



**Federal Election Commission  
Washington, DC 20463**

September 23, 2004

Thomas J. Spulak, Esq.  
Shaw Pittman LLP  
2300 M Street NW  
Washington, DC 20037

Re: ADR 173  
Bacardi, USA, Inc. PAC and Robert Higdon, Treasurer

Dear Mr. Spulak:

Enclosed is the signed copy of the agreement resolving the complaint filed on March 22, 2004 with the Federal Election Commission ("FEC/Commission") against Bacardi, USA, Inc. PAC and Robert Higdon, Treasurer ("Respondents"). The agreement, ADR 173 (MUR 5439) was approved by the Commission on September 21, 2004 – the effective date of the agreement.

Note that paragraph 10 of the agreement specifies that Respondents shall comply with the terms of this settlement within thirty (30) days of the effective date of the agreement. Please forward to this office, a statement confirming Respondents' compliance with the terms listed in paragraph 7 of the aforementioned agreement. The letter should note the dates on which Respondents satisfied each of the terms listed in paragraph 7.

As you are aware, the settlement agreement will be made part of the record that is released to the public. The Commission will also place on the record copies of the complaint, correspondence exchanged between your office and this office prior to our entry into settlement negotiations and reports prepared for the Commission by this office to assist in its consideration of this matter. The Commission is obliged by Federal statute to place on the public record documents in closed enforcement and alternative dispute resolution cases; accordingly, copies of documents relative to this matter will be forwarded shortly to the FEC's Public Information Office.

This agreement resolves the matter that was brought to the attention of the FEC by the Citizens for Responsibility and Ethics regarding an alleged violation of the

2004-09-23-3677

federal election campaign laws. I appreciate your assistance in effectively resolving this matter and bringing the case to a mutually acceptable conclusion.

Sincerely,

Lynn M. Fraser, Assistant Director  
Alternative Dispute Resolution Office  
202-694-1665

Enclosure: Agreement

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24.19.025.3678



**Federal Election Commission  
Washington, DC 20463**

Case Number: ADR 173  
Source: MUR 5439  
Case Name: Bacardi, USA, Inc PAC  
and Robert Higdon, Treasurer

### **NEGOTIATED SETTLEMENT**

This matter was initiated by a signed, sworn and notarized complaint filed by Citizens for Responsibility and Ethics in Washington. Following review of the matter, and in an effort to promote compliance with the Federal Election Campaign Act of 1971, as amended, ("FECA") and resolve this matter, the Federal Election Commission ("Commission") entered into negotiations with Thomas J. Spulak, Esq., representing Bacardi, USA, Inc. PAC and Robert Higdon, Treasurer ("Respondents"). It is understood that this agreement will have no precedential value relative to any other matters coming before the Commission.

Negotiations between the Commission and Respondents addressed the issues raised in this complaint. The parties agree to resolve the matter according to the following terms:

1. The Commission entered into this agreement as part of its responsibility for administering the FECA, and in an effort to promote compliance on the part of Respondents. The Commission's use of alternative dispute resolution procedures ("ADR") is authorized in "The Administrative Dispute Resolution Act of 1996," 5 U.S.C. § 572 and is an extension of 2 U.S.C. § 437g.
2. Respondents voluntarily enter into this agreement with the Commission.
3. The complaint alleges that Respondents failed to file the 2003 Year End Report in electronic format as required, failed to itemize disbursements noted on the summary page of the 2003 Year End Report, and failed to file the April 2004 Quarterly Report timely.
4. The FECA and the implementing regulations require each treasurer of a political committee to file reports of receipts and disbursements in accordance with the provisions of the statute and regulations. 2 U.S.C. § 434(a), 11 C.F.R. § 104.1. In addition, the regulations require committees who voluntarily elect to file their reports electronically, must continue to file in an electronic format all reports

covering financial activity for that calendar year, unless the Commission determines that extraordinary and unforeseeable circumstances have made it impracticable for the political committee to continue to file electronically. 11 C.F.R. § 104.18(b).


5. The statute and regulations require that reports filed by committees disclose the name and address of each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made to meet an operating expense, together with the date, amount and purpose of such operating expense. A reporting committee must also disclose the name and address of each committee to which a transfer is made, person who receives a loan repayment, or person who receives a contribution refund. 2 U.S.C. 434(b)(5), 11 C.F.R. § 104.3(b)(3).
6. Respondents acknowledge that violations of the FECA occurred and on learning of the necessity of filing the 2003 Year End Report in electronic format, filed the report electronically on May 19, 2004. The electronically filed 2003 Year End Report included the itemization required by the FECA. In addition, Respondents filed the April 2004 Quarterly Report on May 19, 2004.
7. Respondents, in an effort to avoid similar errors in the future, agree to: (a) appoint an FEC compliance officer, or retain a firm specializing in FEC requirements; (b) have a member of the Respondents' staff attend an FEC seminar within twelve (12) months of the effective date of this agreement; and (c) pay a civil penalty of \$750.00.
8. Respondents agree that all information provided to resolve this matter is true and accurate to the best of their knowledge and that they sign this agreement under penalty of perjury pursuant to 28 U.S.C. § 1746.
9. The parties agree that if Respondents fail to comply with the terms of this settlement, the Commission may submit any unpaid civil penalty to the U.S. Treasury for collection or undertake civil action in the U.S. District Court for the District of Columbia to secure compliance.
10. This agreement shall become effective on the date signed by all parties and approved by the Commission. Respondents shall comply with the terms of the settlement within thirty (30) days from the effective date of this agreement, with the exception of term (b) in paragraph 7 above.
11. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 173 (MUR 5439) and effectively resolves this matter. No other statement, promise or agreement, either written or oral, made by either party, not included herein, shall be enforceable.

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FOR THE COMMISSION:

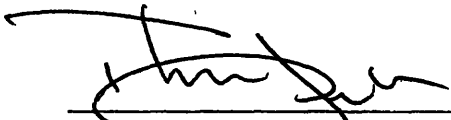
Allan D. Silberman, Director  
Alternative Dispute Resolution Office

By:

  
Lynn M. Fraser, Assistant Director  
Alternative Dispute Resolution Office

  
Date Signed

FOR THE RESPONDENTS:

  
Thomas J. Spulak, Esq.  
Representing Bacardi USA, Inc. PAC and  
Robert Higdon, Treasurer

  
Date Signed

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