

FEDERAL ELECTION COMMISSION**FIRST GENERAL COUNSEL'S REPORT**

MUR: 7766

DATE COMPLAINT FILED: July 28, 2020

DATE OF NOTIFICATION: July 31, 2020

LAST RESPONSE RECEIVED: March 22, 2021

DATE ACTIVATED: March 11, 2021

EXPIRATION OF SOL: April 21, 2025

ELECTION CYCLE: 2020

COMPLAINANT:

George Thurlow

RESPONDENTS:

Florida Country and

Eric Robinson in his official capacity as Treasurer;

Queensgate Homes, Inc.;

Vensota Properties, Inc.;

Fausto Palombo

RELEVANT STATUTES AND

52 U.S.C. § 30121

REGULATIONS:

11 C.F.R. § 110.20

INTERNAL REPORTS CHECKED:

None

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

The Complaint alleges that Queensgate Homes, Inc. (“Queensgate”), a Canadian company, made a \$2,500 contribution to Florida Country, a non-federal political committee registered with the state of Florida, in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”). In support of its allegation, the Complaint cites Florida Country’s filings with the Florida Department of State where it disclosed the April 21, 2020 contribution and listed a Canadian address for Queensgate.

Florida Country denies that it violated the Act and states that, prior to depositing the contribution, it had confirmed the contribution was made by a Queensgate affiliate, Vensota

1 Properties, Inc. (“Vensota”), which is a Florida domestic corporation. Florida Country further
2 states it amended its filing with the Florida Secretary of State to list the correct contributor and
3 that the earlier filing was inaccurate due to a clerical error. Florida Country refunded the
4 contribution on November 17, 2020.

5 Queensgate states that the \$2,500 contribution was sourced from funds deposited in a
6 segregated account provided by Vensota and that Queensgate was not the source of the funds.
7 Respondents also state that the decision to make the contribution was made by permanent
8 residents of the United States, and not by foreign nationals.

9 Based on the available information regarding the source of the funds and the identity of
10 the persons who made the decision to make a contribution, as well as the limited amount
11 involved, we recommend that the Commission exercise its prosecutorial discretion to dismiss the
12 allegations that the Respondents violated the Act by making or receiving prohibited foreign
13 national contributions and close the file.

14 **II. FACTUAL BACKGROUND**

15 Florida Country is a state political committee that registered with Florida on February 14,
16 2020.¹ In its campaign finance filings with the Florida Department of State, Florida Country
17 reported accepting a \$2,500 contribution on April 21, 2020, from Queensgate and listed an
18 Ontario, Canada address in the contributor identification portion of the relevant form.²
19 Subsequent to the filing of the complaint, Florida Country amended its campaign finance filings
20 to list the contribution as being from “Queensgate Homes Inc – Vensota P” with a Florida

¹ Florida Country PAC Campaign Documents, *available at* <https://dos.elections.myflorida.com/campaign-docs/?account=75001> (list visited June 14, 2021).

² Compl. at 1, Ex. 3 (July 28, 2020).

1 address.³ Florida Country states that it verified that Vensota was a Florida corporation prior to
2 depositing the check and that, when preparing its initial campaign finance report, the Vensota
3 Properties portion of the name was left off in error.⁴ The contribution check itself was drawn on
4 an account at Canadian Imperial Bank of Commerce in North York, Ontario, and the address of
5 the accountholder (Queensgate Homes Inc. (Vensota Properties)) listed a Woodbridge, Ontario
6 address.⁵ Florida Country refunded the contribution on November 17, 2020.⁶
7 Vensota is a Florida corporation that owns vacant land in Sarasota County, Florida.⁷ In
8 its filings with the Florida Secretary of State, Vensota identified two Directors: Fausto Palombo,
9 for whom a Canadian address is listed, and Fabian Bianchi, for whom a Florida address is listed.⁸
10 Although Queensgate appears to issue checks on behalf of Vensota, Queensgate asserts that it

³ Compl. Supp. at 1, Ex. 4 (Aug. 18, 2020); Second Compl. Supp. at 1 (Feb. 5, 2021). Complainant alleges that the amended address is a rented mailbox at a UPS store. Compl. Supp. at 1.

The Complainant also filed a complaint with the Florida Elections Commission, which appears to be focused on allegations that Florida Country amended its finance disclosure report in an attempt to “obscure the donation” from Queensgate. Second Compl. Supp. at Ex. A. The Florida Elections Commission concluded that “it appears that the contribution was indeed from Vensota, not Queensgate.” *Id.* In his second supplement to the Complaint, Complainant requested to withdraw his complaint given the Florida Election Commission determination. Second Compl. Supp. at 1. The Office of General Counsel informed the Complainant and Respondents that the request for withdrawal of the complaint would not prevent the Commission from taking appropriate action under the Act. *See* Letter from Jeff Jordan, Assistant General Counsel, FEC, to George Thurlow (Feb. 10, 2021).

⁴ Florida Country Resp. at 1, Ex. 2.

⁵ *Id.* at Ex. 2.

⁶ Contributions Query for Florida Country, Florida Department of State Division of Elections, *available at* <https://dos.elections.myflorida.com/cgi-bin/contrib.exe> (last visited June 14, 2021); *see also* Queensgate Homes Supp. Resp. Resp. at 1.

⁷ Queensgate Homes Resp. at 1.

⁸ Florida Secretary of State, Division of Corporations, Vensota Properties, Inc. Entity Details, *available at* <http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=VENSOTAPROPERTIES%20P100000954810&aggregateId=domp-p10000095481-bfd97283-5d18-43dd-af5d-4af86e203df3&searchTerm=vensota%20properties&listNameOrder=VENSOTAPROPERTIES%20P100000954810> (last visited June 14, 2021).

1 only administers the bank account and is not responsible for the payment of Vensota-related
2 expenses.⁹

3 In a sworn affidavit, Vensota Director Bianchi, who appears to be a Florida resident,
4 stated that the contribution was “derived entirely from funds generated by Vensota Properties,
5 Inc.’s (‘Vensota’) Operations in the United States” and that the funds were not given, loaned, or
6 reimbursed by Queensgate.¹⁰ The affidavit further stated that the decision to contribute \$2,500
7 to Florida Country was “made by individuals who are permanent residents of the United States”
8 and that Queensgate “did not direct, dictate, control or directly or indirectly participate in the
9 decision making process.”¹¹

10 **III. LEGAL ANALYSIS**

11 The Act and Commission regulations prohibit a foreign national from directly or
12 indirectly making a contribution or donation of money or other thing of value in connection with
13 a federal, state, or local election.¹² A “foreign national” is an individual who is not a citizen of
14 the United States and who is not lawfully admitted for permanent residence, as well as a “foreign
15 principal” as defined at 22 U.S.C. § 611(b), which, in turn, includes a “partnership, association,
16 corporation, organization, or other combination of persons organized under the laws of or having

⁹ Queensgate Homes Resp.at 1-2. Queensgate did not provide any information regarding the identity or nationality of Vensota’s project owners who provide Vensota’s funds.

¹⁰ Queensgate Homes Supp. Resp., Bianchi Aff. at 1.

¹¹ *Id.*

¹² 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.20(b)-(c). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over the activities and processes that are integral to democratic self-government, which include making political contributions and express-advocacy expenditures. *See Bluman v. FEC*, 800 F. Supp. 2d 281, 238-89 (D.D.C. 2011), *aff’d* 132 S. Ct. 1087 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

1 its principal place of business in a foreign country.”¹³ The Act further prohibits persons from
2 soliciting, accepting, or receiving a contribution or donation from a foreign national.¹⁴

3 Commission regulations implementing the Act's foreign national prohibition provide that
4 “[a] foreign national shall not direct, dictate, control, or directly or indirectly participate in the
5 decision-making process of any person, such as a corporation ... with regard to such person's
6 Federal or non-Federal election-related activities, such as decisions concerning the making of
7 contributions[.]”¹⁵

8 Where permitted by state law, a U.S. subsidiary or affiliate of a foreign national
9 corporation may donate funds for state and local elections if (1) the donations derive entirely
10 from funds generated by their U.S. operations, and (2) all decisions concerning the donations,
11 except those setting overall budget amounts, are made by individuals who are U.S. citizens or
12 permanent residents.¹⁶ With regards to the source of funds, the Commission has noted that “a
13 domestic corporation is not permitted to make such contributions when the source of funds is a
14 foreign national, because this essentially permits the foreign national to make contributions
15 indirectly when it could not do so directly.”¹⁷

¹³ 52 U.S.C. § 30121(b); 22 U.S.C. § 611(b)(3); *see also* 11 C.F.R. § 110.20(a)(3).

¹⁴ 52 U.S.C. § 30121(a)(2).

¹⁵ 11 C.F.R. § 110.20(i).

¹⁶ *See* Factual & Legal Analysis at 5-6 (Beverly Hills Residents and Businesses to Preserve Our City), MUR 7141; Factual & Legal Analysis at 4-5 (American Pacific International Capital, Inc., *et al.*), MUR 7122; Factual & Legal Analysis at 4-5 (Sam Page, *et al.*), MUR 6099; Advisory Opinion 2009-14 (Mercedes-Benz US/Sterling) at 3; Contributions, Limitations, and Prohibitions, 67 Fed. Reg. Fed. Reg. 69,928, 69,943-44 (Nov. 19, 2002) (Explanation and Justification (“E&J”)) (explaining that the statutory term “indirectly” does not cover U.S. subsidiaries of foreign corporations).

¹⁷ Factual & Legal Analysis at 4-5 (Sam Page, *et al.*), MUR 6099.

1 The Complaint alleges that Florida Country accepted a foreign national contribution from
2 Queensgate based on Florida Country's campaign finance filings with the Florida Department of
3 State indicating that it was a Canadian company. Respondents assert that the funds came from
4 Vensota, which is registered as a Florida corporation, and that Vensota's name was left off
5 Florida Country's campaign finance report in error.¹⁸

6 Although Vensota asserts that the funds used for the contribution were obtained in
7 connection with Vensota's domestic operations and that all decisions concerning the contribution
8 were made by permanent residents of the United States,¹⁹ the responses do not explain the
9 decision-making process for the contribution. Further, it is not clear who deposited the funds
10 into the Vensota account used to fund the contribution, especially since the company apparently
11 only owns vacant properties that might not generate income.²⁰ The fact the contribution check
12 itself was drawn on a Canadian account and the original disclosure reports stated that a Canadian
13 entity made the contribution, and was only amended after the filing of the MUR 7766 complaint,
14 also raises questions that could be explored further.

15 Nevertheless, we recommend the Commission dismiss this matter. Vensota is a domestic
16 corporation that is eligible to make non-federal contributions to entities such as Florida Country.
17 Further, Respondents assert in a sworn affidavit that the contribution decision was made by a
18 permanent resident of the United States, rather than a foreign national, and that funds relating to
19 Vensota's domestic operations funded the contribution. Notwithstanding the unanswered
20 questions regarding the source of funds deposited by the project owners in the Vensota account,

¹⁸ Florida Country Resp. at 1; Queensgate Homes Resp. at 1; Queensgate Homes Supp. Resp. at 1.

¹⁹ Queensgate Homes Supp. Resp., Bianchi Aff. at 1.

²⁰ Queensgate Homes Resp. at 1; Queensgate Homes Supp. Resp. at 1, Bianchi Aff. at 1.

1 we have no information available that suggests that Vensota was being used as a conduit for a
2 foreign national contribution. Given the overall record, and the Commission's available
3 resources, we recommend dismissing the Complaint as a matter of prosecutorial discretion.²¹
4 The potential amount in violation (\$2,500) is fairly small and an investigation would be
5 necessary to determine whether the money in the Vensota account originated from a foreign
6 national.²² We further note that the contribution was refunded. Based on these circumstances,
7 we recommend that the Commission exercise its prosecutorial discretion and dismiss the alleged
8 violation of 52 U.S.C. § 30121.

9 **IV. RECOMMENDATIONS**

- 10 1. Dismiss the allegations that Florida Country and Eric Robinson in his official
11 capacity as Treasurer, Queensgate Homes, Inc., Vensota Properties, Inc., and
12 Fausto Palombo violated 52 U.S.C. § 30121;
- 13 2. Approve the attached Factual and Legal Analysis;
- 14 3. Approve the appropriate letters; and

²¹ See *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

²² In MURs 6931 and 6933, the Commission dismissed allegations of impermissible foreign national contributions totaling \$4,445.42 to a state senator's committee and \$2,500 to a governor's committee. Factual & Legal Analysis (Laffen) at 3, MURs 6931 and 6933 (Laffen 4 Senate, *et al.*); Factual & Legal Analysis (Dalrymple) at 3, MUR 6931 (Laffen 4 Senate, *et al.*). Similarly, in MUR 6976, this office recommended dismissing allegations of a \$3,000 impermissible foreign national contribution because the potential amount in violation was fairly small, an investigation would be necessary to determine whether foreign nationals participated in the decision to make the contribution, and the Streets Committee promptly issued full refunds of the contributions. First General Counsel's Report at 7, MUR 6976 (Jonny W. Streets, Jr. City Council Committee, *et al.*).

1 4. Close the file.

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Lisa J. Stevenson
Acting General Counsel

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Charles Kitcher
Acting Associate General Counsel for Enforcement

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June 17, 2021

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Date

Peter G. Blumberg

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Acting Deputy Associate General Counsel for
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Cooksey Edits

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**1
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RESPONDENTS: Florida Country and MUR 7766
Eric Robinson in his official capacity as Treasurer;
Queensgate Homes, Inc.;
Vensota Properties, Inc.;
Fausto Palombo

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13 amended (the “Act”). In support of its allegation, the Complaint cites Florida Country’s filings
14 with the Florida Department of State where it disclosed the April 21, 2020, contribution and
15 listed a Canadian address for Queensgate.

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17 contribution, it had confirmed the contribution was made by a Queensgate affiliate, Vensota
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20 that the earlier filing was inaccurate due to a clerical error. Florida Country refunded the
21 contribution on November 17, 2020.

22 Queensgate states that the \$2,500 contribution was sourced from funds deposited in a
23 segregated account provided by Vensota and that Queensgate was not the source of the funds.
24 Respondents also state that the decision to make the contribution was made by permanent
25 residents of the United States, and not by foreign nationals.

26 Based on the available information regarding the source of the funds and the identity of
the persons who made the decision to make a contribution, the Commission dismisses the

1 allegations that the Respondents violated the Act by making or receiving prohibited foreign
2 national contributions and closes the file.

3 **I. FACTUAL BACKGROUND**

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13 to Florida Country was “made by individuals who are permanent residents of the United States”

⁵ *Id.* at Ex. 2.

⁶ Contributions Query for Florida Country, Florida Department of State Division of Elections, *available at* <https://dos.elections.myflorida.com/cgi-bin/contrib.exe> (last visited June 14, 2021); *see also* Queensgate Homes Supp. Resp. at 1.

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⁸ Florida Secretary of State, Division of Corporations, Vensota Properties, Inc. Entity Details, *available at* <http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=VENSOTAPROPERTIES%20P100000954810&aggregateId=domp-p10000095481-bfd97283-5d18-43dd-af5d-4af86e203df3&searchTerm=vensota%20properties&listNameOrder=VENSOTAPROPERTIES%20P100000954810> (last visited June 14, 2021).

⁹ Queensgate Homes Resp.at 1-2.

¹⁰ Queensgate Homes Supp. Resp., Bianchi Aff. at 1.

1 and that Queensgate “did not direct, dictate, control or directly or indirectly participate in the
2 decision making process.”¹¹

3 **II. LEGAL ANALYSIS**

4 The Act and Commission regulations prohibit a foreign national from directly or
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12 Commission regulations implementing the Act’s foreign national prohibition provide that
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14 decision-making process of any person, such as a corporation ... with regard to such person’s
15 Federal or non-Federal election-related activities, such as decisions concerning the making of
16 contributions[.]”¹⁵ Where permitted by state law, a U.S. subsidiary or affiliate of a foreign
17 national corporation may donate funds for state and local elections if (1) the donations derive
18 entirely from the domestic subsidiary’s own funds, and (2) all decisions concerning the

¹¹ *Id.*

¹² 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.20(b)-(c).

¹³ 52 U.S.C. § 30121(b); 22 U.S.C. § 611(b)(3); *see also* 11 C.F.R. § 110.20(a)(3).

¹⁴ 52 U.S.C. § 30121(a)(2).

¹⁵ 11 C.F.R. § 110.20(i).

1 donations, except those setting overall budget amounts, are made by individuals who are U.S.
2 citizens or permanent residents.¹⁶ With regards to the source of funds, the Commission has
3 noted that “a domestic corporation is not permitted to make such contributions when the source
4 of funds is a foreign national, because this essentially permits the foreign national to make
5 contributions indirectly when it could not do so directly.”¹⁷

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7 Queensgate based on Florida Country’s campaign finance filings with the Florida Department of
8 State indicating that it was a Canadian company. Respondents assert that the funds came from
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10 Florida Country’s campaign finance report in error.¹⁸

11 The Commission dismisses this matter. Vensota is a domestic corporation that is eligible
12 to make non-federal contributions to entities such as Florida Country. Further, Respondents
13 assert in a sworn affidavit that the contribution decision was made by a permanent resident of the
14 United States, rather than a foreign national, and that funds relating to Vensota’s domestic
15 operations funded the contribution. The Commission has no information available that suggests
16 that Vensota was being used as a conduit for a foreign national contribution. Further, the Florida
17 Elections Commission concluded that “it appears that the contribution was indeed from Vensota,

¹⁶ See Factual & Legal Analysis at 5-6 (Beverly Hills Residents and Businesses to Preserve Our City), MUR 7141; Factual & Legal Analysis at 4-5 (American Pacific International Capital, Inc., *et al.*), MUR 7122; Factual & Legal Analysis at 4-5 (Sam Page, *et al.*), MUR 6099; Advisory Opinion 2009-14 (Mercedes-Benz US/Sterling) at 3; Contributions, Limitations, and Prohibitions, 67 Fed. Reg. Fed. Reg. 69,928, 69,943-44 (Nov. 19, 2002) (Explanation and Justification (“E&J”)) (explaining that the statutory term “indirectly” does not cover U.S. subsidiaries of foreign corporations).

¹⁷ Factual & Legal Analysis at 4-5 (Sam Page, *et al.*), MUR 6099.

¹⁸ Florida Country Resp. at 1; Queensgate Homes Resp. at 1; Queensgate Homes Supp. Resp. at 1.

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- 1 not Queensgate,” and the Complainant has requested to withdraw the Complaint.²¹ Given the
- 2 overall record, the Commission dismisses the Complaint.

²¹ Second Compl. Supp. at 1, Ex. A.