



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 1895

DATE SCANNED 10/8/09

SCANNER NO. 2

SCAN OPERATOR EEJ

29092642224



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DEC 8 2008 1:59

December 8, 2008

MEMORANDUM

SENSITIVE

TO: THE COMMISSION

THROUGH: JOSEPH F. STOLTZ *[Signature]*
ACTING STAFF DIRECTOR

FROM: JOHN D. GIBSON *[Signature]*
CHIEF COMPLIANCE OFFICER

PATRICIA CARMONA *[Signature]*
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

BY: ^{*nruc*} NATALIYA IOFFE/^{*rm*} RILANNON MAGRUDER/^{*CP*} CHRIS RITCHIE
COMPLIANCE BRANCH

SUBJECT: REASON TO BELIEVE RECOMMENDATION – 2008 OCTOBER
QUARTERLY REPORT (ELECTION SENSITIVE) FOR THE
ADMINISTRATIVE FINE PROGRAM

Attached is a list of political committees and their treasurers who failed to file the 2008 October Quarterly Report in accordance with 2 U.S.C. 434(a). The October Quarterly Report was due on October 15, 2008.

Under the Administrative Fine Program, the October Quarterly Report is considered an election-sensitive filing for authorized committees supporting candidates involved in the general election as well as all unauthorized committees. For the committees listed on the attached RTB Circulation Report, the October Quarterly Report was an election-sensitive filing. The committees either filed the report more than five (5) days after the due date, failed to file the report or failed to file the report prior to four (4) days before the general election (considered a non-filed report). In accordance with the schedule of civil money penalties for reports at 11 C.F.R. 111.43, these committees should be assessed the civil money penalties included on the attached report.

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Recommendation

1. Find reason to believe that the political committees and their treasurers listed on the RTB Circulation Report violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalties would be the amounts indicated on the RTB Circulation Report.
2. Send the appropriate letters.

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12/8/2008 11:16 AM

Federal Election Commission
Reason to Believe Circulation Report
2008 OCTOBER QUARTERLY Election Sensitive 10/15/2008 H_S_P_UNAUTH

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
1887	C00135525	AMERICAN NATIONAL INSURANCE COMPANY EMPLOYEE POLITICAL ACTION COMMITTEE		JOHN MARK FLIPPIN	\$179,504	0	11/10/2008	Not Filed	\$58,118	\$3,000
1888	C00034645	AMERICAN SOCIETY FOR CLINICAL LABORATORY SCIENCE POLITICAL ACTION COMMITTEE (FKA ASMT/PAC)		LINDA HICKOK	\$109,237	0	11/8/2008	Not Filed	\$18,167	\$900
1889	C00439042	AMERICANS UNITED FOR FREEDOM (AUF) PAC	PAUL, RON	BRANDON S. LLOYD	\$164,826	0		Not Filed	\$54,942 (est)	\$3,000
1890	C00395988	ARGON ST PAC		GABRIELLE CARRUTH	\$109,550	0	11/12/2008	Not Filed	\$11,600	\$900
1891	C00449876	COMMITTEE TO ELECT MARY WRIGHT	WRIGHT, MARY D.	MARY WRIGHT	\$328,065	0	10/27/2008	12	\$928	\$170
1892	C00030693	CONSUMER DATA INDUSTRY ASSOCIATION INC POLITICAL ACTION COMMITTEE OR CDIA PAC		JOSEPH RUBIN	\$130,781	0	11/6/2008	Not Filed	\$9,165	\$600
1884	C00448241	DOUG TUDOR FOR CONGRESS	TUDOR, DOUGLAS DAVID	JON P. TUDOR	\$175,068	0	10/29/2008	14	\$49,075	\$650
1895	C00429282	HALLIWELL FOR CONGRESS	HALLIWELL, MICHAEL JOHN	MICHAEL HALLIWELL	\$99,953	0	10/22/2008	7	\$13,926	\$220
1886	C00446468	LYNCH FOR CONGRESS	LYNCH, EDWARD J.	EDWARD LYNCH	\$197,985	1		Not Filed	\$65,995 (est)	\$3,750
1887	C00421008	METAL LATHERS LOCAL 46 PAC		ROBERT LEDWITH	\$256,590	0	10/23/2008	8	\$35,396	\$500

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
1898	C00376384	MONROE COUNTY DEMOCRATIC COMMITTEE		LEIGH KEGERREIS	\$1,104,105	4		Not Filed	\$220,821 (est)	\$15,000
1899	C00363812	RECREATIONAL FISHING ALLIANCE, PAC		TONI STEFANO	\$104,382	1		Not Filed	\$26,098 (est)	\$1,750
1900	C00437871	SALAZAR COMISIONADO 2008	SALAZAR, ALFREDO	LUIS SALAZAR	\$710,846	1	10/28/2008	11	\$353,807	\$6,500
1901	C00189286	SHEET METAL WORKERS LOCAL 100 POLITICAL ACTION COMMITTEE (100 PAC)		JOHN R. SHIELDS, JR.	\$120,048	0	11/17/2008	Not Filed	\$10,976	\$900
1902	C00153379	SIERRA PACIFIC EMPLOYEES POLITICAL ACTION COMMITTEE		JOHN VINSKI	\$127,020	0	10/21/2008	6	\$31,925	\$450
1903	C00421982	SOLAR ENERGY INDUSTRIES ASSOCIATION PAC		RHONE RESCH	\$135,255	0	10/27/2008	12	\$23,382	\$270
1904	C00148155	ST LOUISIANS FOR BETTER GOVERNMENT		BERNARD PASTERNAK	\$112,276	0	10/26/2008	11	\$3,752	\$160
1905	C00139867	UGI CORPORATION POLITICAL ACTION COMMITTEE (UGI/PAC)		GREGORY MICHAEL BUCKS	\$208,865	0	12/4/2008	Not Filed	\$30,127	\$1,400
1906	C00377549	USAFARMWORKERPAC		STUART J. MITCHELL	\$103,719	0	11/19/2008	Not Filed	\$34,398	\$1,400

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Reason To Believe Recommendation - 2008)
October Quarterly Report (Election)
Sensitive) for the Administrative Fine)
Program:)
AMERICAN NATIONAL INSURANCE) AF# 1887
COMPANY EMPLOYEE POLITICAL)
ACTION COMMITTEE, and JOHN)
MARK FLIPPIN as treasurer;)
AMERICAN SOCIETY FOR CLINICAL) AF# 1888
LABORATORY SCIENCE POLITICAL)
ACTION COMMITTEE (FKA)
ASMT/PAC), and LINDA HICKOK as)
treasurer;)
AMERICANS UNITED FOR FREEDOM) AF# 1889
(AUF) PAC, and BRANDON S LLOYD as)
treasurer;)
ARGON ST PAC, and GABRIELLE) AF# 1890
CARRUTH as treasurer;)
COMMITTEE TO ELECT MARY) AF# 1891
WRIGHT, and MARY WRIGHT as)
treasurer;)
CONSUMER DATA INDUSTRY) AF# 1892
ASSOCIATION INC POLITICAL)
ACTION COMMITTEE OR CDIA PAC,)
and JOSEPH RUBIN as treasurer;)

DOUG TUDOR FOR CONGRESS, and) AF# 1894
JON P TUDOR as treasurer;)
HALLIWELL FOR CONGRESS, and) AF# 1895
MICHAEL HALLIWELL as treasurer;)
LYNCH FOR CONGRESS, and EDWARD) AF# 1896
LYNCH as treasurer;)
METAL LATHERS LOCAL 46 PAC, and) AF# 1897
ROBERT LEDWITH as treasurer;)

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MONROE COUNTY DEMOCRATIC) AF# 1898
COMMITTEE, and KEGERREIS, LEIGH)
as treasurer;)
RECREATIONAL FISHING ALLIANCE,) AF# 1899
PAC, and TONI STEFANO as treasurer;)
SALAZAR COMISIONADO 2008, and) AF# 1900
LUIS SALAZAR as treasurer;)
SHEET METAL WORKERS LOCAL 100) AF# 1901
POLITICAL ACTION COMMITTEE (100)
PAC), and JOHN R SHIELDS JR as)
treasurer;)
SIERRA PACIFIC EMPLOYEES) AF# 1902
POLITICAL ACTION COMMITTEE, and)
VINSKI, JOHN as treasurer;)
SOLAR ENERGY INDUSTRIES) AF# 1903
ASSOCIATION PAC, and RHONE)
RESCHI as treasurer;)
ST LOUISIANS FOR BETTER) AF# 1904
GOVERNMENT, and BERNARD)
PASTERNAK as treasurer;)
UGI CORPORATION POLITICAL) AF# 1905
ACTION COMMITTEE (UGI/PAC), and)
GREGORY MICHAEL BUCKS as)
treasurer;)
USAFARMWORKERPAC, and STUART J) AF# 1906
MITCHELL as treasurer;)

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on December 10, 2008 the Commission took the following actions on the Reason To Believe Recommendation - 2008 October Quarterly Report (Election Sensitive) for the Administrative Fine Program as recommended in the Reports Analysis Division's Memorandum dated December 08, 2008, on the following committees:

AF#1887 Decided by a vote of 6-0 to: (1) find reason to believe that AMERICAN NATIONAL INSURANCE COMPANY EMPLOYEE POLITICAL ACTION

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COMMITTEE, and JOHN MARK FLIPPIN as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1888 Decided by a vote of 6-0 to: (1) find reason to believe that AMERICAN SOCIETY FOR CLINICAL LABORATORY SCIENCE POLITICAL ACTION COMMITTEE (FKA ASMT/PAC), and LINDA HICKOK as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1889 Decided by a vote of 6-0 to: (1) find reason to believe that AMERICANS UNITED FOR FREEDOM (AUF) PAC, and BRANDON S LLOYD as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1890 Decided by a vote of 6-0 to: (1) find reason to believe that ARGON ST PAC, and GABRIELLE CARRUTH as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1891 Decided by a vote of 6-0 to: (1) find reason to believe that COMMITTEE TO ELECT MARY WRIGHT, and MARY WRIGHT as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1892 Decided by a vote of 6-0 to: (1) find reason to believe that CONSUMER DATA INDUSTRY ASSOCIATION INC POLITICAL ACTION COMMITTEE OR CDIA PAC, and JOSEPH RUBIN as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

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AF#1894 Decided by a vote of 6-0 to: (1) find reason to believe that DOUG TUDOR FOR CONGRESS, and JON P TUDOR as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1895 Decided by a vote of 6-0 to: (1) find reason to believe that HALLIWELL FOR CONGRESS, and MICHAEL HALLIWELL as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1896 Decided by a vote of 6-0 to: (1) find reason to believe that LYNCH FOR CONGRESS, and EDWARD LYNCH as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1897 Decided by a vote of 6-0 to: (1) find reason to believe that METAL LATHERS LOCAL 46 PAC, and ROBERT LEDWITH as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1898 Decided by a vote of 6-0 to: (1) find reason to believe that MONROE COUNTY DEMOCRATIC COMMITTEE, and KEGERREIS, LEIGH as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1899 Decided by a vote of 6-0 to: (1) find reason to believe that RECREATIONAL FISHING ALLIANCE, PAC, and TONI STEFANO as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1900 Decided by a vote of 6-0 to: (1) find reason to believe that SALAZAR COMISIONADO 2008, and LUIS SALAZAR as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount

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indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1901 Decided by a vote of 6-0 to: (1) find reason to believe that SHEET METAL WORKERS LOCAL 100 POLITICAL ACTION COMMITTEE (100 PAC), and JOHN R SHIELDS JR as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1902 Decided by a vote of 6-0 to: (1) find reason to believe that SIERRA PACIFIC EMPLOYEES POLITICAL ACTION COMMITTEE, and VINSKI, JOHN as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1903 Decided by a vote of 6-0 to: (1) find reason to believe that SOLAR ENERGY INDUSTRIES ASSOCIATION PAC, and RHONE RESCHI as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1904 Decided by a vote of 6-0 to: (1) find reason to believe that ST LOUISIANS FOR BETTER GOVERNMENT, and BERNARD PASTERNAK as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1905 Decided by a vote of 6-0 to: (1) find reason to believe that UGI CORPORATION POLITICAL ACTION COMMITTEE (UGI/PAC), and GREGORY MICHAEL BUCKS as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1906 Decided by a vote of 6-0 to: (1) find reason to believe that USAFARMWORKERPAC, and STUART J MITCHELL as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

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Federal Election Commission
Certification for Administrative Fines
December 10, 2008

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Attest:

December 10, 2008
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 11, 2008

Michael Halliwell
Halliwell for Congress
271 E. Cotati Ave.
Cotati, CA 94931

C00429282
AF#: 1895

Dear Michael Halliwell:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file an October Quarterly Report of Receipts and Disbursements every calendar year. This report, covering the period through September 30th, shall be filed no later than October 15th. 2 U.S.C. 434(a). Records at the Federal Election Commission ("FEC") indicate that this report was filed on 10/22/2008, 7 days late.

The Act was further amended in 1999 to permit 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 12/10/2008, the FEC found that there is reason to believe ("RTB") that Halliwell for Congress and you, as treasurer, violated 2 U.S.C. 434(a) by failing to file timely this report on or before October 15th. 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 \$220. It is due by 1/19/2009 and is based on these factors:

Election Sensitivity of Report: Election Sensitive
Level of Activity: \$13,926
Number of Days Late: 7
Number of Previous Civil Money Penalties Assessed: 0

To Pay the Calculated Civil Money Penalty

To pay the calculated civil money penalty, send the enclosed remittance and 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.

To Challenge the RTB Finding and/or Calculated Civil Money Penalty

To challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found on page one, to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must be received by 1/19/2009. Your written response must include the reason(s) why you are challenging the RTB

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finding and/or calculated civil money penalty. The FEC will only consider challenges that are based on a factual error in the RTB finding; miscalculation of the calculated civil money penalty by the FEC; or 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. 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. Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to, a failure of Commission computers or Commission-provided software despite you seeking technical assistance from Commission personnel and resources; a widespread disruption of information transmissions over the Internet that is not caused by the Commission's or your computer systems or Internet service provider; and severe weather or other disaster-related incident. **Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to, negligence; delays caused by vendors or contractors; treasurer and staff illness, inexperience or unavailability; committee computer, software, or internet service provider failures; failure to know filing dates; and failure to use filing software properly.** Your response 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. 111.35.

Your 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 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.

If You Do Not Pay the Calculated Civil Money Penalty or Submit a Challenge

If you do not pay the calculated civil money penalty or submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Halliwell for 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.

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.

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Additional information on the FEC's administrative fine program, including the final regulations, is located at the FEC's website at www.FEC.gov. 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.

Sincerely,



Donald F. McGahn II
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 \$220 for the 2008 October Quarterly 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 1/19/2009. 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: Halliwell for Congress

FEC ID#: C00429282

AF#: 1895

PAYMENT DUE DATE: 1/19/2009

PAYMENT AMOUNT DUE: \$220

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RECEIVED
FEC CENTER
DEC 21 12 11:11

Michael Halliwell
271 E Cotati Ave
Cotati, CA 94931
December 21, 2008

Please consider
this as a challenge
to fine AF# 1895
and in mitigation
of the lateness of
my post election
report
Michael Halliwell

Federal Elections Commission
999 "E" St. N.W.
Washington, DC 20463
Donald F. McGahn II, Chairman
Christopher A. Whyrick
Senior Campaign Finance Analyst

Dear Mr. McGahn/Whyrick *Attention Admin. Rev. section*

This concerns the letter I received (copy of first page attached) from the first named addressee, which I assume was issued on staff advice, so I am routing it to Christopher Whyrick who has previously communicated with me on campaign reporting matters. I find it puzzling that I should be fined for the following reasons:

a) I mailed the report in question a day before the deadline (on October 14, 2008) and it should have reached your office no more than one day late. I received an inquiry about this report dated October 22, 2008 (copy attached), which caused me to call as soon as I received it. I assured the person to whom I was referred that I had mailed in the report, but no one on your end could find it. I offered to send a second copy of my October 14, 2008 report, but was told not to do so, as there is sometimes a substantial delay in posting reports at your end. When I heard nothing more about this, I assumed that you had found my report. Your posting of my report on the same day you sent me a letter saying "you may have failed to file" suggests that my report somehow got into the wrong stack at your end.

b) It is a valid point that I should have allowed enough "margin for error" and sent in my report sooner, since I am aware that you have a lot of complicated work to do at your end. However, NO ONE at all has in any way been disadvantaged by the delay in posting of my report. The level of activity in the report in question is \$6,938, which consists entirely of headquarters operations which have varied very little over the past two years. The 6th CD incumbent Congresswoman was probably spending at 100 times the rate I was in the reporting period in question, and only the fact that my expenditures were tiny could have been of use to her staff in planning campaign strategy. Precisely how tiny would not have changed anything, and I doubt that a living soul looked for any information about my campaign during the very brief period when it was not available when it should have been.

c) The timing of my filing was NOT a matter of choice. The ongoing legal nightmare I discussed in previous correspondence has escalated even further and my campaign totally collapsed on account of it. I continued to fulfill financial commitments made when I thought I would have a viable campaign, but less than \$100 was probably actually spent

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FEC OFFICE
ADMIN REVIEW

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on my campaign during the reporting period in question. Headquarters rent must be paid, or the various papers and equipment must be cleared out (which I had no time to do). I could have laid off my tiny office staff (one person works 3 hours per day, the other 1 hour per day), but this would have very mean spirited in the economic times we are going through. So I continued to pay them out of my own pocket. However, you might interpret campaign reporting laws, they cannot have been intended to punish a course on conduct such as mine in these circumstances.

d) I realize that I am late on my enclosed 30 day post election report, but this is the very earliest that I could find time to do it. There will be no further expenditures for the rest of this year, so I enclose my year-end report also.

Yours Truly,

A handwritten signature in cursive script that reads "Michael Halliwell". The signature is written in black ink and is positioned to the right of the typed name "Mike Halliwell".

Mike Halliwell

29092642240



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Via First Class Mail

January 13, 2009

Michael Halliwell, as Treasurer
Halliwell for Congress
271 E. Cotati Avenue
Cotati, CA 94931

C00429282
AF# 1895

Dear Mr. Halliwell:

On January 12, 2009, the Commission received your written response ("challenge") which is being reviewed by the Office of Administrative Review. If you have any questions regarding your challenge, please contact this Office on our toll free number (800)424-9530 (press 0, then ext. 1660) or (202)694-1660.

Sincerely,

Shawn Woodhead Werth
Reviewing Officer
Office of Administrative Review

29092642241

Date: January 15, 2009

**REFERRAL TO OFFICE OF ADMINISTRATIVE REVIEW
CHALLENGE RECEIVED**

AF#: 1895

Committee Name: Halliwell for Congress

Committee ID#: C00429282

Committee Address (if different than in RTB letter): N/A

Treasurer Name (if different than in RTB finding): N/A

Attachments:

**Copy of RTB Circulation Report, dated December 8, 2008 and RTB
Certification, dated December 10, 2008: Previously Forwarded**

Attachment #: N/A

Certified Return Receipt (Y/N): Y

Attachment #: 1

Other Relevant Telecoms (Y/N): N

Attachment #: N/A

Original Correspondence Received by RAD in Response to RTB Letter (Y/N): N

Attachment #: N/A

RAD Staff Declaration (Y/N): Y

-2008 October Quarterly Report Prior Notice, dated September 21, 2008.

-Non-Filer Letter, dated October 22, 2008.

-RTB Letter, dated December 11, 2008.

Attachment #: 3

Other RAD Information: (Y/N): N

Attachment#: N/A

29092642242

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:

Michael Halliwell
 Halliwell For Congress
 271 E. Statai Ave.
 Cotati, CA 94931

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X *James F Parker* Agent Addressee

B. Received by (Printed Name) C. Date of Delivery
JAMES F PARKER

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

Article Number 7005 1820 0001 7501 5
 (Transfer from service label)

290926422

DECLARATION OF NATALIYA IOFFE

1. I am the Chief of the Compliance Branch for the Reports Analysis Division of the Federal Election Commission ("Commission"). In my capacity as Chief of the Compliance Branch, I oversee the initial processing of the Administrative Fine Program. I make this declaration based on my personal knowledge and, if called upon as a witness, could and would testify competently to the following matters.
2. I hereby certify that documents identified herein are true and accurate copies of the following sent by the Commission to Halliwell for Congress:
 - A) Prior Notice, dated September 21, 2008, referencing the 2008 October Quarterly Report (sent via electronic mail to: HALLIWEL@CSULB.EDU);
 - B) Non-Filer Letter, dated October 22, 2008, referencing the 2008 October Quarterly Report;
 - C) Reason-to-Believe Letter, dated December 11, 2008, referencing the 2008 October Quarterly Report.
3. I hereby certify that I have searched the Commission's public records and find that Halliwell for Congress filed the 2008 October Quarterly Report with the Commission on October 22, 2008.
4. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct and that all relevant telecoms for the matter have been provided. This declaration was executed at Washington, D.C. on the 15th day of January, 2009.



Nataliya Ioffe
Chief, Compliance Branch
Reports Analysis Division
Federal Election Commission

29092642244



OCTOBER QUARTERLY
REPORT NOTICE

FEDERAL ELECTION COMMISSION

CONGRESSIONAL COMMITTEES

September 21, 2008

CURRENT REPORT DUE

REPORTING DATES

REPORT	REPORTING PERIOD ¹	REG. CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
October Quarterly	07/01/08 - 09/30/08	10/15/08	10/15/08

PRE- AND POST-ELECTION REPORTS

A committee whose candidate participates in a 2008 state primary, nominating convention or runoff election – even if unopposed – must also file a pre-election report 12 days prior to the primary, nominating convention or runoff. The campaign committee of a candidate who participates in the general election must file pre- and post-general election reports. Separate notices will be sent to explain these additional reporting obligations. See the January 2008 Record, which can be found on the FEC web site at www.fec.gov/pdf/record/2008/jan08.pdf

Supplemental Filing Information is available on pages 3 and 4 of this notice.

¹These dates indicate the beginning and the end of the reporting period. A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered up through the close of books for the first report due.

29092642245

REPORTING SCHEDULE FOR REMAINDER OF 2008

REPORTING DATES

REPORT	REPORTING PERIOD ¹	REG. CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
Pre-General	10/01/08 - 10/15/08	10/20/08	10/23/08
48 Hour Notices	10/16/08 - 11/01/08	---see p. 4 of notice---	
Post-General	10/16/08 - 11/24/08	12/04/08	12/04/08
Year-End	11/25/08 - 12/31/08	01/31/09	01/31/09 ²

PRE- AND POST-ELECTION REPORTS

A committee whose candidate participates in a 2008 state primary, nominating convention or runoff election – even if unopposed – must also file a pre-election report 12 days prior to the primary, nominating convention or runoff. The campaign committee of a candidate who participates in the general election must file pre- and post-general election reports. Separate notices will be sent to explain these additional reporting obligations. See the January 2008 Record, which can be found on the FEC web site at www.fec.gov/pdf/record/2008/jan08.pdf.

Supplemental Filing Information is available on pages 3 and 4 of this notice.

¹These dates indicate the beginning and the end of the reporting period. A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered up through the close of books for the first report due.

²Notice that this filing deadline falls on a weekend. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than Registered, Certified or Overnight Mail, or electronically, must be received before the Commission's (or for Senate candidates, the Secretary of the Senate's) close of business on the last business day before the deadline.

SUPPLEMENTAL FILING INFORMATION

PLEASE NOTE: The Commission provides reminders of upcoming filing dates as a courtesy to help committees comply with the filing deadlines set forth in the Act and Commission regulations. Committee treasurers must comply with all applicable filing deadlines established by law, and the lack of prior notice does not constitute an excuse for failing to comply with any filing deadline.

WHO MUST FILE

Principal campaign committees of congressional candidates³ (including unopposed candidates and candidates whose names do not appear on the ballot) must file an October Quarterly Report by October 15, 2008.⁴

Campaigns that raise or spend more than \$5,000 for the 2008 election cycle (and thus trigger registration and reporting requirements) must file quarterly reports throughout 2008, even if the candidate plans to retire, withdraws from the race prior to the primary election, loses the primary or drops out of the race prior to the general election. Before a committee can stop filing with the FEC, it must file a termination report with the Commission. Committees must continue to file reports until the Commission notifies them in writing that their termination report has been accepted.

METHODS OF FILING REPORTS

Electronic Filing

Reports filed electronically must be received and validated by the Commission by 11:59 p.m. Eastern Time on the filing deadline. For additional information, call the Electronic Filing Office at (800) 424-9530 or (202) 694-1642 or visit our website at www.fec.gov/elecfil/electron.shtml.

Under the Commission's mandatory electronic filing regulations, U.S. House committees that receive contributions or make expenditures in excess of \$50,000 in a calendar year, or that have reason to expect to do so, must file all reports and statements with the FEC electronically. Other U.S. House committees may voluntarily file electronically; however, any entity that files electronically, whether required to do so or not, must comply with the electronic filing rules. U.S. Senate committees that file with the Secretary of the Senate are not subject to the mandatory electronic filing rules, but may file an unofficial copy of their reports with the Commission in order to speed disclosure.

Registered & Certified Mail

Reports sent by Registered or Certified Mail must be postmarked on or before the mailing deadline to be considered timely filed. A committee sending its reports by Certified Mail should keep its certified mailing receipt with the U.S. Postal Service (USPS) postmark as proof of filing because the USPS does not keep complete records of items sent by Certified Mail. A committee sending its report by Registered Mail should keep its proof of mailing. Note that a Certificate of Mailing from the USPS is not sufficient to prove that a report is timely filed using Registered, Certified or Overnight Mail.

Overnight Mail

Reports filed via overnight mail will be considered timely filed if the report is received by the delivery service on or before the mailing deadline. "Overnight mail" includes Priority or Express Mail having a delivery confirmation, or an overnight delivery service with which the report is scheduled for next business day delivery and is recorded in the service's on-line tracking system.

³Generally, an individual becomes a candidate for Federal office (and thus triggers registration and reporting obligations) when his or her campaign exceeds \$5,000 in either contributions received or expenditures made. If the campaign has not exceeded the \$5,000 threshold, it is not required to file reports. See 11 CFR 100.3(a).

⁴If a candidate has more than one authorized committee, the principal campaign committee must also file a consolidated report on Form 3Z.

Other Means of Filing

Reports filed by any other means—including first class mail and courier—must be received by the Commission (or for Senate committees, the Secretary of the Senate) before the close of business on the last business day before the filing deadline.

Forms are available for downloading and printing at the FEC website at www.fec.gov/info/forms.shtml.

48 HOUR NOTICES ON CONTRIBUTIONS

Notices are required if the committee receives any contribution (including in-kind gifts or advances of goods or services; Loans from the candidate or other non-bank sources; and guarantees or endorsements of bank loans to the candidate or committee) of \$1,000 or more per source, during the period less than 20 days but more than 48 hours before any election in which the candidate is running.

The notices, which may be filed using Form 6, or under limited circumstances Form 10, must reach the appropriate federal and/or state filing office(s) within 48 hours of the committee's receipt of the contribution(s). U.S. Senate candidates must transmit the notices to the Secretary of the Senate by fax at (202) 224-1851. **Campaign committees that file electronically MUST submit their 48-hour notices electronically.** For more information, visit the FEC web site at www.fec.gov/electfil/online.shtml.

U.S. House candidates faxing 48-hour notices should transmit them to the FEC at (202) 219-0174. Paper forms are available at the FEC web site at www.fec.gov/info/forms.shtml.

COMPLIANCE

Treasurer Responsibility. Treasurers of political committees are responsible for both the timeliness and the accuracy of all reports. They may be subject to monetary penalties if reports are inaccurate or are not filed on time. For additional information, see the Commission's *Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings* on the web site at www.fec.gov/law/policy/2004/notice2004-20.pdf.

Administrative Fine Program. Under the Administrative Fine Program, political committees and their treasurers who fail to file their reports on time may be subject to civil money penalties up to \$16,000 (or more for repeat late- and non-filers).⁵ For additional information, visit the FEC website at www.fec.gov/af/af.shtml.

Report Format. In addition, political committees that file illegible reports or use non-FEC forms (except for FEC-approved, computer-generated forms) will be required to refile their reports.

Electronic Filers Must File Electronically. Electronic filers who instead file on paper, or who submit an electronic report (either by direct transmission, 3.5" diskette or CD) that does not pass the validation program by 11:59 p.m. Eastern Time on the filing deadline, will be considered non-filers and may be subject to enforcement actions (including administrative fines).

IMPORTANT FILING INFORMATION - PAPER FILERS

In response to the anthrax threat, the U.S. Postal Service is irradiating mail directed to many federal agencies, including the FEC and the Secretary of the Senate.⁶ This process has not only delayed mail delivery, it has also damaged and in some cases destroyed pieces of mail. As a result, committees that file reports with the FEC may want to consider submitting their reports by some means other than U.S. mail. Alternative methods include electronic filing, overnight mail service, and hand delivery.

⁵Penalties for late- or non-filing of 48-hour notices are based on the amount of contributions not timely disclosed. As a result, these penalties may exceed \$16,000, even for first-time violations.

⁶Senate committees should contact the Secretary of the Senate at (202) 224-0322 for more on filing reports via US mail.

FOR INFORMATION, CALL: (800) 424-9530 or (202) 694-1100



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 22, 2008

RQ-7

MICHAEL HALLIWELL, TREASURER
HALLIWELL FOR CONGRESS
271 E COTATI AVE
COTATI, CA 94931

IDENTIFICATION NUMBER: C00429282

REFERENCE: OCTOBER QUARTERLY REPORT 7/1/2008 - 9/30/2008

DEAR TREASURER:

IT HAS COME TO THE ATTENTION OF THE FEDERAL ELECTION COMMISSION THAT YOU MAY HAVE FAILED TO FILE THE ABOVE REFERENCED REPORT OF RECEIPTS AND EXPENDITURES AS REQUIRED BY THE FEDERAL ELECTION CAMPAIGN ACT, AS AMENDED.

YOU WILL BE ALLOWED FOUR (4) BUSINESS DAYS FROM THE DATE OF THIS NOTICE TO FILE THIS REPORT TO AVOID PUBLICATION.

THE REPORT MUST BE FILED WITH THE FEDERAL ELECTION COMMISSION, 999 E STREET, N.W., WASHINGTON, D.C. 20463 FOR HOUSE CANDIDATES, OR THE SECRETARY OF THE SENATE, 232 HART SENATE OFFICE BUILDING, WASHINGTON, D.C. 20510, FOR SENATE CANDIDATES. PLEASE NOTE THAT ELECTRONIC FILERS MUST SUBMIT THEIR REPORTS ELECTRONICALLY, AS PER 11 CFR §104.18. A COPY OF THE REPORT MUST ALSO BE FILED WITH THE SECRETARY OF STATE OR EQUIVALENT STATE OFFICER UNLESS THE STATE IS EXEMPT FROM THE FEDERAL REQUIREMENT TO RECEIVE AND MAINTAIN PAPER COPIES. IF YOU HAVE FILED THE REPORT TIMELY BY EXPRESS, CERTIFIED OR REGISTERED MAIL, PLEASE NOTIFY US IMMEDIATELY OF THE CERTIFIED, REGISTERED OR TRACKING NUMBER AND THE DATE THAT THE REPORT WAS SENT.

IN ADDITION, THE FAILURE TO TIMELY FILE THIS REPORT MAY RESULT IN CIVIL MONEY PENALTIES, AN AUDIT OR OTHER LEGAL ENFORCEMENT ACTION. THE CIVIL MONEY PENALTY CALCULATION FOR LATE REPORTS DOES NOT INCLUDE A GRACE PERIOD AND BEGINS ON THE DAY FOLLOWING THE DUE DATE FOR THE REPORT.

IF YOU HAVE ANY QUESTIONS REGARDING THIS MATTER, PLEASE CONTACT CHRISTOPHER RITCHIE IN THE REPORTS ANALYSIS DIVISION ON OUR TOLL FREE NUMBER (800)424-9530. OUR LOCAL NUMBER IS (202)694-1130.

SINCERELY,

PATRICIA CARMONA
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION (RAD)

2803989049992642249



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

2009 MAR 31 P 4: 28

SENSITIVE

March 31, 2009

MEMORANDUM

To: The Commission

Through: Robert A. Hickey
Staff Director

From: John D. Gibson
Chief Compliance Officer

Shawn Woodhead Werth
Reviewing Officer
Office of Administrative Review

By: Maureen Benitz
Reviewing Analyst

Subject: AF# 1895 – Halliwell for Congress and Michael Halliwell, as
Treasurer (C00429282)

The attached Reviewing Officer Recommendation is being circulated on an informational basis. A copy was also sent to the respondents in accordance with 11 C.F.R. § 111.36(f). The respondents may file with the Commission Secretary a written response within 10 days of transmittal of the recommendation.

After the 10 day period, the Reviewing Officer Recommendation and the respondents' written response, if any, will be circulated to the Commission to make a final determination.

Attachment

29092642250



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 31, 2009

**REVIEWING OFFICER RECOMMENDATION
OFFICE OF ADMINISTRATIVE REVIEW ("OAR")**

AF# 1895 – Halliwell for Congress and Michael Halliwell, as Treasurer (C00429282)

On December 10, 2008, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to timely file the 2008 October Quarterly Report, an election sensitive report, and made a preliminary determination that the civil money penalty was \$220 based on the schedule of penalties at 11 C.F.R. § 111.43. They were notified by the Reports Analysis Division ("RAD") on December 11, 2008 of the Commission's RTB finding and civil money penalty.

Respondents' Response

On January 7 and 12, 2009, the Commission received the written responses ("challenge") from the Treasurer who asks whether campaign reporting laws should punish his conduct considering the circumstances.¹ He is puzzled by the fine since he mailed the report on October 14 and thinks it should have reached the Commission no more than a day late. When he received the October 22 letter, he called the Commission and told staff that he mailed the report but no one at the Commission could find it. Staff told him not to send a second copy because there are often delays in posting them. He heard nothing more about it, so he assumed that the report was found. Since the report was posted on the same day the non-filer letter was sent, he thinks it got into the wrong stack on the Commission's end.

He concedes that he should have sent the report sooner; however, no one has been hurt by the late filing. The report only had \$6,938 in activity and less than \$100 was spent on the campaign during this period. From his own funds, he paid the rent for the headquarters and salary for two staffers that he would not lay off in this economy. The incumbent Congresswoman spent 100 times what he spent and the report would have only been useful to her staff in planning campaign strategy. He doubts anyone looked for the report during the time it was unavailable.

The timing of the filing was not his choice. There is an ongoing legal nightmare which he discussed in previous correspondence, and the campaign collapsed as a result of it. He is still fulfilling financial obligations made when he thought he would have a viable campaign. Attachments include RAD's October 22 letter, the first page of the RTB letter, and the 2008 30 Day Post-General and Year End Reports.

Analysis

The October Quarterly Report was filed on October 22, 2008, 7 days late.

¹ The challenge was submitted with two reports and inadvertently sent to be microfilmed. Once discovered, the document was deleted from the public record.

29092642251

29092642252

The Federal Election Campaign Act ("Act") states that the treasurer of an authorized committee of a candidate shall file a report for the period ending September 30 no later than October 15. 2 U.S.C. § 434(a)(2)(A)(iii) and 11 C.F.R. § 104.5(a)(1)(i). October Quarterly Reports sent by certified or registered mail, Priority or Express Mail with delivery confirmation, or by an overnight delivery service with an on-line tracking system and scheduled for next business day delivery must be postmarked or deposited with the mailing service no later than October 15 to be timely filed. Reports sent by first class mail must be received by the close of business on the filing date to be timely filed. 2 U.S.C. § 434(a)(5), and 11 C.F.R. §§ 100.19(b) and 104.5(e). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

On September 21, 2008, the October Quarterly Report Notice, which includes a section detailing the various methods for filing reports, was sent via email to halliwel@csulb.edu., the email address disclosed on their Statement of Organization. RAD's telecoms (written records of telephone conversations) show that on October 27, the Treasurer called the RAD Analyst about the non-filer letter and said that he filed the report. The Analyst confirmed that the report was received.

The report was mailed on October 14. If the Treasurer sent the report on that same day using any of the 2 U.S.C. § 434(a)(5) "safe harbor" options, such as certified or registered mail, Priority or Express Mail with delivery confirmation, or overnight delivery service with an on-line tracking system and scheduled for next business day delivery, it would have been timely filed. Instead, he chose to send it by first class mail. As a result, the report is considered filed on the day it was received, October 22.

With respect to the level of activity on the report, the Treasurer says that it is \$6,938. The administrative fine regulations define the level of activity for an authorized committee as total receipts plus total disbursements for the late filed report. 11 C.F.R. § 111.43(a)(2)(i)(A). Their report discloses \$6,988 in total receipts and \$6,938 in total disbursements, resulting in a level of activity totaling \$13,926. Therefore, the RTB civil money penalty was calculated correctly using the \$13,926 level of activity.

The Treasurer also refers to an ongoing legal nightmare as a reason that the report was filed late. It appears that he is referring to his April and May 2008 responses to RAD's requests for additional information sent in March and May 2008 for the 2006 and 2007 reports, and the 2008 April Quarterly Report. These responses mention two lawsuits, one involving ballot access for his 2006 election (the use of signatures in lieu of filing fees) and the other involving an eviction. Neither lawsuit appears to have any bearing on the filing of the October Quarterly Report.

Negligence is included at 11 C.F.R. § 111.35(d) as an example of a circumstance that is not considered reasonably unforeseen and beyond the respondents' control. The other issues raised in the challenge (no one was disadvantaged by the late filing and he is still fulfilling financial obligations) also do not fall within the list of defenses enumerated at 11 C.F.R. § 111.35(b). These are: (i) the RTB finding is based on factual errors; and/or (ii) the improper calculation of the civil money penalty; and/or (iii) they used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances that were beyond

their control and they filed the report no later than 24 hours after the end of these circumstances.

The Reviewing Officer, therefore, recommends that the Commission make a final determination that the respondents violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$220.

OAR Recommendations

- (1) Adopt the Reviewing Officer recommendation for AF# 1895 involving Halliwell for Congress and Michael Halliwell, as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 1895 that Halliwell for Congress and Michael Halliwell, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$220; and
- (3) Send the appropriate letter.

Reviewing Analyst: Maureen Benitz

Attachments

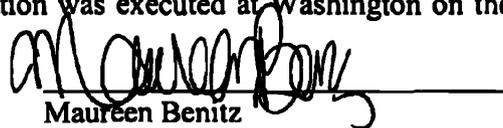
Attachment 1 – Challenge Received from Respondents

Attachment 2 – Declaration from RAD

Attachment 3 – Declaration from OAR

DECLARATION OF MAUREEN BENITZ

1. I am the Reviewing Analyst in the Office of Administrative Review for the Federal Election Commission ("Commission"). In my capacity as Reviewing Analyst, I conduct research with respect to all challenges submitted in accordance with the Administrative Fine program.
2. The 2008 October Quarterly Report is due October 15, 2008. If sent by first class mail, it must be received by October 15 to be timely filed.
3. I hereby certify that I have searched the Commission's public records and that the documents identified herein are the true and accurate copies of:
 - (a) Page 1 of the Statement of Organization filed by Halliwell for Congress and Michael Halliwell, as Treasurer. According to the Commission's records, the document is dated September 28, 2006, was received October 3, 2006, and lists "halliwel@csulb.edu" as the Committee's email address;
 - (b) a two-page letter dated April 1, 2008 filed by Halliwell for Congress and Michael Halliwell, as Treasurer. According to the Commission's records, the letter was received on April 7, 2008 and includes 13 pages of attachments. The letter is addressed to Christopher A. Whyrick and refers to "your various letters ... of March 4, 2008 and March 13, 2008." In the second paragraph, the letter says that "[m]y continuing candidacy after I lost the June 2006 6th CD primary election ... was ... a matter of maintaining my standing in a lawsuit ... over 'in lieu of filing fees' signatures." In the fourth paragraph, the letter says that "I had every intention of ... 'testing the waters' in the period before my ... 2008 ... campaign ..., but I never managed to do this (due to a continuing reprisal eviction lawsuit ... in the same ... Court as my 'in lieu signatures' case;"
 - (c) a two-page letter dated May 16, 2008 filed by Halliwell for Congress and Michael Halliwell, as Treasurer. According to the Commission's records, the letter was received on May 22, 2008 and includes three pages of attachments. The letter is addressed to Christopher A. Whyrick and refers to "your letter of May 6, 2008." In the fifth paragraph, the letter says that "[a]fter my congressional campaign was over, I continued as a write-in candidate to maintain standing in a lawsuit ... over ... my in-lieu of filing fees petitions." In the sixth paragraph, the letter says that "in the course of Halliwell v Lewis I antagonized some judges ... which has caused me unending grief in a subsequent eviction lawsuit;" and
 - (d) Page 1 of the Summary Page, Page 4 of the Detailed Summary Page, and the Envelope Replacement Page for the 2008 October Quarterly Report filed via first class mail by Halliwell for Congress and Michael Halliwell, as Treasurer. According to the Commission's records, the report covers the period from July 1 through September 30, 2008, was sent October 14, 2008, and was received October 22, 2008. For this period, Lines 24 and 26 list \$6,988 in total receipts and \$6,938 in total disbursements, respectively.
4. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Washington on the 31st of March, 2009.



Maureen Benitz
Reviewing Analyst
Office of Administrative Review
Federal Election Commission

29092642254

RECEIVED
FEC MAIL
OPERATIONS CENTER

OCT -3 A 8 55

FEC
FORM 1

STATEMENT OF
ORGANIZATION

Office Use Only

1. NAME OF COMMITTEE (in full) (Check if name is changed) Example: If typing, type over the lines.

12FB4M5

HALLIWELL FOR CONGRESS

ADDRESS (number and street)

532 COLLEGE AVE #3

(Check if address is changed)

SANTA ROSA

CA

95404-1

CITY ▲

STATE ▲

ZIP CODE ▲

COMMITTEE'S E-MAIL ADDRESS

halliwell@csulb.edu

COMMITTEE'S WEB PAGE ADDRESS (URL)

COMMITTEE'S FAX NUMBER

2. DATE

09 29 2006

3. FEC IDENTIFICATION NUMBER ▶

C

4. IS THIS STATEMENT

NEW (N)

OR

AMENDED (A)

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer

Michael Halliwell

Signature of Treasurer

Michael Halliwell

Date

09 29 2006

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.

ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

Office Use Only

For further information contact:
Federal Election Commission
Toll Free 800-424-9530
Local 202-694-1110

FEC FORM 1
(Revised 02/2003)

FEC30404.PDF

29092642255
26039192925



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA OVERNIGHT DELIVERY

April 1, 2009

Michael Halliwell, as Treasurer
Halliwell for Congress
271 E. Cotati Avenue
Cotati, CA 94931

C00429282
AF# 1895

Dear Mr. Halliwell:

On December 10, 2008, the Federal Election Commission ("Commission") found reason to believe ("RTB") that Halliwell for Congress and you, as Treasurer ("respondents"), violated 2 U.S.C. § 434(a) for failing to timely file the 2008 October Quarterly Report. The Commission also made a preliminary determination that the civil money penalty was \$220 based on the schedule of penalties at 11 C.F.R. § 111.43.

After reviewing the written response and any supplemental information submitted by you and Commission staff, the Reviewing Officer has recommended that the Commission make a final determination in this matter. A copy of the Reviewing Officer's recommendation is attached.

You may file with the Commission Secretary a written response to the recommendation within 10 days of the date of this letter. Your written response should be sent to the Commission Secretary, 999 E Street, NW, Washington, DC 20463. As a result of the anthrax threat in the Washington, DC area, US Postal Service mail delivery to federal agencies, including the Commission, has been interrupted. Until regular mail delivery resumes, you may also file your written response with the Commission Secretary via facsimile (202-208-3333) or by courier at the same address (if you use an overnight delivery service, please use zip code 20004 instead of zip code 20463). Please include the AF # in your response. Your response may not raise any arguments not raised in your original written response or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). The Commission will then make a final determination in this matter.

Please contact me at the toll free number 800-424-9530 (press 0, then press 1660) or 202-694-1660 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Jill I. Sugarman".

Jill I. Sugarman
Reviewing Analyst
Office of Administrative Review

Attachment

29092642256

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

Michael J. Halliwell
271 E. Cotati Avenue, Cotati CA 94931
April 7, 2009

2009 APR -8 A 9 20

Federal Elections Commission
999 "E" St. N.W.
Washington, DC 20004
Commission Secretary
Re: AF#1895 for C00429282

I will stick to the "four corners" of your analyst's recommendation, **shown in bold.**

A. The October Quarterly Report was filed on October 22, 2008, 7 days late. [CFR regulations quoted]. The report was mailed on October 14. If the Treasurer sent the report on the same day using any of the 2 U.S.C. Sec 434(a)(5) "safe harbor" options, such as certified or registered mail, Priority or Express Mail with delivery confirmation, or overnight deliver delivery service with an on-line tracking system and scheduled for next business day delivery, it would have been timely filed. Instead, he chose to send it by first class mail. As a result, the report is considered filed on the day it was received, October 22.

I do appreciate that security measures relating to mail delivery to federal agencies must have contributed heavily to the EIGHT DAYS it took for mail to reach the FEC, but I had no reason to believe that my report would be more than ONE day late. It is worth noting that the day before October 14, 2008 was Columbus Day, and the day before that was a Sunday. Considering the shortage of funds of nearly everyone around me, was it truly reasonable for me to use the various forms of rush delivery or "cover your backside certification" to get around the fact that it would have done no good to have prepared my report a couple of days earlier? As explained below, and not addressed in your analysis, there was nothing consequential in my report, and I had no choice in my last minute mailing, due to STILL CONTINUING circumstances beyond my control.

B. On September 21, 2008, the October Quarterly Report Notice, which includes a section detailing the various methods for filing reports, was sent via email to halliwell@csulb.edu., the email address disclosed on their Statement of Organization. RAD's telecoms (written records of telephone conversations) show that on October 27, the Treasurer called the RAD Analyst about the non-filer letter and said that he filed the report. The Analyst confirmed that the report was received.

I (the treasurer of my campaign as well as the candidate) did in fact receive the October Quarterly Report Notice, BUT THERE WAS NOTHING THEREIN WHICH HINTED AT THE FACT THAT MAIL DELIVERY TO WASHINGTON DC WAS FOUR TIMES SLOWER THAN IN MY RECENT EXEPERIENCE. IF YOUR ANALYSTS TRULY BELIEVE THERE IS NOTHING IN LIFE MORE IMPORTANT THAN TIMELY FILING OF A REPORT ON A NON-EXISTENT CAMPAIGN, THEY WILL SURELY DOOM THE REPORTING SYSTEM THEY ARE TRYING TO DEFEND.

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Look at the date of my phone call, and you will appreciate how truly busy I was during the time period in question. I do support full disclosure of campaign spending and would not have willingly been late with my report, as one can see from my pre-primary reports in my 2006 campaign (before my problems in Sonoma County Superior Court became a virtually around-the-clock concern).

C. With respect to the level of activity on the report, the Treasurer says that it is \$6,938. The administrative fine regulations define the level for an authorized committee as total receipts plus total disbursements for the late filed report. 11 C.F.R. Sec 111.43(a)(2)(i)(A). Their report discloses \$6988 in total receipts and \$6,938 in total disbursements, resulting in a level of activity totaling \$13,926. Therefore, the RTB civil money penalty was calculated correctly using the \$13,926 level of activity.

There was only \$50 in actual campaign receipts. Writing personal checks to pay two people who would have worked on my campaign, had there been one, is NOT campaign activity. There is no justification in equating "level of activity" with amounts reported. This is a bookkeeping device which ignores political reality. If I had wanted to, I could have simply written personal checks directly to my friends. However, I believe that those involved in politics should "live in a fish bowl," because of the great abuses which can easily result from "off the record" activity by political aspirants. My act of putting everything on the record does not somehow transform receiving \$50, and matching it with my own funds, into any more than the \$100 I claim is the proper "level of activity."

Somehow your analyst discerns "campaign activity" from expenditures which are FLAT during the three months covered by the report in question, the month of October which precedes the election, and the two post election months of November and December.

#1. Payments to Stan Denner (pursuant to a long standing arrangement, not subject to modification during a really rotten seller's real estate market, without leaving the landlord "up the creek without a paddle") of \$420 per month on 7/01/08, 7/26/08, 8/27/08, 9/28/08, 11/01/08 & 12/01/08.

#2. Payments to Laurel Robinson (who has been looking hard for a replacement job for a long time, and still hasn't been able to find anything but \$5 piece-rate inspections since I finally had to lay her off in January 2009) which varied slightly according to the number of working days in the month, but always remained very close to an average of \$1000 per month (with medical reimbursement paid separately toward the end) on 7/25/08, 8/25/08, 9/23/08, 10/24/08, 11/26/08 & 12/19/08.

#3. Payments to James Parker (at the same hourly rate as Laurel Robinson, but for only 1/3 as many hours, his only employment during this stretch of time) which averaged \$345 per month on 7/25/08, 8/25/08, 9/23/08, 10/24/08, 11/26/08, & 12/19/08.

#4. Payments to Scott Technology (to keep in force a maintenance agreement for our copying machine) of \$240 on 8/1/08, 9/28/08, 10/23/08 & 12/03/08 are not reflective of

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campaign activity, but of the fact that I had a hard time scraping up the money and fell two months behind (which I just recently paid off).

#5. I did use the \$50 contribution I received from Joyce Tappan on 7/15/08 for political purposes (a few flyers I printed to hand out at my three speaking engagement during this three month period) along with about the same amount of my own funds.

#6. My total contributions during the ENTIRE campaign did not even pay for my filing fee.

#7. The rationale for requiring reporting of spending of a candidate's own money, is the effect his campaign spending might have on other campaigns. **THERE WAS NO SUCH EFFECT IN MY CASE.**

Prior to the collapse of my campaign I made commitments, which I lived up to, but none of this spending had any **POLITICAL IMPACT**, and therefore do not come within the **INTENT** of campaign expense reporting law. The collapse of my campaign was so complete, that I didn't even have time to make use of the free "webspaces" for my various position papers, which I utilized in my 2006 campaign (when I lost in the primary).

D. The Treasurer also refers to an ongoing legal nightmare as a reason that the report was filed late. It appears that he is referring to his April and May 2008 responses to RAD's requests for additional information sent in March and May 2008 for 2006 and 2007 reports, and the 2008 April Quarterly Report. These responses mention two lawsuits, one involving ballot access for his 2006 election (the use of signatures in lieu of filing fees) and the other involving an eviction. Neither lawsuit appears to have any bearing on the filing of the October Quarterly Report.

Michael Halliwell abandoned his ballot access lawsuit, because he simply had no means of carrying forward the necessary appeals, because of the time pressure created by the eviction lawsuit. He was a **DEFENDANT** in the eviction lawsuit and had no choice but to "stand and fight" with respect to escalating fees demands from the opposing lawyer (which now exceed \$50,000). Anyone wishing to check on the reality of this ongoing ordeal can start with its California Supreme Court case numbers S163276, S168827, S169634 & S170538 and use the lower court case numbers available on-line, to access the publicly available records. Suffice it to say that Appellate Branch hearings in Sonoma County Superior Court on September 25, 2008 and November 20, 2008 and associated 50-day briefing cycles made it exceedingly difficult for self-represented tenants to "keep their heads above water" even spending practically every waking hour doing legal research and writing briefs. **IF ANYONE IS SERIOUSLY INTERESTED IN DEALING WITH THE UNDERLYING TRUTH IN THIS MATTER, ALL OF DEFENDANTS' FILINGS ARE AVAILABLE IN ELECTRONIC FORM. HAVE ONE OF YOUR LAWYERS TAKE A LOOK AND SEE IF HE OR SHE CAN EVISION DOING ANY BETTER IN THE AVAILABLE TIME, AND ASK THIS LAWYER WHETHER A REASONABLE PERSON AWARE OF THE FACTS, WOULD HAVE DIVERTED ANY TIME DURING THIS CRUNCH PERIOD TO FILING A TOTALLY**

**INCONSEQUENTIAL (ABOUT \$100 OF REAL POLITICAL ACTIVITY) REPORT
ON A LONG DEAD POLITICAL CAMPAIGN.**

E. Negligence is included at 11 C.F.R. Sec 111.35(d) as an example of the circumstances that is not considered reasonably unforeseen and beyond the respondents' control. The other issues raised in the challenge (no one was disadvantaged by the late filing and he is still fulfilling financial obligations) also do not fall within the list of defenses enumerated at 11 C.F.R. Sec 111.35(b). These are: (i) the RTB finding is based on factual errors; and/or (ii) the improper calculation of the civil money penalty; and/or (iii) they used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances that were beyond their control and they filed the report no later than 24 hours after the end of these circumstances.

With respect to unsupported use of the term negligence, there is no basis for such usage in connection with spending one's own personal funds to keep loyal friends employed who have no other job prospects. These people made a commitment to the ideals I stand for and for which I expected to be able to campaign. There is nothing in my history that would have caused them to anticipate what happened to cause my campaign to collapse, but if they had been able to anticipate what would happen, perhaps they could have made other arrangements in the better economic times which existed when I became their employer. With respect to "no one was disadvantaged by the late filing": this goes directly to the issue of negligence. Considering what was involved in the report in question, this is truly a case of "no harm, no foul." It has been my policy, which the FEC certainly should not discourage, of reporting anything that looks like it might be political and let people make their own judgments. No such judgment has been forthcoming in this recommendation. **THE ONLY REASON WHY MY SPENDING IS TERMED POLITICAL IS BECAUSE I HAVE PUT IT AN FEC REPORT. THERE IS NO ONE IN THE 6TH CONGRESSIONAL DISTRICT WHO CARES ABOUT SUCH MATTERS, WHO WOULD NOT AGREE THAT THERE WAS NO HALLIWELL FOR CONGRESS CAMPAIGN DURING THE TIME PERIOD COVERED BY THIS REPORT.**

#F. The Reviewing Officer, therefore, recommends that the Commission makes a final determination that the respondents violated 2 U.S.C. Sec 434(a) and assess a civil money penalty of \$220.

There is nothing factual about doubling what is not campaign activity on the spending side, simply because I listed my financing of this spending, as if it were contributions by others. **PLEASE LOOK AT THE NAME OF THE CONTRIBUTOR, NOT JUST THE TOTAL AT THE BOTTOM OF THE PAGE. NO ONE** could have foreseen my long legal ordeal, and I did, in fact, use my best efforts to file as soon as possible. There **IS NO WAY** out of a legal quagmire (when one is the defendant) except to appeal to higher and higher courts, which is what I am doing. Since the circumstances depriving me of control of my own schedule have not yet ended, I am **STILL** within the grace period and should not have been penalized for what must be **THE MOST PURELY TECHNICAL VIOLATION OF ANYTHING IN YOUR FILES.**

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It has taken me many hours to prepare this report, and it seems that many more hours were spent by FEC staff in so thoroughly documenting their recommendation. However, thoroughness is no substitute for common sense. What a waste it is, for so much effort to have been expended for so little purpose. Surely you have heard of so called "insensitive bureaucrats." I doubt very much that you would willingly add to such stereotypes. Enforcers of regulations need to be more than hard driving. To steal a phrase from automotive safety councils: DRIVE CAREFULLY, THE POLITICAL REFORM YOU SAVE MAY BE YOUR OWN.

LEST THERE BE ANY DOUBT, I HEREBY APPEAL THE RECOMMENDED \$220 FINE, WHICH IS \$220 MORE THAN IT SHOULD BE.

Sincerely,



Michael J. Halliwell

halliwel@csulb.edu

P.S. I am still in my legal quagmire, but could answer any e-mail Reviewing Analyst Jill I. Sugarman might send (which provides much more time flexibility than a phone call).

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

2009 APR 30 P 3: 49

April 30, 2009

MEMORANDUM

To: The Commission

Through: Robert A. Hickey
Staff Director

From: John D. Gibson
Chief Compliance Officer

Shawn Woodhead Wert
Reviewing Officer
Office of Administrative Review

By: Maureen Benitz
Reviewing Analyst

Subject: Final Determination Recommendation in AF# 1895 – Halliwell for Congress and Michael Halliwell, as Treasurer (C00429282)

SENSITIVE

On December 10, 2008, the Commission found reason to believe (“RTB”) that the respondents violated 2 U.S.C. § 434(a) for failing to timely file the 2008 October Quarterly Report, an election sensitive report. As a result, the Commission also made a preliminary determination that the civil money penalty was \$220 based on the schedule of penalties at 11 C.F.R. § 111.43.

On January 7 and 12, 2009, the Commission received their written response (“challenge”). After reviewing the challenge, the Reviewing Officer’s recommendation dated March 31, 2009 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. The Reviewing Officer recommended that the Commission make a final determination that they violated 2 U.S.C. § 434(a) and assess a \$220 civil money penalty because they submitted no evidence that a factual error was made in the RTB finding, that the penalty was miscalculated at RTB or that they used best efforts to file on time. 11 C.F.R. § 111.35(b).

Within 10 days of transmittal of the recommendation, they may file a written response with the Commission Secretary which may not raise any arguments not raised in their challenge or not directly responsive to the Reviewing Officer’s recommendation. 11 C.F.R. § 111.36(f).

On April 8, 2009, the Commission received the written response from the Treasurer which expands upon the issues raised in the challenge and addressed in the Reviewing Officer recommendation: his use of first class mail, his receipt of the Prior Notice, the

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level of activity in the report and his involvement in two lawsuits. Nonetheless, he does not raise any new facts which would change the Reviewing Officer's recommendation.

He recognizes that security measures contributed to the 8 day delay in receiving the report, but he had no idea it would be more than a day late as there was nothing in the Report Notice which suggested to him that mail delivery to Washington was four times slower than his recent experiences. He was advised in the Prior Notice of potential delays which could result from using first class mail and still chose that option to send the report to the Commission on the day before the filing deadline.

The level of activity for an authorized committee under the Administrative Fines regulations is total receipts plus total disbursements on the late filed report. 11 C.F.R. § 111.43(a)(2)(i)(A). At 2 U.S.C. § 434(b)(2)(B), it states that contributions from the candidate are included in total receipts. The activity the Treasurer describes in his response corresponds to that which he itemized on the October Quarterly Report: the \$50 individual contribution, \$6,938 in candidate contributions, and \$6,095 in expenditures to staff and a vendor. The report also itemizes \$843 in expenditures for payroll taxes and state withholding. Thus, the level of activity on the October Quarterly Report is not \$100 as the Candidate contends; the level of activity is \$13,926: $(\$50 + \$6,938) + (\$6,095 + \$843)$.

The Treasurer explains that he abandoned the ballot access lawsuit but hearings were held for the eviction lawsuit in Sonoma County Superior Court on September 25 and November 20, 2008. The fact that the Treasurer apparently represented himself in the eviction hearings which were scheduled 3 weeks before and 5 weeks after the report was due, had to do legal research, and write the briefs does not trump the Treasurer's responsibility to file campaign finance reports on time.

The Treasurer says he used best efforts to file the report. Because the best efforts defense was not raised in the challenge and, therefore, is not directly responsive to the Reviewing Officer's recommendation, it is not addressed by the Reviewing Officer in this memorandum. 11 C.F.R. § 111.36(f).

The Reviewing Officer recommends that the Commission make a final determination that they violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$220.

OAR Recommendations

- (1) Adopt the Reviewing Officer recommendation for AF# 1895 involving Halliwell for Congress and Michael Halliwell, as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 1895 that Halliwell for Congress and Michael Halliwell, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$220; and
- (3) Send the appropriate letter.

Attachment 1 – Respondents' Response

Attachment 2 – 2008 October Quarterly Report

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) AF 1895
 Final Determination Recommendation:)
 Halliwell for Congress and Michael)
 Halliwell, as Treasurer (C00429282))

CERTIFICATION

I, Darlene Harris, recording secretary for the Federal Election Commission executive session on May 19, 2009, do hereby certify that the Commission decided by a vote of 4-2, on an amended pre-meeting tally, to take the following actions in AF 1895:

1. Adopt the Reviewing Officer recommendation for AF 1895 involving Halliwell for Congress and Michael Halliwell, as Treasurer, in making the final determination.
2. Make a final determination in AF 1895 that Halliwell for Congress and Michael Halliwell, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$220.
3. Send the appropriate letter.

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

Attest:

May 21, 2009
 Date

Darlene Harris
 Darlene Harris
 Deputy Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 10, 2009

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michael Halliwell, as Treasurer
Halliwell for Congress
271 E. Cotati Avenue
Cotati, CA 94931

C00429282
AF# 1895

Dear Mr. Halliwell:

On December 10, 2008, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Halliwell for Congress and you, as Treasurer, violated 2 U.S.C. § 434(a) for failing to timely file the 2008 October Quarterly Report, an election sensitive report. By letter dated December 11, 2008, the Commission sent you notification of the RTB finding that included a civil money penalty calculated at RTB of \$220 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On January 7 and 12, 2009, the Office of Administrative Review received the written responses from you challenging the RTB civil money penalty.

The Reviewing Officer reviewed the Commission's RTB finding with its supporting documentation and the written response. Based on this review, the Reviewing Officer recommended that the Commission make a final determination that Halliwell for Congress and you, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty in the amount of \$220 in accordance with 11 C.F.R. § 111.43. The basis for the Reviewing Officer's recommendation was included in the Final Determination Report, a copy of which was sent to you on April 1, 2009.

On April 8, 2009, the Commission received your response. On May 19, 2009, the Commission adopted the Reviewing Officer's recommendation and made a final determination that Halliwell for Congress and you, as Treasurer, violated 2 U.S.C. § 434(a) and assessed a civil money penalty of \$220. It is based on the same factors used to calculate the civil money penalty at RTB. A copy of the final determination recommendation is attached.

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

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determination be modified or set aside. See 2 U.S.C. § 437g(a)(4)(C)(iii). The 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.

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.

If You Choose to Pay the Civil Money Penalty

If you should decide to pay the civil money penalty, send the enclosed form and 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 30 days from the date of the Commission's notification, this could occur at any time following certification of the Commission's vote.

If you have any questions regarding the payment of the civil money penalty, please contact Maureen Benitz on 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

Attachment

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ADMINISTRATIVE FINE PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the civil money penalty is \$220 for the 2008 October Quarterly 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: Halliwell for Congress

FEC ID#: C00429282

AF#: 1895

PAYMENT AMOUNT DUE: \$220

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**AGREEMENT AS TO THE METHOD OF CERTIFYING
DEBTS SUBMITTED TO THE FINANCIAL MANAGEMENT SERVICE'S
CROSS-SERVICING PROGRAM**

This Agreement is submitted by: Federal Election Commission

Creditor Agency: Federal Election Commission

Date of Agreement: December 18, 2008

The Creditor Agency agrees that:

- I. This Agreement (henceforth referenced as 'Agreement') covers all debts, including updates, changes, and modifications (Debts) submitted by Electronic Transmission on or after the date of this Agreement, by the Creditor Agency (henceforth referenced as 'Agency') to the Financial Management Service (FMS), a bureau of the U.S. Department of the Treasury, for collection through the FMS's Cross-Servicing Program (Cross-Servicing).;
- II. The Agency will submit debts to Cross-Servicing via Electronic Transmission of "Add Records" or "Update Records," as described in the attached Exhibit A. Each time the Agency submits a Debt via an Add Record or Update Record, the Agency is certifying the Debt;
- III. Any person who submits Debts via an Add Record or Update Record has or will have delegated authority to certify the Debts on behalf of the head of the Agency, and the Agency will provide a copy of this Agreement to any such person; and,
- IV. By submitting Debts via an Add Record or Update Record, the person submitting such Debts is certifying to the U.S. Department of the Treasury, under penalty of perjury pursuant to 5 U.S.C. § 5514, 31 U.S.C. § 3716, 31 U.S.C. § 3720A, and 28 U.S.C. § 1746, that to the best of his or her knowledge and belief, the following is true and correct:
 1. **Valid Debts.** The debts are delinquent, valid and legally enforceable in the amounts stated.
 2. **No Bar to Collection.** The debts are not subject to any circumstances that legally preclude or bar collection, including collection by offset. There are no foreclosures pending with respect to any collateral securing a debt. The Agency's records do not show that any debtor owing a debt has filed for bankruptcy protection. Alternatively, the Agency can clearly establish that any automatic stay has been lifted or is no longer in effect.

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- 3. **Administrative Offset and Tax Refund Offset.** If the Agency has established a profile instructing FMS to refer debts to the Treasury Offset Program (TOP) on its behalf for the purposes of tax refund and administrative offset, the person submitting such debts will be certifying to the following:
 - a. The Agency has complied with all of the provisions of 31 U.S.C. § 3716, 31 U.S.C. § 3720A, 31 C.F.R. §§ 285.2 and 285.5, and the Federal Claims Collection Standards (31 C.F.R. Parts 900-904), as may be amended, as well as other statutes, regulations and policies applicable to collection by administrative offset and tax refund offset. No Debt is more than 10 years delinquent, except for those Debts that may be legally offset if more than 10 years delinquent.
 - b. At least 60 days prior to the date of the certification (i.e., date of Electronic Transmission), the Agency has provided, or made a reasonable attempt to provide in accordance with applicable offset regulations, each debtor with:
 - i. written notification, at the debtor's most current known address, of the nature and the amount of the debt, the intention of the Agency to collect the debt through administrative offset and tax refund offset, including offset of State payments, and an explanation of the rights of the debtor;
 - ii. an opportunity to inspect and copy the records of the Agency with respect to the debt;
 - iii. an opportunity for review within the Agency of the determination of the Agency with respect to the debt, including the opportunity to present evidence that all or part of the debt is not past-due or legally enforceable; and
 - iv. an opportunity to enter into a written repayment agreement with the Agency
 - c. The Agency has considered any evidence presented by the debtor and determined that the amount of the debt is past-due and legally enforceable and there are no pending appeals of such determination.
 - d. The Agency has, at minimum, made the following reasonable efforts to obtain payment of the debt: demanded payment and provided the debtor with the notice and opportunities described in paragraph 3.b.

4. ***Due Process Compliance for Salary Offset.*** With respect to the offset of Federal salaries, if the Agency has authorized FMS to set up an agency profile so that all debts are referred to TOP for offset of federal salary payments:

- a. The Agency has complied with all of the provisions of 5 U.S.C. § 5514, 5 C.F.R. §§ 550.1101-1110, and 31 CFR 285.7, as may be amended, as well as other statutes, regulations and policies applicable to collection by salary offset.
- b. The Agency has provided, or made a reasonable attempt to provide, each debtor with the notice, opportunities, and considerations described in paragraphs 3.B. and 3.C. and the additional notices and opportunities, including the opportunity for waiver consideration and for a hearing, required for salary offset.

5. ***Consumer Reporting Agencies.*** The Agency has complied with all of the provisions of 31 U.S.C. § 3711(e) and the Federal Claims Collection Standards, as well as other statutes, regulations and policies applicable to the Agency's reporting of delinquent debts to consumer reporting agencies. The Agency has:

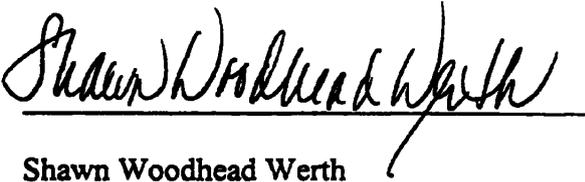
- a. determined that the debts are valid and overdue;
- b. notified the debtor, more than 60 days prior to the date of the certification:
 - i. that the debt is overdue,
 - ii. that the Agency intends to disclose to a consumer reporting agency that the debtor is responsible for the debt,
 - iii. of the specific information to be disclosed to the consumer reporting agency, and
 - iv. of the debtor's rights to an explanation of the claim, to dispute the information in the Agency's records about the claim, and to administrative repeal or review of the claim; and
- c. upon the request of a debtor, provided for a review of any debtor's claim, including an opportunity for reconsideration of the initial decision on the claim.

In addition, no debtor has repaid or agreed to repay the claim under a signed repayment agreement or filed for review of the claim.

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6. ***Interest and Penalties.*** The Agency has complied with all of the provisions of 31 U.S.C. § 3717 and the Federal Claims Collection Standards, as well as other statutes, regulations and policies applicable to Agency's assessment of interest, penalties and administrative costs. The Agency has mailed or hand-delivered a written notice to all debtors explaining the Agency's requirements concerning the charges.

CERTIFICATION: Pursuant to 28 U.S.C. § 1746, I certify that I have been delegated authority to execute this Agreement on behalf of the head of my agency.



Shawn Woodhead Werth

Director, Office of Administrative Review



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 1895

DATE SCANNED 10/8/09

SCANNER NO. 2

SCAN OPERATOR EEJ

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