 April Quarterly Report when it received a telegram from the Commission regarding the same. According to its treasurer, BAC-PAC had failed to file this report because it had not received the Commission's reminder notice, on which it had come to regularly rely.

On or about May 18th, a representative of the communications department of Bacardi U.S.A., Inc. ("Bacardi") was contacted by the media regarding a complaint filed by CREW. This was the first instance that any representative of Bacardi or BAC-PAC was informed that a complaint had been filed. BAC-PAC had not received notice from the Commission informing it that the initial complaint had been filed. (BAC-PAC did not receive a copy of the initial complaint from the Commission until it was faxed to me by you yesterday.)

With its software reinstalled, BAC-PAC electronically filed an amended 2003 Year End Report, as well as a 2004 April Quarterly Report on May 19, 2004. As a result, BAC-PAC believes that it has corrected all pending filing and reporting deficiencies.

Finally, on or about May 24th, BAC-PAC received a communication from the Commission dated May 19th referencing and including a copy of the CREW amended complaint.

DISCUSSION OF ISSUES

As discussed above, BAC-PAC never received from the Commission a copy of CREW's initial complaint, and as result, never submitted a response. CREW's amended complaint was received the week of May 24th and is addressed by this communication.

ShawPittman LLP

Jeff S. Jordan
June 2, 2004
Page Three

COUNT I

Count I of CREW's amended complaint alleges that BAC-PAC failed to file its 2004 April Quarterly Report. As stated earlier, the treasurer mistakenly relied on notifications from the Commission that reports were due, and in this instance, did not receive a notice. Once the treasurer became aware of the reporting requirement and after the successful reinstallation of BAC-PAC's reporting software, the 2004 April Quarterly Report was filed on May 19, 2004.

COUNT II

Count II of CREW's amended complaint alleges that BAC-PAC failed to file a 2003 Year End Report. As stated earlier, BAC-PAC did file this report on a timely basis but did so in paper form; the treasurer was unaware that he could not alter the medium of BAC-PAC's filing with the Commission. (As stated above, BAC-PAC's choice to file electronically was voluntary and BAC-PAC could have chosen to file its 2004 April Quarterly Report in paper form.) This report was filed electronically on May 19, 2004.

COUNT III

Count III of CREW's amended complaint alleges that BAC-PAC failed to itemize its disbursements for the periods covered in the 2003 Year End and 2004 April Quarterly reports. While the 2003 Year End Report disclosed disbursements and receipts in the aggregate, BAC-PAC's treasurer ~~unintentionally failed to include~~ information relating to the small number of contributions made by BAC-PAC during the period covered by this report. As stated earlier, during his tenure as treasurer and prior to the reports in question, BAC-PAC had had no disbursements to report. As a result, the treasurer was unaware of the requirement to provide itemized disbursement information. This information was contained in BAC-PAC's 2003 Year End Report that was electronically filed on May 19, 2004.

As discussed above, the 2004 April Quarterly Report was filed electronically on May 19, 2004. That filing fully and accurately disclosed the recipients of all disbursements.

CONCLUSION

BAC-PAC acknowledges that there were deficiencies in the 2003 Year End and 2004 April Quarterly reports. In all cases, any errors on the part of BAC-PAC were unintentional and have been remedied.

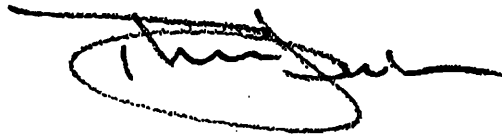
ShawPittman LLP

Jeff S. Jordan
June 2, 2004
Page Four

BAC-PAC would like to resolve this matter with the Commission in the most expeditious and appropriate fashion. In addition, BAC-PAC's treasurer will work with appropriate counsel to ensure an understanding in the future of all of the Commission's requirements including a specific review of all reporting and compliance procedures.

We look forward to hearing from the Commission at its earliest convenience and are available to provide additional information and to respond to any questions the Commission might have regarding the issues outlined herein.

Respectfully,



Thomas J. Spulak

Enclosure

24.19.029.3661

STATEMENT OF DESIGNATION OF COUNSEL

Please use one form for each respondent.

MUR 5439

NAME OF COUNSEL: Thomas J. Spilak

FIRM: Shaw Pittman LLP

ADDRESS: 2300 N Street, N.W.

Washington, D.C. 20037

TELEPHONE: (202) 663-8118

FAX: (202) 663-8007

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Robert M. Higdon
Print Name

6/1/04
Date

[Signature]
Signature

Treasurer
Title

RESPONDENT'S NAME: Macardi U.S.A., Inc. Political Action Committee
Robert M. Higdon, Treasurer

ADDRESS: 2100 Biscayne Boulevard

Miami, Florida 33137

TELEPHONE: HOME()

BUSINESS(305) 573-8600

24.19.025.362