



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA FIRST CLASS MAIL

E. Mark Braden, Esq.
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SEP 25 2009

**RE: MUR 6129
American Resort Development
Association Resort Owners Coalition
PAC and Sandra Yartin DePoy, in
her official capacity as treasurer**

Dear Mr. Braden:

As you are already aware, on November 7, 2008, the Commission found reason to believe that your client, American Resort Development Association Resort Owners Coalition PAC and Sandra Yartin DePoy, in her official capacity as treasurer ("ARDA-ROC PAC" or "Respondent"), violated 2 U.S.C. §§ 434(b), 441b(a), 441e(a), 441b(b)(3)(B)-(C) and 11 C.F.R. § 114.5(a)(2)-(4), provisions of the Act. Subsequently, on September 1, 2009, the Commission has made additional reason to believe findings that ARDA-ROC PAC violated 2 U.S.C. §§ 434(b), 441b(a), and 441e(a). Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's September 1, 2009 determination.

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We look forward to your response.

On behalf of the Commission,



Steven T. Walther
Chairman

Enclosures
Factual and Legal Analysis

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1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

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4 **RESPONDENT:** American Resort Development MUR: 6129
5 Association Resort Owners Coalition
6 PAC, and Sandra Yartin DePoy,
7 in her official capacity as treasurer
8

9 **I. GENERATION OF MATTER**

10 This matter was generated based on information ascertained by the Federal Election
11 Commission ("the Commission") in the normal course of carrying out its supervisory
12 responsibilities. See 2 U.S.C. § 437g(a)(2).

13 **II. FACTUAL AND LEGAL ANALYSIS**

14 **A. Misstatement of Financial Activity**

15 Each treasurer of a political committee must file reports of receipts and disbursements
16 with the Commission. 2 U.S.C. § 434(a); 11 C.F.R. § 104.1. These reports must accurately
17 reflect the committee's cash on hand, receipts, and disbursements. 2 U.S.C. § 434(b)(1),(2), and
18 (4). The Respondent notified the Commission that the same administrative problem that had
19 caused it to misstate its receipts and disbursements during 2003 and 2004 had led to additional
20 reporting errors in 2005, 2006, and 2007. Specifically, the Respondent claims that its
21 misstatements were due principally to a failure to understand the requirement to disclose all of its
22 disbursements, not just contributions to federal candidates.

23 To remedy these types of errors, the Respondent retained Democracy Data and
24 Communications, LLC, a PAC management and compliance firm, on January 1, 2006, to
25 complete all of the Respondent's future reports. In addition, the Respondent has severed ties
26 with the employee who had principal responsibility for recordkeeping and reporting. The

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1 Respondent also amended each of its periodic reports with the Commission for 2005, 2006, and
2 2007. Specifically, these amended reports included (1) an increase of \$428,756.60 in
3 disbursements reflected in the Respondent's 2006 July Quarterly Report; (2) an increase in
4 disbursements of \$183,785.87 for the Committee's amended 2006 30-Day Post-General Report;
5 and (3) a cash-on-hand discrepancy of \$246,673 for the Committee's amended 2008 February
6 Monthly report that was caused by the amended 2007 Year End Report.

7 Therefore, there is reason to believe that the American Resort Development Association
8 Resort Owner Coalition PAC and Sandra Yartin DePoy, in her official capacity as treasurer,
9 violated 2 U.S.C. § 434(b) with regard to the 2005 through 2007 time period.

10 **B. Receipt of Prohibited Corporate Contributions**

11 The Act prohibits the making and knowing receipt of corporate contributions. *See*
12 2 U.S.C. § 441b(a). The Respondent has admitted that it received prohibited corporate
13 contributions from 2005 through 2007.

14 Therefore, there is reason to believe that American Resort Development Association
15 Resort Owners Coalition PAC, and Sandra Yartin DePoy, in her official capacity as treasurer,
16 violated 2 U.S.C. § 441b(a) with regard to the 2005 through 2007 time period.

17 **C. Receipt of Prohibited Foreign National Contributions**

18 The Act prohibits the making and knowing receipt of contributions from a foreign
19 national. *See* 2 U.S.C. § 441e(a). The Respondent has stated that the same administrative
20 problems that caused it to receive prohibited foreign national contributions during the 2004
21 election cycle persisted until the end of 2007. Counsel has represented that, prior to the
22 Commission audit, the Respondent was unaware that it may have been receiving prohibited

1 **foreign national contributions. Since becoming aware of its acceptance of these prohibited**
2 **contributions through the audit, the Respondent has implemented several preventative measures.**
3 **First, the Respondent has sent notice to its collecting agents that its solicitations must include a**
4 **disclaimer that foreign national contributions are prohibited. Second, the Respondent has ceased**
5 **soliciting contributions altogether from one association run by the Marriot in Aruba because the**
6 **membership of this association contained a very high percentage of foreign nationals. Finally,**
7 **the Respondent has developed a program that will screen the addresses of the various resorts and**
8 **homeowner associations and prevent a solicitation from being sent to any foreign address on file.**

9 **Therefore, there is reason to believe that American Resort Development Association**
10 **Resort Owners Coalition PAC, and Sandra Yartin DePoy, in her official capacity as treasurer,**
11 **violated 2 U.S.C. § 441e(a) with regard to the 2005 through 2007 time period.**

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