



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**JUL 19 2007**

Cindy Barbiero Payne, Treasurer  
American Dream PAC  
P.O. Box 171022  
San Antonio, TX 78217

RE: MUR 5923

Dear Ms. Payne:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting the American Dream PAC (the "Committee") and you, in your official capacity as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On June 29, 2007, the Commission found reason to believe that the Committee and you, in your official capacity as treasurer, violated 2 U.S.C. §§ 432(c), 434(b)(2)-(4), 434(b)(6)(B)(v), provisions of the Act, and 11 C.F.R. §104.3(a), (b). Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

We have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act. In addition, please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519. In the meantime, this matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to you as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that you violated the law.

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If you are interested in engaging in pre-probable cause conciliation, please contact Dominique Dillenseger, the attorney assigned to this matter, at (202) 694-1650 or (800) 424-9530, within seven days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. *See* 2 U.S.C. § 437g(a), 11 C.F.R. Part 111 (Subpart A). Similarly, if you are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed Designation of Counsel form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

We look forward to your response.

Sincerely,



Robert D. Lenhard  
Chairman

Enclosures  
Factual and Legal Analysis  
Procedures  
Designation of Counsel Form

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: American Dream PAC  
and Cindy Barberio Payne,  
in her official capacity as treasurer

MUR: 5923

**I. INTRODUCTION**

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. *See* 2 U.S.C. § 437g(a)(2). Based upon such information and the analysis below, there is reason to believe that the American Dream PAC ("ADPAC") and Cindy Barberio Payne, in her official capacity as treasurer, violated 2 U.S.C. §§ 432(c), 434(b)(2)-(4), and 434(b)(6)(B)(v), and 11 C.F.R. § 104.3(a), (b).

**II. FACTUAL SUMMARY**

The American Dream PAC ("ADPAC") is a multicandidate political committee as defined by 2 U.S.C. § 441a(a)(4), and has filed disclosure reports with the Commission since 1997. From 1999 to 2002, Lydia Meuret was the treasurer, Executive Director and custodian of records for ADPAC. According to information obtained by the Commission, Meuret was responsible for the accounting, bookkeeping and administrative functions of ADPAC. She received and deposited contributions to ADPAC; prepared, signed and mailed checks to pay ADPAC bills, accounts, obligations, and campaign contributions; handled the mail; reconciled bank statements; prepared financial reports; and directed the activities of bank employees with regard to ADPAC bank and credit card accounts. In addition, as Executive Director of ADPAC, Meuret managed and was responsible for safekeeping of ADPAC designated funds.

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Meuret stated that she began diverting ADPAC funds in November 1999 to pay off her personal credit card balances. Meuret explained that she wrote checks payable to credit card companies from ADPAC's bank accounts. She also wrote ADPAC checks payable to herself, deposited them into her personal bank account, and used the money to pay her credit card balances. Meuret purportedly stated that most of the funds were taken from ADPAC's non-Federal account. Meuret also stated that she paid back some of the money she had taken from ADPAC by writing checks drawn on her personal bank accounts and depositing them into ADPAC's bank account. Meuret kept two sets of books, recording all of ADPAC's financial transactions, including the unauthorized disbursements, in a computerized accounting system, while maintaining a separate spreadsheet where she recorded the Committee's legitimate expenses. She would produce the spreadsheet if anyone asked about ADPAC's finances.

Meuret ceased working for ADPAC at the end of 2002. After Meuret left, ADPAC temporarily assigned Jill DeYoung as treasurer of ADPAC. In January 2003, DeYoung asked Meuret for ADPAC's financial records, but received only a few bank statements and miscellaneous documents. Meuret told DeYoung that most of the bank statements had been lost. Meuret did not provide any check registers, computer records of ADPAC's financial transactions, or supporting documentation for the transactions. Upon reviewing ADPAC's records, DeYoung discovered numerous questionable transactions, including numerous charges on ADPAC's credit card for personal items purchased by Meuret. She asked Meuret how she wanted those charges to be handled. Shortly thereafter, on February 20, 2003, Meuret admitted to DeYoung that she had diverted funds from ADPAC.

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In 2003, Meuret was prosecuted in United States District Court and pled guilty to one count of mail fraud in violation of 18 U.S.C. § 1341. On October 31, 2003, she was sentenced to 15 months imprisonment and 3 years supervised release and was ordered to pay \$119,021.28 in restitution to ADPAC and a \$100 special assessment.

On June 29, 2006, more than 3 years after the discovery of the embezzlement, ADPAC's assistant treasurer informed RAD that the Committee would be amending its reports from prior election cycles to reflect unauthorized disbursements made by Meuret. Accordingly, on June 29-30, 2006, ADPAC filed 12 amended reports disclosing 39 expenditures totaling \$32,173.82 paid to either Meuret or to various credit card companies, with "Misappropriated Funds-L. Meuret" as the purpose of disbursement, and 3 unreported receipts totaling \$12,200, listed as "Reimbursement" from Meuret.<sup>1</sup>

## II. LEGAL ANALYSIS

Although ADPAC's failure to accurately keep an account of and report receipts and disbursements stems from Meuret's embezzlement of ADPAC funds, ADPAC nevertheless violated the Act when it filed the resulting inaccurate reports. Under the Act, ADPAC, through its treasurer, is ultimately required to accurately keep an account of and report receipts and disbursements. *See* 2 U.S.C. §§ 432(c); 434(b)(2)-(4) and 434(b)(6)(B)(v); and 11 C.F.R. § 104.3(a), (b). Committee treasurers are responsible for the timely and complete filing of

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<sup>1</sup> The reports amended by ADPAC include the 2000 April Quarterly, 2000 July Quarterly, 2000 October Quarterly, 2000 30-Day Post-General, 2000 Year-End, 2001 Mid-Year, 2001 Year-End, 2002 April Quarterly, 2002 July Quarterly, 2002 October Quarterly, 2002 30-Day Post-General and 2002 Year-End Reports.

Amended reports reflect that Meuret made 3 deposits totaling \$12,200 into the ADPAC Federal account: an \$8,000 check deposited on October 25, 2000, disclosed on the 2000 Amended 30-Day Post-General Report; a \$2,000 check deposited on December 20, 2000, disclosed on the 2000 Amended Year-End Report; and a \$2,200 check deposited on January 24, 2001, disclosed on the 2001 Amended Mid-Year Report.

disclosure reports and for the accuracy of the information contained therein. *See* 11 C.F.R. § 104.14(d). The failure to implement adequate internal control procedures over Committee finances (*e.g.*, regular audits, control procedures over receipts and disbursements, segregated duties, or periodic review of finances) is a consideration when determining Committee liability. *See* MUR 5721 (Lockheed Martin Employees PAC) and MUR 5811 (Doggett for U.S. Congress).<sup>2</sup>

The embezzlement scheme was carried out over a 3-year period. The available information indicates that ADPAC did not have in place adequate internal control procedures over its finances that would have allowed for earlier discovery of the diversion of funds. Meuret was responsible for, and essentially performed, all the accounting, bookkeeping and administrative functions of ADPAC, with no oversight from anyone else involved with ADPAC. ADPAC did not segregate duties, regularly conduct audits, establish control procedures over receipts and disbursements, conduct periodic review of its finances, or have any other internal controls in place.

Because ADPAC and its treasurer are responsible for complying with the Act, they are responsible for reporting violations that resulted from ADPAC's lack of internal controls. ADPAC has admitted that Meuret made unauthorized disbursements and failed to report receipts and disbursements. Therefore, there is reason to believe that the American Dream PAC and Cindy Barberio Payne, in her official capacity as treasurer, violated 2 U.S.C. §§ 432(c), 434(b)(2)-(4), 434(b)(6)(B)(v), and 11 C.F.R. § 104.3(a), (b).

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<sup>2</sup> The Commission has created a safe harbor from monetary penalties for committees that have five basic internal controls in place at the time of an embezzlement, immediately inform law enforcement and the Commission, and voluntarily amend their reports to correct the inaccuracies. *See* Statement of Policy; Safe Harbor for Misreporting Due to Embezzlement, 72 Fed. Reg. 16,695 (April 5, 2007).