



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 2107

DATE SCANNED 6/22/10

SCANNER NO. 2

SCAN OPERATOR EEJ

10092651081



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SECRETARIAT
2009 SEP 23 P 4: 24
September 23, 2009

MEMORANDUM

SENSITIVE

TO: THE COMMISSION

THROUGH: ROBERT HICKEY *AP Fu: RH*
STAFF DIRECTOR

FROM: JOHN D. GIBSON *of*
CHIEF COMPLIANCE OFFICER

PATRICIA CARMONA *PC*
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

BY: *NR* NATALIYA IOFFE/RHIANNON MAGRUDER/CHRIS RITCHIE *CR*
COMPLIANCE BRANCH

SUBJECT: REASON TO BELIEVE RECOMMENDATION – 2009 30 DAY
POST-RUNOFF REPORT FOR THE ADMINISTRATIVE FINE
PROGRAM

Attached is the name of a political committee and its treasurer who failed to file the 2009 30 Day Post-Runoff Report in accordance with 2 U.S.C. 434(a). The committee represents a candidate who lost the Special General Runoff Election held in California's 32nd Congressional District. The 30 Day Post-Runoff Report was due on August 13, 2009.

The committee listed in the attached RTB Circulation Report filed the report more than thirty (30) days after the due date (considered a non-filed report). In accordance with the schedule of civil money penalties for reports at 11 CFR § 111.43, the committee should be assessed the civil money penalty highlighted on the attached circulation report.

Recommendation

1. Find reason to believe that the political committee and its treasurer listed on the RTB Circulation Report violated 2 U.S.C. § 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the RTB Circulation Report.
2. Send the appropriate letter.

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Federal Election Commission
Reason to Believe Circulation Report
2009 30SGR Not Election Sensitive 08/13/2009 AUTH

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
2107	C00461079	BETTY CHU 4 CONGRESS	CHU, BETTY	BRIAN THOMAS CHU	\$422,394	0	9/22/2009	Not Filed	\$170,654	\$6,050

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Reason To Believe Recommendation -) AF 2107
2009 30 Day Post-Runoff Report for the)
Administrative Fine Program: Betty Chu)
4 Congress and Brian Thomas Chu,)
treasurer)

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on September 25, 2009, the Commission decided by a vote of 6-0 to take the following actions in AF 2107:

1. Find reason to believe that Betty Chu 4 Congress and Brian Thomas Chu, treasurer, violated 2 U.S.C. § 434(a) and make a preliminary determination that the civil money penalty would be in the amount of \$6,050.
2. Send the appropriate letter.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther and Weintraub voted affirmatively for the decision.

Attest:

September 28, 2009
Date

Mary W. Dove
Mary W. Dove
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 5, 2009

Brian Thomas Chu as Treasurer
Betty Chu 4 Congress
645 Barnum Way
Monterey Park, CA 91754

C00461079
AF#: 2107

Dear Mr. Chu:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a 30 Day Post-Special General Runoff Report of Receipts and Disbursements in a calendar year in which the candidate is seeking election, or nomination for election in a special election. This report, covering the period through August 3, 2009, shall be filed no later than August 13, 2009. 2 U.S.C. § 434(a). Because records at the Federal Election Commission ("FEC") indicate that this report was not filed within thirty (30) days of the due date, it is considered not filed for the purpose of calculating the civil money penalty.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. § 434(a). 2 U.S.C. § 437g(a)(4). On September 25, 2009, the FEC found that there is reason to believe ("RTB") that Betty Chu 4 Congress and you as treasurer violated 2 U.S.C. § 434(a) by failing to file timely this report on or before August 13, 2009. Based on the FEC's schedules of civil money penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$6,050. Please see the attached copy of the Commission's administrative fine regulations at 11 C.F.R. §§ 111.30-111.46. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 C.F.R. § 111.34. Your payment of \$6,050 is due within forty (40) days of the finding, or by November 4, 2009, and is based on these factors:

Election Sensitivity of Report: Not Election Sensitive
Level of Activity: \$170,654
Number of Days Late: Not Filed (for the purpose of calculating the penalty only)
Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found at the top of page 1 under your

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committee's identification number, to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must be received within forty (40) days of the Commission's RTB finding, or November 4, 2009. 11 C.F.R. § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 C.F.R. § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 C.F.R. § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 C.F.R. § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 C.F.R. § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. district court under 2 U.S.C. § 437g. 11 C.F.R. § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge

If you do not pay the calculated civil money penalty and do not or submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Betty Chu 4 Congress and you as treasurer violated 2 U.S.C. § 434(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 C.F.R. § 111.45.

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3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with your payment, to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. § 437g(a)(2). It will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and 437g(a)(12)(A) until it is placed on the public record in accordance with 11 C.F.R. § 111.42, unless you notify the FEC in writing that you wish the matter to be made public.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Rhiannon Magruder in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Steven T. Walther
Chairman

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ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at RTB is \$6,050 for the 2009 30 Day Post-Special General Runoff Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission
P.O. Box 979058
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox
FEC #979058
1005 Convention Plaza
Attn: Government Lockbox, SL-MO-C2GL
St. Louis, MO 63101

The remittance and your payment are due by November 4, 2009. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

PAYMENTS BY PERSONAL CHECK

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Betty Chu 4 Congress

FEC ID#: C00461079

AF#: 2107

PAYMENT DUE DATE: November 4, 2009

PAYMENT AMOUNT DUE: \$6,050

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

2009 NOV 25 A 9 03

November 25, 2009

SENSITIVE

MEMORANDUM

TO: THE COMMISSION

THROUGH: ALEC PALMER *AP*
ACTING STAFF DIRECTOR

FROM: JOHN D. GIBSON *JG*
CHIEF COMPLIANCE OFFICER

PATRICIA CARMONA *PC*
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

BY: NATALIYA IOFFE/RHIANNON MAGRUDER *NM RM*
COMPLIANCE BRANCH

SUBJECT: ADMINISTRATIVE FINE PROGRAM – FINAL DETERMINATION
RECOMMENDATION FOR THE 2009 30 DAY POST-RUNOFF REPORT

Attached is a list identifying a political committee and its treasurer against which the Commission has found reason to believe (RTB) and assessed a proposed civil money penalty calculated at RTB for failure to file or failure to timely file the 2009 30 Day Post-Runoff Report for the Special General Runoff Election held in California's 32nd Congressional District. The committee has not paid the civil money penalty requested at RTB and has been given at least forty (40) days from the date of the Commission's RTB finding to remit payment.

In accordance with 11 CFR § 111.40, the Commission shall send a final determination notice to those respondents that have not paid the civil money penalty.

RAD Recommendation

- (1) Make final determination that the political committee and its treasurer on the attached report violated 2 U.S.C. § 434(a) and assess the final civil money penalty so indicated.
- (2) Send the appropriate letter.

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Federal Election Commission
FD Circulation Report Fine Not Paid
2009 30SGR Not Election Sensitive 08/13/2009 Authorized

AF#	Committee Name	Candidate Name	Committee ID	Treasurer	Receipt Date	Days Late	LOA	PV	RTB Date	RTB Penalty	Days Since RTB	FD Penalty
2107	BETTY CHU 4 CONGRESS	CHU, BETTY	C00461079	BRIAN THOMAS CHU	09/22/2009	Not Filed	\$170,654	0	09/25/2009	\$6,050	61	\$6,050

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Administrative Fine Program – Final) AF 2107
Determination Recommendation for the)
2009 30 Day Post-Runoff Report: Betty)
Chu 4 Congress and Brian Thomas Chu,)
Treasurer)

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on November 27, 2009, the Commission decided by a vote of 6-0 to take the following actions in AF 2107:

1. Make final determination that Betty Chu 4 Congress and Brian Thomas Chu, Treasurer, violated 2 U.S.C. § 434(a) and assess the final civil money penalty in the amount of \$6,050.00.
2. Send the appropriate letter.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther and Weintraub voted affirmatively for the decision.

Attest:

November 30, 2009
Date

Mary W. Dove
Mary W. Dove
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 1, 2009

Brian Thomas Chu as Treasurer
Betty Chu 4 Congress
645 Barnum Way
Monterey Park, CA 91754

C00461079
AF#: 2107

Dear Mr. Chu:

On September 25, 2009, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Betty Chu 4 Congress and its treasurer violated 2 U.S.C. § 434(a) for filing late or failing to file the 2009 30 Day Post-Runoff Report. By letter dated October 5, 2009, the Commission sent notification of the RTB finding that included a civil money penalty calculated at the RTB stage of \$6,050 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. Within 40 days of the FEC's RTB finding, its treasurer was required to either transmit payment of the calculated civil money penalty or submit a written response challenging either the RTB finding or the calculated civil money penalty.

The FEC did not receive payment of the calculated civil money penalty or a written response within the time permitted. The FEC made a final determination on November 27, 2009 that you as treasurer and Betty Chu 4 Congress violated 2 U.S.C. § 434(a) and assessed a civil money penalty in the amount of \$6,050 in accordance with 11 C.F.R. § 111.43. The civil money penalty is based on these factors:

Election Sensitivity of Report: Not Election Sensitive
Level of Activity: \$170,654
Number of Days Late: Not Filed
Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

1. If You Choose to Appeal the Final Determination and/or Civil Money Penalty

If you choose to appeal the final determination, you should submit a written petition, within 30 days of receipt of this letter, to the district court of the United States for the district in which the committee or treasurer reside, or transact business, requesting that the final determination be modified or set aside. See 2 U.S.C. § 437g(a)(4)(C)(iii). Your failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver of the respondents' right to present such argument in a petition to the district court under 2 U.S.C. § 437g. 11 C.F.R. § 111.38.

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2. If You Choose Not to Pay the Civil Money Penalty and Not to Appeal

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA") as amended by the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. § 3701 *et seq.* If you do not pay this debt within 30 days (or file a written petition to a federal district court - see below), the Commission will transfer the debt to the U.S. Department of the Treasury ("Treasury") for collection. Within 5 days of the transfer to Treasury, Treasury will contact the debtor and request payment. Treasury currently charges a fee of 28% of the civil money penalty amount for its collection services. The fee will be added to the amount of the civil money penalty that you owe. Should Treasury's attempts fail, Treasury will refer the debt to a private collection agency ("PCA"). If the debt remains unpaid, Treasury may recommend that the Commission refer the matter to the Department of Justice for litigation.

3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the civil money penalty, send the enclosed remittance form, along with your payment, to the address on page 3 within 30 days of receipt of this letter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. The file will be made a part of the public record pursuant to 11 C.F.R. § 111.42(b). Although the file must be placed on the public record within thirty (30) days from the date of the Commission's notification, this could occur at anytime following certification of the Commission's vote.

If you have any questions regarding the payment of the civil money penalty, please contact Rhiannon Magruder at Federal Election Commission, 999 E St., NW, Washington, DC 20463, or our toll free number (800) 424-9530 (at the prompt, press 5) or (202) 694-1130.

On behalf of the Commission,



Steven T. Walther
Chairman

10092651093

ADMINISTRATIVE FINE PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the civil money penalty is \$6,050 for the 2009 30 Day Post-Runoff Report.

This penalty should be paid by check or money order made payable to the Federal Election Commission. It should be sent by mail to:

Federal Election Commission
PO Box 979058
St. Louis, MO 63197-9000

If you choose to send your payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox
FEC #979058
1005 Convention Plaza
Attn: Government Lockbox, SL-MO-C2GL
St. Louis, MO 63101

The form and payment are due within 30 days of receipt of this letter.

Payments by Personal Check

Personal checks will be converted into electronic funds transfers (EFTs). Your account will be electronically debited for the amount on the check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Betty Chu 4 Congress

FEC ID#: C00461079

AF#: 2107

PAYMENT AMOUNT DUE: \$6,050

10092651094

FOR: Betty Chu 4 Congress

FEC ID#: C00461079

AF#: 2107

PAYMENT AMOUNT DUE: \$6,050

4-29

1 check 6300.00

2iNV

QUALITY IS OUR PRIORITY FOR LOCKBOX 9058
SEQ# 001 \$ 000630000 BA# 1 05-03-10 20 3



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usbancorp.

Waters Building G		8375
PAY TO THE ORDER OF <u>FEC</u>		4/29/10
<u>Six thousand three hundred</u>		\$ 6,300 ⁰⁰
MEMO: FEC # C00461079 AF# 2107/2103		DOLLARS



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 207

DATE SCANNED 6/22/10

SCANNER NO. 2

SCAN OPERATOR SES

10092651096