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BEAUREGARD ARC, INC.
(a Not for Profit Corporation)

Special Report on ARC Fund Raising Activities

May 6, 1999

Under provisions of state law, this report is a public document. A copy of the report has been submitted to the audited, or reviewed, entity and other appropriate public officials. The report is available for public inspection at the Baton Rouge office of the Legislative Auditor and, where appropriate, at the office of the parish clerk of court.

Release Date MAY 26 1999

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May 6, 1999

Board of Directors
Beauregard ARC, Inc.
Post Office Box 13
DeRidder, Louisiana 70634

Attached is my special report on the Beauregard ARC's Fund Raising Activities.

Gleen O. Everhart

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Attachment
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SPECIAL REPORT ON BEAUREGARD ARC FUND RAISING ACTIVITIES

PURPOSE: Comply with the provisions of my engagement letter dated March 25, 1999, in which I agreed to determine, to the extent possible:

- 1) Amount of money raised during past fund raisers;
- 2) Expenses incurred during past fund raisers;
- 3) Did the accounting for those fund raisers comply with FASB and IRS Guidelines; and,
- 4) If those expenses were legal, reasonable, authorized and disbursed in accordance with your desires.

Although I found what I believe to be violations of Federal and State tax laws and State gaming laws, the purpose of this report should not be construed as an attempt to assign guilt of and/or responsibility for the cause for those statutes being violated. That will have to be determined by proper authorities.

BACKGROUND: The Beauregard Association for Retarded Children, Inc., was organized on November 10, 1967 as a not-for-profit organization. On March 9, 1998 the name was changed to "Beauregard ARC, Inc.", hereafter referred to as the "ARC". It appears that, from 1967 until 1996, the ARC operated under the assumption that it was a tax exempt organization in accordance with IRC Section 501 (c)(3). Whoever is or was responsible for making the assumption, I don't know. However, at a 1996 Board meeting the ARC's tax status was discussed. What I could not find was that the Board attempted to correct that status. However, during the 1998 Audit, it was discovered that the ARC was never granted tax exempt status by the Internal Revenue Service. Upon discovery of the fact that it was not tax exempt, the ARC immediately began working on IRS Form 1023 requesting recognition as a Section 501 (c)(3) organization. The application was submitted and the ARC was granted 501(c)(3) status May 3, 1999.

In my opinion the ARC Board was mistaken when they accepted the theory that they were a tax exempt entity because the Louisiana ARC had been granted exempt status by the IRS. However, nothing came to my attention that would lead me to believe that they were acting in bad faith in doing so. I do feel that the ARC Board should have acted more diligently in their efforts to secure tax exempt status during the seventies, when they were informed that they were not tax exempt. Only those involved in the 1996 meetings can say why they failed to follow-up on the problem at the time it was discussed. While I have no evidence to support the theory that they were acting in bad faith at that time, I do recommend that the present Board consider their failure to follow-up as evidence and/or an indication that someone did not want to reveal certain information to the authorities.

However, when attempting to understand why the organization felt that it was tax exempt, I located an exempt status letter that the IRS had issued to the Louisiana Association for Retarded Children, Inc., dated December 10, 1965. I really believe that, because that letter existed, the ARC Board at the time of their organization believed, or they perhaps were told, that the letter also applied to them, therefore, they were tax exempt. Whatever caused them to incorrectly assume that they were tax exempt, they learned during the seventies that they were **not tax exempt**. I was told by a then Board Member that when he learned that they were not tax exempt, he made two visits to the IRS Office in Alexandria, Louisiana and requested information on how to secure tax exempt status. The results of those visits appears to have been futile. So, no further effort was taken to secure exempt status at that time.

On July 2, 1991, the ARC Board met at the City Savings Bank and Trust Company, DeRidder, Louisiana with Mr. Ken Devillier, Senior Vice-President of the Bank, presiding as Board President. According to the minutes of that meeting, the President informed the ARC Board that Mr. Larry Howard had requested permission to put on the **Classic Car Show** for the ARC's Activity Center. Possible "profits" of \$1,800 - \$2,000 could be realized. The Board also learned that there would be some pre-expenses that would have to come from the ARC before the project could become a reality. Also, those minutes show that "he" - I presume Mr. Howard - would come to a Board meeting and explain. I can only guess as to what "he" intended to explain to the Board. However, further discussion of the pre-expense funds ensued and the minutes closed with a remark that the show would be conducted in the Spring of 1992.

FINDINGS/DISCUSSION/CONCLUSIONS:

Finding #1 - There are no records which show that:

- 1) The Board ratified Mr. Howard's request;
- 2) Mr. Howard was ever a member of the association or the Board;
- 3) Mr. Howard ever met with the Board;
- 4) A formal agreement (contract) was ever executed; and,
- 5) Although the minutes indicate that the ARC should receive a minimum \$1,800 - 2,000 per year, or \$12,200 - 14,000, for the period 1992 - 1998, actual receipts were only located for \$5,500. The ARC received equipment in lieu of cash for 1998.

Discussion: As strange as it may appear, after completing my investigation, I find reason to believe that the previous Board acted in good faith in 1991 when they discussed the sponsorship of the Car and Truck Show as an annual fund raising event of the ARC. The minutes do not mention tax exempt status. Consequently, they never gave it any consideration at that time. However, from the wording on those 1991 minutes, I am of the opinion that the Board was led to believe that they were being asked to sponsor an annual fund raising event to benefit their activity center in the future. Also, because of the name change, they considered the event to be theirs' and theirs' alone. Another reason for not questioning their good faith effort is that they were never fully appraised of just what they were being ask to do. Also, the full concept of a fund raising event was never made clear to them.

Therefore, based on my findings and talks with Board Members, past and present, and the current administration, I am of the opinion that, while the Board never formally ratified the agreement with Mr. Howard, nor did Mr. Howard ever attend a Board meeting, and no formal (written) contract executed between Mr. Howard and the ARC Board, there was never-the-less a de facto ratification of the agreement with Mr. Howard. I also find evidence that the ARC, as well as the general public, understood and considered the Car and Truck Show to be an annual fund raising event of the ARC and the show was therefore, the property of the ARC. Mr. Howard was only to be the "coordinator" of the event and not the proprietor of the event.

While I cannot say who approved the agreement with Mr. Howard, I can say the he had in his possession a copy of the 1965 IRS Letter to the Louisiana ARC. Inc., and that letter had to be given to him by someone involved with the Beauregard ARC. My theory is that, Mrs Christy, the former Executive Director of the ARC, would have been the one who gave him the letter and approved his request on behalf of the ARC Board of Directors. In this respect, I feel that she exceeded the scope of her authority and violated her fiduciary duty to the Board.

I also believe that the Board ratified her actions when they failed to void her actions. Therefore, in my opinion, the Board accepted the Car and Truck Show as an official fund raising event that became the property of the Beauregard ARC.

Conclusion: At this time, I cannot find a reason for the actions and/or perceived actions of Mrs. Christy; however, I suspect that the reason, when known, will require further investigation into her activities as the former Director of the ARC.

Finding #2 - There were no records available (kept) in your central office.

Discussion: The Board President sent letters to Mrs. R. L. Christy, formerly ARC's Executive Director; Mrs. Clydell Elliott, formerly the ARC's Bookkeeper; and Mr. Larry Howard, the Coordinator of the ARC's DeRidder Car and Truck Show, requiring them to turn over any and all records that were in their possession.

All records from the date of employment until June 30, 1997 for Mrs. Christy and January 30, 1998 for Mrs. Elliott were to be turned over to the new Executive Director not later than April 9, 1999. Because it was felt that the contents of the most recent records from the Car and Truck Show would be indicative of all past periods, only 1997, 1998, and 1999 records were requested from Mr. Larry Howard. Other records could be requested later, should the ARC require them.

Mrs Elliott turned over a portion of the records that she had. More are to come later, however, those records do not pertain to ARC fund raising activities.

Mrs Christy informed the ARC and myself that she has no records belonging to the ARC

Mr Howard turned over the following:

- 1) Canceled checks for 1997 and 1998;
- 2) Bank statements, to include deposit records, for 1998;
- 3) Invoices pertaining to 1998; and,
- 4) Bank statements, deposit slips, canceled checks, and invoices for 1999.

No other records were received.

Because there is no general ledger, or other competent records, I was forced to impute the amount of receipts for 1997. However, I am sure that Mr. Howard will insist that the amount raised is equal to the amount deposited in the bank. If this is correct, approximately \$13,639.33 was raised in 1997. The amount of checks written in 1997 was \$12,622.58. Net proceeds in 1997 was \$1,016.50.

I broke the 1998 deposits down as follows:

Wal-Mart - Donation (matching grant)	\$ 1,000
Individuals - Donations	4,607
Entry Fees (186 @ \$18)	3,348
Booths	<u>1,200</u>
Total	<u>\$10,205</u>

According to the 1998 bank statements, \$10,604.90 was deposited during the year. If the Board accepts the theory that \$10,604.90 was the total amount raised in 1998, then only \$400 was raised by other functions. Stated another way: they did not conduct a raffle, a concession, or charge an admission in 1998. Because in 1998 \$10,646.11 in checks were written. Net loss in 1998 was \$(41.21).

A break down of the 1999 receipts follows:

Gate	\$ 2,200
Concession	2,187
Raffle - #1	185
Auction	829
Registration	1,170
Petty Cash	800
Raffle - #2	<u>1,227</u>
Total deposit	<u>\$8,598</u>

Based on my conversations with persons working the show and my personal observation, I have concluded that the above amount is understated. Perhaps, grossly understated, however, without proper accounting records no one will ever know the true amount involved.

Prior to the above deposit - April 20, 1999 - \$6,279.00 had been deposited which brings the total to \$14,877.00 for the 1999 Show. Because the "Cash" method was used there are no outstanding expenses therefore, the net proceeds in 1999 were approximately \$13,000.

Conclusion: Without proper accounting records, I cannot determine the true amount of receipts nor can I determine the true amount of expenses. Consequently, the actual proceeds from the DeRidder Car/Truck Show for the past nine years cannot be determined. However, I am of the opinion that a minimum of \$135,000 could have been raised. Of that amount, the ARC should have received a minimum of 60% or \$81,000.

Finding #3 - Proper accounting principles were not used in accounting for the ARC's fund raising activities.

Discussion: The Financial Accounting Standards Board (FASB) standards for accounting of fund raising activities are well defined and when followed, are accepted by the Internal Revenue Service and the State of Louisiana Department of Revenue. If those standards are not followed, and they were not, the ARC will be unable to show compliance with pertinent laws and regulations.

Conclusion: Should the authorities ever question the ARC about its fund raising activities, I am afraid it will not have adequate support and/or an audit trail for those activities. The failure to follow FASB Standards will, in my opinion, cause the ARC serious problems in the future.

Finding # 4 - The provisions of the Internal Revenue Service Code Section 172 and 501(c)(3) were violated.

Discussion: The ARC was incorporated as a non-profit organization on November 10, 1967. However, to this date, the Service has not granted **exempt status** to the ARC. However, donations were solicited in name and benefit of the ARC in accordance with Code Section 172, even though the ARC was not exempt. The fact that the ARC was not exempt was known by, as a minimum, the former Executive Director and perhaps others also knew of the problem, however, they did not apply due diligence to correct the problem. The problem of **tax exempt status** was addressed as recent as 1996. Consequently, some of the problem(s) could have been corrected at that time had the solicitations of donations been curtailed.

Conclusion: I cannot speak for the authorities, however, I have serious concerns about the way the DeRidder Car and Truck show was handled. In my opinion, there were criminal actions taking place. I am really concerned about how much the former Board knew, or how much they did not know, about the operations of the Car and Truck Show. Indications are that they did not know anything other than it was conducted each year. The cause for that was they were not kept informed. There is no evidence to show that the matter was ever discussed by the Board subsequent to the 1991 meeting discussed above.

Finding #5 - The ARC was a taxable entity, however, no tax returns have been filed.

Discussion: Code Section 501 requires the entity to file an annual tax return and pay any taxes that may be due. If the entity is subsequently granted **exempt status**, the entity can file for a refund of the taxes paid. Also, no taxes were paid to the State of Louisiana. As a professional, I cannot file tax returns as long as I know that all of the required elements are not present.

Conclusion: Based on my knowledge of tax laws, if an individual fails to file the required tax returns, or if they do willfully understate income, that is tax evasion. However, only the authorities can make that decision. Just who was required to file tax returns, report income and pay taxes, will be determined when the actual owner of the DeRidder Car and Truck Show has been determined. Again, the authorities will have to make the call.

Finding # 6 - The ARC operated (3) raffles without State Police approval, therefore, violating R.S. 33:4861.

Discussion: Administrative Rule 1705C lists eight requirements that must be met when conducting a charitable fund raising raffle, most important of which is securing a license to conduct a raffle. I find no evidence to show that such a license was ever applied for and/or received. Also, the State Police has no such record.

Conclusion: Perhaps the person responsible for this can claim that he/she was not aware of the law.

Finding # 7 - The bank account that was established to account for the DeRidder Car and Truck proceeds is located at the City Savings Bank and Trust in DeRidder, Louisiana, Account Number 1650076 and is listed as follows:

Association(s) of Retarded Citizens
(ARC) C/O Larry Howard
321 Tanglewood Loop
DeRidder, Louisiana 70634-9030

This account has three names on the signature card, however, none of these individuals have ever been members of the Beauregard ARC.

Finding #8 - I am required to reissue my report on the ARC's financial statements for the Fiscal Year Ending June 30, 1998.

Discussion: Although I have recently learned of this problem, it existed at the June 30, 1998, and prior Balance Sheet dates, auditing standards require that I re-issue my report for June 30, 1998, if the matter is material.

Conclusion: This problem is pervasive, therefore, it is material. I will re-issue my report.

Finding #9 - During the 1997 and 1998 Louisiana Doll Show and Festival, Mr. Howard operated a soft drink booth in the name of, and as a fund raising activity for, the Beauregard ARC.

Discussion: The Louisiana Doll Show and Festival issued two checks payable to the ARC, one of which was deposited in the above account and one was cashed.

Conclusion: Both checks were the property of the ARC and were required to be deposited to their account.

Finding #10 - The following fixed assets were purchased with Car/Truck Show funds:

- 1] Computer
- 2] Trailer

Conclusion: These assets are the property of the ARC.

Finding #11 - In 1997, a rider, adding the premises of the old Wal-Mart Building, was mysteriously attached to the ARC's insurance policy which provides liability coverage for the ARC.

Discussion: In 1997 the ARC Car/Truck Show moved to the old Wal-Mart Building in DeRidder, Louisiana. The owners of the building apparently required Mr. Howard to provide proof of liability insurance; therefore, someone had a rider attached to the ARC's liability policy in order to provide the required coverage.

Conclusion: No one in the current administration can say who is responsible for adding a rider to the ARC's insurance policy. However, the fact that it was added shows that someone in the ARC has or had full knowledge of the ARC's fund raising activities.

Summary: I have reported what I found. However, my findings will not permit me accept a theory that:

- 1] All proceeds were accounted for and properly reported;
- 2] Everyone associated with the ARC's fund raising activities were totally unaware that the ARC was not a tax exempt entity and that they were conducting their activities in violation of the laws;
- 3] The public was not led to believe that all proceeds from the ARC Car/Truck Show was actually turned over to the ARC;
- 4] No one acted to their detriment when donating to the ARC fund raising activities; and
- 5] The ARC Board was ever informed of the "special" bank account or that they were ever briefed on the operations of the ARC DeRidder Car and Truck Show. Stated another way, there is no evidence to show that Mr. Howard and/or Mrs. Christy ever briefed the Board on the integral functions of the ARC's fund raising activities.

The ARC should require someone for answers to the following questions:

- 1] Who is or was to responsible for this?

- 2] Who is at fault?
- 3] Were there criminal activities involved?

Perhaps those directly involved with the ARC's fund raising activities can answer questions 1 & 2. Or at a minimum provide information useful in answering questions 1 & 2.

Question 3 can only be answered by the authorities who administer the statutes that I feel were violated. However, in this connection, I talked with two attorneys (one of which is a District Attorney General) about question 3, and received the following:

- 1] The first attorney said that it sounded like there were criminal activities involved, however, he felt that I should get another opinion; and ,
- 2] The District Attorney General told me that it sounded like something that he would pursue as a criminal activity.

The ARC Board may distribute this report as it deems appropriate. However, I have a duty to recommend the following minimum distribution:

- 1] Internal Revenue Service;
- 2] Louisiana Department of Revenue;
- 3] Louisiana State Police, Gaming Division;
- 4] Louisiana Legislative Auditor;
- 5] ARC Attorney;
- 6] Beauregard District Attorney - via ARC Attorney;
- 7] Each former Board member; and,
- 8] File