



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 2101

DATE SCANNED 10-19-09

SCANNER NO. 2

SCAN OPERATOR J. H. 10

29092643042



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

SECRET

2009 JUN 17 A 9:13

June 16, 2009

**SENSITIVE**

MEMORANDUM

TO: THE COMMISSION

THROUGH: ROBERT A. HICKEY  
STAFF DIRECTOR

FROM: JOHN D. GIBSON  
CHIEF COMPLIANCE OFFICER

PATRICIA CARMONA  
ASSISTANT STAFF DIRECTOR  
REPORTS ANALYSIS DIVISION

BY: NATALIYA IOFFE/RHIANNON MAGRUDER  
COMPLIANCE BRANCH

SUBJECT: REASON TO BELIEVE RECOMMENDATION -  
FAILURE TO FILE 48-HOUR NOTICES UNDER THE  
ADMINISTRATIVE FINE PROGRAM

Attached is the name of a principal campaign committee that has failed to file 48-hour notices with the Commission for contributions of \$1,000.00 or more received from the close of books for the Louisiana 12 Day Pre-Primary Election Report up to 48 hours before the October 4, 2008 Primary Election in accordance with 2 U.S.C. § 434(a)(6) and 11 CFR. § 104.5(f). The committee, Byron Lee for Congress, represents a candidate who lost the Louisiana Primary Election. The committee is being referred for failing to file 48-hour notices for contributions totaling \$67,000.00.

A 48-hour notice is required to report all contributions of a \$1,000.00 or more, to any authorized committee of a candidate, including contributions from the candidate, loans from the candidate and other non-bank sources and endorsements or guarantees of loans from banks, as per, 11 CFR § 104.5(f).

We have attached an information sheet which includes the contributor name, date of receipt and amount of the contributions for which a 48-hour notice was not filed.

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In accordance with the schedule of civil money penalties outlined within 11 CFR § 111.44, this committee should be assessed the civil money penalty so indicated.

**Recommendation**

1. Find reason to believe that Byron Lee for Congress and Lester Dunn, Jr., Treasurer, violated 2 U.S.C. § 434(a)(6) and make a preliminary determination that a civil money penalty of \$7,030.00 be assessed.
2. Send the appropriate letter.

**Attachment**

29092643044

**Contributions for Which a 48-Hour Notice Was Not Received**

**AF 2101**

**Committee ID: C00451104**

**Committee Name: Byron Lee for Congress**

**Report Type: October Quarterly Report (9/15/2008 – 9/30/2008)**

**Year End Report (10/1/2008 – 12/31/2008)**

**48-Hour Reporting Period: 9/15/2008 – 10/1/2008**

<b>CONTRIBUTOR NAME</b>	<b>DATE</b>	<b>AMOUNT</b>
LEE, BYRON LYNN	9/15/2008	\$12,000
LEE, BYRON LYNN	9/19/2008	\$15,000
LEE, BYRON LYNN	9/25/2008	\$40,000
	<b>TOTAL</b>	<b>\$67,000</b>

**Proposed Civil Money Penalty: \$7,030.00 ((3 Notices Not Filed at \$110 each) + (10% of Overall Contributions Not Filed))**

29092643045

AF#	Committee ID	Committee Name	State	Election	Candidate Name	Treasurer	Prev Violations	Notices Not Filed	LOA	Penalty
2101	C00451104	BYRON LEE FOR CONGRESS	LA	2008 PRIMARY	LEE, BYRON LYNN	LESTER DUNN, JR.	0	3	\$67,000	\$7,030

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Reason To Believe Recommendation - ) AF 2101  
Failure to File 48-Hour Notices Under )  
The Administrative Fine Program: Byron )  
Lee for Congress and Lester Dunn, Jr. , )  
as treasurer )

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on June 18, 2009, the Commission decided by a vote of 6-0 to take the following actions in AF 2101:

1. Find reason to believe that Byron Lee for Congress and Lester Dunn, Jr., Treasurer, violated 2 U.S.C. § 434 (a)(6) and make a preliminary determination that a civil money penalty of \$7,030.00.
2. Send the appropriate letter, as recommended in the Memorandum from the Chief Compliance Officer and the Assistant Staff Director, Reports Analysis Division dated June 16, 2009

Commissioners Baucly, Hunter, McGahn II, Petersen, Walther and

Weintraub voted affirmatively for the decision.

Attest:

June 18, 2009  
Date

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

29092643047



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 26, 2009

Lester Dunn, Jr. as Treasurer  
Byron Lee for Congress  
1901 Westbank Expressway, Suite 600  
Harvey, LA 70058

C00451104  
AF#: 2101

Dear Mr. Dunn:

The Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431, *et seq.* ("the Act"), requires principal campaign committees of candidates for federal office to notify in writing either the Secretary of the Senate or the Federal Election Commission ("FEC"), and the Secretary of State, as appropriate, of any contribution of \$1,000 or more, received by any authorized committee of the candidate after the 20th day, but more than 48 hours before, any election. 2 U.S.C. 434(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. *Id.* These notification requirements are in addition to all other reporting requirements. 2 U.S.C. § 434(a). 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). Our records indicate that Byron Lee for Congress did not submit 48-Hour Notices for contributions of \$1,000 or more, received between September 15, 2008 and October 1, 2008, totaling \$67,000, as required by 2 U.S.C. § 434(a)(6)(A). Attachment 1.

On June 18, 2009, the FEC found that there is Reason to Believe ("RTB") that Byron Lee for Congress and you as treasurer violated 2 U.S.C. § 434(a) by failing to file the 48-Hour Notices. Based on the FEC's schedule of civil money penalties at 11 C.F.R. § 111.44, the amount of your civil money penalty calculated at the RTB stage is \$7,030. Please see the attached copy of the Commission's administrative fine regulations at 11 C.F.R. §§ 111.30-111.46. Attachment 2. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. <http://www.fec.gov/af/af.shtml>. 11 C.F.R. § 111.34. The amount of the civil money penalty is \$110 for each non-filed notice plus 10 percent of the dollar amount of the contributions not timely reported. The civil money penalty increases by 25 percent for each prior violation. Send your payment of \$7,030 within forty (40) days of the finding, or by July 28, 2009.

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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 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 July 28, 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 Byron Lee for Congress and you as treasurer violated 2 U.S.C. § 434(a) and assess a civil money penalty.

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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.

**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

29092643050

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**ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 C.F.R. § 111.44, the amount of your civil money penalty calculated at RTB is \$7,030 for the 2008 Primary Election 48-Hour Notification 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 July 28, 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**  
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FOR: Byron Lee for Congress

FEC ID#: C00451104

AF#: 2101

PAYMENT DUE DATE: July 28, 2009

PAYMENT AMOUNT DUE: \$7,030

29092643051

**Contributions for Which a 48-Hour Notice Was Not Received**

**AF 2101**

**Committee ID: C00451104**

**Committee Name: Byron Lee for Congress**

**Report Type: October Quarterly Report (9/15/2008 – 9/30/2008)**

**Year End Report (10/1/2008 – 12/31/2008)**

**48-Hour Reporting Period: 9/15/2008 – 10/1/2008**

LEE, BYRON LYNN	9/15/2008	\$12,000
LEE, BYRON LYNN	9/19/2008	\$15,000
LEE, BYRON LYNN	9/25/2008	\$40,000
	<b>TOTAL</b>	<b>\$67,000</b>

**Proposed Civil Money Penalty: \$7,030.00 ((3 Notices Not Filed at \$110 each) + (10% of Overall Contributions Not Filed))**

29092643052



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

FEDERAL ELECTION COMMISSION  
COMMISSION  
SECRETARIAT

2009 AUG -b A 11: 32

August 6, 2009

MEMORANDUM

**SENSITIVE**

TO: THE COMMISSION

THROUGH: ROBERT A. HICKEY *AP For P. 11*  
STAFF DIRECTOR

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

PATRICIA CARMONA *PC*  
ASSISTANT STAFF DIRECTOR  
REPORTS ANALYSIS DIVISION

BY: NATALIYA IOFFE/RHIANNON MAGRUDER *NI*  
COMPLIANCE BRANCH

SUBJECT: FINAL DETERMINATION RECOMMENDATION -  
FAILURE TO FILE 48-HOUR NOTICES UNDER THE  
ADMINISTRATIVE FINE PROGRAM

Attached is a circulation report 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 the appropriate 48-Hour Notices for the 2008 Louisiana Primary Election. The committee has paid the civil money penalty requested at RTB.

In accordance with 11 C.F.R. § 111.34, the Commission shall send a final determination notice to the respondent that has 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.

29092643053

29092643054

FD Circulation Report Fine Paid - FD Circulation Report for 48H

8/6/2009 8:35AM

AF#	Committee Name	State	Election	Candidate Name	Committee ID	Treasurer	Notices Not Filed	LOA	Prev Violations	RTB Date	Civil Money Penalty	Date Paid	Amount Paid
2101	BYRON LEE FOR CONGRESS	LA	2008 PRIMARY	LEE, BYRON LYNN	C00451104	LESTER DUNN, JR.	3	\$67,000	0	06/18/2009	\$7,030	07/28/2009	\$7,030

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Final Determination Recommendation - ) AF 2101  
Failure to File 48-Hour Notices Under )  
The Administrative Fine Program: Byron )  
Lee for Congress and Lester Dunn, Jr., as )  
treasurer )

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on August 07, 2009, the Commission decided by a vote of 6-0 to take the following actions in AF 2101:

1. Make a final determination that Byron Lee for Congress and Lester Dunn, Jr., as treasurer, violated 2 U.S.C. § 434(a) and assess the final civil money penalty in the amount of \$7,030.
2. Send the appropriate letter.

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

Attest:

August 11, 2009  
Date

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

29092643055



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 21, 2009

Lester Dunn, Jr. as Treasurer  
Byron Lee for Congress  
1901 Westbank Expressway Suite 600  
Harvey, LA 70058

C00451104  
AF#: 2101

Dear Mr. Dunn:

On June 18, 2009, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Byron Lee for Congress and its treasurer violated 2 U.S.C. § 434(a) for failing to file 48-Hour Notices for contributions of \$1,000 or more, received between September 15, 2008 and October 1, 2008, totaling \$67,000. By letter dated June 26, 2009, the Commission sent notification of the RTB finding that included a civil money penalty calculated at the RTB stage of \$7,030 in accordance with the schedule of penalties at 11 C.F.R. § 111.44.

On July 28, 2009, the FEC received payment of the civil money penalty calculated at the RTB stage. The FEC made a final determination on August 7, 2009 that you as treasurer and Byron Lee for Congress violated 2 U.S.C. § 434(a), assessed a civil money penalty in the amount of \$7,030 in accordance with 11 C.F.R. § 111.44 and voted to close the file.

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 this matter, please contact Rhiannon Magruder on our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130.

On behalf of the Commission,

A handwritten signature in black ink that reads "Steven T. Walther".

Steven T. Walther  
Chairman

29092643056





FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 2101

DATE SCANNED 10-19-09

SCANNER NO. 2

SCAN OPERATOR June

29092643058