



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

VIA FACSIMILE AND FIRST-CLASS MAIL

August 4, 2010

E. Mark Braden, Esq.  
Baker Hostetler  
Washington Square, Suite 1100  
1050 Connecticut Avenue, N.W.  
Washington, DC 20036-5304

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

Dear Mr. Braden:

On July 29, 2010, the Federal Election Commission accepted the signed conciliation agreement submitted on your above-referenced clients' behalf in settlement of violations of 2 U.S.C. §§ 434(b), 441b(a), 441b(b)(3)(B)-(C), and 441e(a), provisions of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact William A. Powers, the attorney handling this matter, at (202) 694-1650.

Sincerely,

Roy Q. Lockett  
Acting Associate General Counsel for  
Enforcement

Enclosure  
Conciliation Agreement

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**BEFORE THE FEDERAL ELECTION COMMISSION**

OFFICE OF GENERAL  
COUNSEL

In the Matter of )  
 )  
American Resort Development Association ) MUR 6129  
Resort Owners Coalition PAC, and Sandra )  
Yartin DePoy, in her official capacity as treasurer )  
 )  
 )

**CONCILIATION AGREEMENT**

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that American Resort Development Association Resort Owners Coalition PAC, and Sandra Yartin DePoy, in her official capacity as treasurer ("Respondent") violated 2 U.S.C. §§ 434(b), 441b(a), 441b(b)(3)(B)-(C), and 441e(a) and 11 C.F.R. § 114.5(a).

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

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IV. The pertinent facts in this matter are as follows:

#### **BACKGROUND**

1. American Resort Development Association Resort Owners Coalition PAC ("ARDA-ROC PAC") is a political committee within the meaning of 2 U.S.C. § 431(4). ARDA-ROC PAC is the separate segregated fund for the American Resort Development Association Resort Owners Coalition ("ARDA-ROC"). ARDA-ROC is a membership organization that is dedicated to preserving, protecting, and enhancing vacation ownership for timeshare owners.

2. Sandra Yartin Depoy is the treasurer of American Resort Development Association Resort Owners Coalition PAC.

#### **MISSTATEMENT OF FINANCIAL ACTIVITY**

3. Each treasurer of a political committee must file reports of receipts and disbursements with the Commission. 2 U.S.C. § 434(a); 11 C.F.R. § 104.1. These reports must accurately reflect the committee's cash on hand, receipts, and disbursements. 2 U.S.C. § 434(b)(1),(2), and (4).

4. In its 2003 reports, Respondent understated its receipts by \$8,644, understated its net disbursements by \$190,661, and overstated its year-end balance by \$87,724.

5. In its 2004 reports, Respondent understated its net receipts by \$1,236,536 and its net disbursements by \$394,353, resulting in a year-end balance that was understated by \$754,459.

6. On July 14, 2006, Respondent filed with the Commission the Committee's 2006 July Quarterly Report, disclosing \$998,924.85 in receipts and \$143,330.00 in disbursements.

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7. On December 11, 2008, Respondent filed an amended 2006 July Quarterly Report, disclosing \$988,926.53 in receipts and \$572,086.60 in disbursements.

8. Respondent did not comply with the Act's reporting requirement when it failed to disclose \$428,756.60 in disbursements on the Committee's original 2006 July Quarterly Report.

9. On December 7, 2006, Respondent filed with the Commission the Committee's 2006 Post-General Report, disclosing \$8,178.91 in receipts and \$113,673.27 in disbursements.

10. On December 11, 2008, Respondent filed an amended 2006 Post-General Report, disclosing \$191,964.78 in receipts and \$114,923.27 in disbursements.

11. Respondent did not comply with the Act's reporting requirement when it failed to disclose \$183,785.87 in receipts on the Committee's original 2006 Post-General Report.

12. On February 19, 2008, Respondent filed with the Commission the Committee's 2008 February Monthly Report, disclosing \$2,272,787.94 in cash on hand.

13. On January 29, 2009, Respondent filed an amended 2008 February Monthly Report, disclosing \$2,519,461.31 in cash on hand.

14. Respondent did not comply with the Act's reporting requirement when it failed to disclose \$246,673 in cash on hand on the Committee's original 2008 February Monthly Report.

**RECEIPT OF PROHIBITED CORPORATE CONTRIBUTIONS**

15. The Act prohibits the making and knowing receipt of corporate contributions.

*See 2 U.S.C. § 441b(a).*

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16. A sample of Respondent's records from 2003 and 2004 reviewed by the Commission revealed that the ARDAROC PAC received \$3,274.91 in corporate contributions prohibited by 2 U.S.C. § 441b(a).

17. This sample contained records from 47,715 contributions to Respondent, which totaled \$235,517 in contributions.

18. Respondent has made payments to the U.S. Treasury of \$3,274.91, representing the amount of prohibited corporate contributions identified in the sample reviewed by the Commission.

19. The sole source of the Respondent's funding is member contributions received as unitemized contributions. The Respondent received \$789,299.69 in unitemized receipts for 2003; \$1,663,910.47 for 2004; \$1,876,289.00 for 2005; \$1,735,919.60 for 2006; and \$2,334,744.25 for 2007. The Respondent stipulates that from 2003 through 2007, it received the same proportion of corporate contributions prohibited by 2 U.S.C. § 441b(a) as it received in the sample described in Paragraphs 16-17

#### **PROHIBITED FOREIGN NATIONAL CONTRIBUTIONS**

21. The Act prohibits the making and knowing receipt of contributions from a foreign national. *See* 2 U.S.C. § 441e(a).

22. A sample of Respondent's records from 2003 and 2004 revealed that the Committee received \$13,242.14 in contributions from individuals with foreign resident address, which included foreign national contributions prohibited by 2 U.S.C. § 441e.

23. This sample contained records from 47,715 contributions to Respondent, which totaled \$235,517.

24. Respondent has made payments to the U.S. Treasury of \$13,242.14, representing

the amount of contributions received from individuals with foreign resident addresses identified in the sample reviewed by the Commission.

25. The sole source of the Respondent's funding is member contributions received as unitemized contributions. The Respondent received \$789,299.69 in unitemized receipts for 2003; \$1,663,910.47 for 2004; \$1,876,289.00 for 2005; \$1,735,919.60 for 2006; and \$2,334,744.25 for 2007. The Respondent stipulates that from 2003 through 2007, it received the contributions from individuals with foreign resident addresses, which included contributions prohibited by 2 U.S.C. § 441e(a). From 2003 through 2004, the Respondent stipulates that it received the same proportion of contributions from individuals with foreign resident addresses, which included contributions prohibited by 2 U.S.C. § 441e(a), as it received in the sample described in Paragraphs 22-23. From 2005 through 2007, the Respondent stipulates that it received 5.73% of its contributions from individuals with foreign resident addresses, which included contributions prohibited by 2 U.S.C. § 441e(a),

#### **IMPROPER SOLICITATION OF CONTRIBUTIONS**

26. In order to ensure that contributions solicited for a separate segregated fund are voluntary, a solicitation for contributions, whether written or oral, must inform the member being solicited at the time of the solicitation of the political purposes of the separate segregated fund and of his or her right to refuse to so contribute without any reprisal. 2 U.S.C. § 441b(b)(3)(B)-(C); 11 C.F.R. § 114.5(a)(3)-(5).

27. If the solicitation contains a guideline suggesting the amount of the contribution, the solicitation must also inform the contributor that the guidelines are merely suggestions, and that the individual is free to contribute more or less than the guideline suggests and that the

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individual will not be favored or disadvantaged by reason of the amount of his or her contribution or his or her decision not to contribute. 11 C.F.R. § 114.5(a)(2).

28. In 2003 and 2004, ARDA-ROC PAC solicited contributions from timeshare owners through periodic billings for various property fees. At least three separate solicitations from Respondent to its members lacked the information required under 11 C.F.R. § 114.5(a)(2)-(4).

V. Respondent committed the following violations:

1. Respondent violated 2 U.S.C. § 434(b).
2. Respondent violated 2 U.S.C. § 441b(a).
3. Respondent violated 2 U.S.C. § 441e(a).
4. Respondent violated 2 U.S.C. § 441b(b)(3)(B)-(C) and 11 C.F.R. § 114.5(a)(2)-(4).

VI. Respondent will take the following actions:

1. Respondent will pay a civil penalty to the Federal Election Commission in the amount of three hundred thousand dollars (\$300,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).
2. Respondent will cease and desist from violating 2 U.S.C. § 434(b), 2 U.S.C. § 441b(a), 2 U.S.C. § 441e(a), 2 U.S.C. § 441b(b)(3)(B)-(C), and 11 C.F.R. § 114.5(a)(2)-(4).
3. Respondent may elect to transfer five hundred sixty two thousand five hundred thirty eight dollars and seventy five cents (\$562,538.75) to its member homeowners associations (HOAs), either directly to the HOAs or through a transfer to their associated development company members, conditioned upon the Respondent obtaining a written agreement from each HOA or development company member that they will not (a) transfer the

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MUR 6129  
ARDA-ROC PAC  
Conciliation Agreement

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funds back to the Respondent, (b) use the funds to subsidize the operations of the Respondent, or (c) use the funds for federal, state, or local elections. As a further condition for making any transfer to an associated development company member, the Respondent will obtain a written agreement from the development company member that such member agrees to (a) accept the funds from the Respondent for the sole purpose of transferring the funds to the HOAs and (b) provide the Respondent with proof that the funds were received by the HOAs. The amount that may be transferred is equal to the stipulated amount of prohibited corporate and foreign national contributions received by the Respondent from 2004 through 2007, less the \$18,323 that the Respondent disgorged to the U.S. Treasury during the Audit. The Respondent will provide the Commission with copies of the written agreements from each HOA, and will provide the Commission with notice of the amount transferred to each HOA or development company member. If a transfer is made to an associated development company member, the Respondent will also provide copies of proof that the funds were received by the HOAs from that development company member. If the Respondent is unable to obtain a written agreement from an HOA or a development company member, the Respondent must refund or disgorge the contributions. Respondent will provide evidence of any refunds or disgorgement of contributions (copies of the front and back of negotiated check) to the Commission.

The Respondent may transfer an additional \$34,509 from its accounts to ARDA-ROC conditioned upon the Respondent obtaining written agreement that ARDA-ROC will not (a) transfer the funds back to the Respondent; (b) use the funds to subsidize the operations of the Respondent or (c) use the funds for federal, state or local elections. This amount is equal to the stipulated amount of prohibited corporate and foreign national contributions received by the Respondent for 2003.

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission, except that Respondent shall have 90 days to comply with and implement the requirements contained in Section VI. 3.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Thomasenia P. Duncan  
General Counsel

BY: Kathleen Guith  
~~\_\_\_\_\_~~ Kathleen Guith  
Acting Associate General Counsel  
for Enforcement

7-30-10  
Date

FOR THE RESPONDENT(S):

E. Mark Bradley  
(Name)  
(Position)

June 28, 2010  
Date

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