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Dated: October 8, 2010

**Certificate of Service**

I, Kevin P. Hancock, certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on October 8, 2010.

Dated: October 8, 2010

Respectfully submitted,

/s/ Kevin P. Hancock

Kevin P. Hancock

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
BOSTON DIVISION**

ROBINSON COMMITTEE, LLC and	)	
JACK E. ROBINSON,	)	
	)	
Petitioners,	)	Case Number: 1:10-cv-11335-GAO
	)	District Judge George A. O’Toole, Jr.
v.	)	
	)	MEMORANDUM OF LAW
FEDERAL ELECTION COMMISSION,	)	IN SUPPORT OF MOTION TO DISMISS
	)	
Respondent.	)	

**RESPONDENT FEDERAL ELECTION COMMISSION’S  
MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION TO DISMISS**

Petitioners Robinson Committee, LLC and Jack E. Robinson do not dispute that they filed a Year End Report concerning the Committee’s 2009 campaign finance activity 81 days later than required by law. Consistent with its regulations and delegated authority from Congress, the Federal Election Commission (“FEC” or “Commission”) assessed a civil money penalty against petitioners. Pursuant to Federal Rule of Civil Procedure 12(b)(6), the Court should dismiss petitioners’ action seeking review of the FEC’s final determination, because they cannot demonstrate that the Commission’s decision — which is entitled to great deference — was arbitrary, capricious, an abuse of discretion, or otherwise contrary to law. The Commission correctly rejected petitioners’ meritless argument that they were prevented from filing on time because Robinson first had to file his tax return and respond to an FEC notice regarding a separate matter.

## **I. BACKGROUND**

### **A. The Parties**

Respondent FEC is an independent agency of the United States government with exclusive civil jurisdiction over the administration, interpretation, and enforcement of the Federal Election Campaign Act (“FECA”), 2 U.S.C. §§ 431-57. *See generally* 2 U.S.C. §§ 437c(b)(1), 437d(a), and 437g.

Petitioner Jack E. Robinson, a resident of Massachusetts, was a candidate in the December 8, 2009 Republican primary election for U.S. Senate in Massachusetts. (Pet. ¶ 1.) Robinson, who paid for his campaign exclusively with his own funds, lost the primary to Scott Brown, the eventual winner of the general election. (*Id.* ¶¶ 1, 14.) Robinson is the treasurer of his principal federal campaign committee, petitioner Robinson Committee, LLC. (*Id.* ¶ 2.)

### **B. Statutory and Regulatory Background**

#### **1. FECA’s Reporting Requirements**

Congress enacted FECA as part of a comprehensive system of regulating the financing of federal election campaigns. Among other things, FECA requires detailed public disclosure of the finances of political committees — including the campaign committees of House and Senate candidates. *See* 2 U.S.C. §§ 432-34. The Supreme Court has explained that FECA’s reporting requirements “curb[] the evils of campaign ignorance and corruption that Congress found to exist” by directly serving at least three substantial government interests: First, they “provide[] the electorate with information” on the flow of campaign money “in order to aid the voters in evaluating those who seek federal office”; second, they “deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light of publicity”; and third, the reporting requirements “are an essential means of gathering the data

necessary to detect violations of [FECA's] contributions limitations.” *Buckley v. Valeo*, 424 U.S. 1, 66-68 (1976).

To those ends, the FECA reporting requirements relevant here require each federal candidate to have a principal campaign committee, *see* 2 U.S.C. § 432(e)(1), and the treasurer of each committee is required to file with the FEC periodic reports that disclose the committee’s finances, *see id.* § 434(a)-(b). The principal campaign committees of Senate candidates must file their disclosure reports with the Secretary of the Senate, who must promptly forward copies of the reports to the FEC. *See id.* § 432(g). The FEC places these reports on the public record within 48 hours of receipt. *See id.* § 438(a)(4).

## **2. Administrative Fines Program**

“The administrative fines program was established by Congress in 1999, and ‘creates a simplified procedure for the FEC to administratively handle reporting violations.’” *Lovely v. FEC*, 307 F. Supp. 2d 294, 299 (D. Mass. 2004) (quoting H.R. Rep. No. 106-295, at 11 (1999)). The Commission may assess civil money penalties against principal campaign committees whose treasurers fail to file timely reports under 2 U.S.C. § 434(a). *See* 2 U.S.C. § 437g(a)(4)(C)(i). When a vote of the six-member Commission determines that there is reason to believe (“RTB”) a respondent has violated 2 U.S.C. § 434(a), the FEC notifies the respondent of the RTB finding, the factual and legal basis underlying the finding, the proposed civil penalty, and the respondent’s right to challenge the decision. *See* 11 C.F.R. § 111.32. The proposed civil penalty is calculated pursuant to a schedule, which takes account of whether the untimely report was election sensitive, how late the untimely report was filed (if filed at all), the level of monetary activity in the untimely report, and the respondent’s number of previous reporting violations. *See id.* § 111.43.

The respondent may challenge the Commission's RTB finding in writing within 40 days of being notified, but only on three grounds specified in the FEC's regulations: (1) if the RTB finding was based on a factual error; (2) if the FEC improperly calculated the civil money penalty; or (3) if the committee and its treasurer used "best efforts to file in a timely manner." *See* 11 C.F.R. § 111.35(b). An FEC Reviewing Officer reviews the respondent's challenge and the administrative record, and submits a written recommendation to the Commission. *See id.* § 111.36(b), (e). The respondent has 10 days to respond to the reviewing officer recommendation, but cannot raise any new arguments. *See id.* § 111.36(f). The Commission then proceeds to a final determination of whether the respondent violated 2 U.S.C. § 434(a), and whether to assess a civil penalty. *See* 11 C.F.R. § 111.37.

If the Commission makes a final determination finding a violation and assessing a penalty, the respondent may petition a federal district court for judicial review. *See* 2 U.S.C. § 437g(a)(4)(C)(iii).

### **C. Factual and Administrative Background**

Petitioners' 2009 Year End Report of Receipts and Disbursements ("Report"), covering their campaign finance activity from November 19, 2009, through December 31, 2009, was due to be filed by January 31, 2010. *See* 2 U.S.C. § 434(a)(2)(A)(iii); Pet. ¶ 6. On December 28, 2009, the FEC e-mailed a notice to petitioners reminding them of this upcoming deadline. (*See* Exh. A at 8-10 (FEC Year-End Report Notice, Dec. 28, 2009); *see also id.* at 3 (AF # 2122, FEC Reviewing Officer Recommendation, Jun. 4, 2010 ("ROR")).)<sup>1</sup> Nevertheless, the FEC did not

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<sup>1</sup> On a motion to dismiss under Rule 12(b)(6), the court may consider documents sufficiently referred to in the complaint. *Gargano v. Liberty Int'l Underwriters, Inc.*, 572 F.3d 45, 47 n.1 (1st Cir. 2009). Each of the documents attached as exhibits to this motion were referenced in the Petition. In addition, each of the documents attached as exhibits are official public records, which the Court may also consider on a motion to dismiss. *See id.*

receive the Report from petitioners by January 31, 2010. (*See* Pet. ¶ 7.) On February 17, 2010, the FEC mailed petitioners a notice informing them the Report was overdue. (Exh. A at 11 (Letter from FEC to Jack E. Robinson, Feb. 17, 2010); *see also* Pet. ¶ 15; Exh. A at 3 (ROR).) The notice also stated that there was no grace period for filing, and that the FEC may assess civil money penalties starting on the day following the due date for the Report. (Exh. A at 11.) Petitioners did not respond to this notice. (*See id.* at 3.)

On March 25, 2010, the Commission voted unanimously to find RTB that petitioners violated 2 U.S.C. § 434(a), and to preliminarily assess a civil money penalty of \$6,050. (*See* Pet. ¶ 8; Exh. A at 12 (Letter from FEC to Jack E. Robinson, Mar. 29, 2010 (“RTB Notice”).) The FEC informed petitioners of the RTB finding by letter dated March 29, 2010. (Exh. A at 12-29 (RTB Notice); Pet. ¶ 8.) As explained in the RTB Notice, the amount of the civil penalty was computed through application of the Commission’s schedule of penalties, including respondents’ lack of previous reporting violations. (*See* Exh. A at 12 (citing 11 C.F.R. § 111.43).) The RTB Notice also informed petitioners that they could challenge the Commission’s RTB finding based on the three defenses specified in the regulations. (*Id.* at 13 (citing 11 C.F.R. § 111.35(b)).) Moreover, the RTB Notice warned that the failure to raise an argument in a timely fashion would result in a waiver of the right to assert that argument in a later petition to a federal district court. (*Id.* at 13 (citing 11 C.F.R. § 111.38).)

On April 15, 2010, petitioners mailed the Report to the Secretary of the Senate, who received it on April 22, 2010 — 81 days after the January 31, 2010 deadline. (Pet. ¶ 7.) Petitioners challenged the Commission’s RTB finding by letter dated April 16, 2010 (“RTB Challenge”). (Exh. A at 6; Pet. ¶ 9.) Petitioners’ RTB Challenge made three assertions. First, it claimed that the deadline for filing the Report was effectively delayed because the FEC had, in

the interim, requested that petitioners submit additional information relating to reports they had previously filed. (Exh. A at 6.) Second, it alleged that the FEC had improperly calculated the proposed civil money penalty. (*Id.*) Third, petitioners argued that the Report was delayed by the “reasonably unforeseen circumstance[]” that Robinson was unable to determine the total amount of loans he used to self-fund his campaign until he had calculated his 2009 tax liability on April 15, 2010. (*Id.*)

An FEC reviewing officer reviewed petitioners’ RTB Challenge, and issued a recommendation, dated June 4, 2010, finding that none of petitioners’ arguments satisfied the three defenses of 11 C.F.R. § 111.35(b), and recommending that the Commission make a final determination that petitioners violated 2 U.S.C. § 434(a) and assess a \$6,050 penalty. (Exh. A at 2-5 (ROR).) Petitioners submitted a letter to the FEC objecting to the ROR on June 18, 2010 (“ROR Objection”). (Exh. B; Pet. ¶¶ 10-11.)

On July 22, 2010, the Commission unanimously adopted the ROR, and made a final determination that the Robinson Committee and Robinson, in his official capacity as treasurer, violated 2 U.S.C. § 434(a), and assessed a civil money penalty of \$6,050. (*See* Exh. C at 1 (Letter from FEC to Jack E. Robinson, July 23, 2010); Pet. ¶ 12.)

On August 9, 2010, petitioners filed this action seeking review of the FEC’s final determination pursuant to 2 U.S.C. § 437g(a)(4)(C)(iii) and 11 C.F.R. § 111.38.

## **II. THE PETITION SHOULD BE DISMISSED BECAUSE THE FEC’S FINAL DETERMINATION WAS NOT ARBITRARY OR CAPRICIOUS**

This Court’s review of the Commission’s final determination is governed by the Administrative Procedure Act (“APA”), 5 U.S.C. § 500, *et seq.* *See Lovely*, 307 F. Supp. 2d at 297-98. The APA states that a district court may only set aside agency decisions that are “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” *River*

*Street Donuts, LLC v. Napolitano*, 558 F.3d 111, 114 (1st Cir. 2009) (quoting 5 U.S.C. § 706(2)). Under this “highly deferential” standard, agency actions “are presumed to be valid,” and as a result, the Court “may not substitute its judgment for that of the agency, even if it disagrees with the agency’s conclusions.” *Id.* The Court is only “required to determine whether the agency’s decision is supported by a rational basis, and if so, [it] must affirm.” *Id.*

The Supreme Court has held that the FEC “is precisely the type of agency to which deference should presumptively be afforded.” *FEC v. Democratic Senatorial Campaign Comm.*, 454 U.S. 27, 37 (1981). In addition, “[w]here Congress has entrusted rulemaking and administrative authority to an agency,” such as the FEC, “courts normally accord the agency particular deference in respect to the interpretation of regulations promulgated under that authority.” *See South Shore Hosp., Inc. v. Thompson*, 308 F.3d 91, 97 (1st Cir. 2002). Petitioners bear the burden of proving that the FEC’s action was arbitrary or capricious. *See, e.g., Town of Burlington v. Dep’t of Educ.*, 736 F.2d 773, 794 (1st Cir. 1984).

When reviewing agency action, “[t]he district court sits as an appellate tribunal,” and the “entire case on review is a question of law, and only a question of law.” *See Marshall County Health Care Auth. v. Shalala*, 988 F.2d 1221, 1225-26 (D.C. Cir. 1993). As a result, even though this action is before the Court on the FEC’s Rule 12(b)(6) motion to dismiss, the Court can reach the merits of whether the FEC’s action was arbitrary or capricious. *See id.* at 1225-26. “[P]roperly read,” the Petition “actually presents no factual allegations, but rather only arguments about the legal conclusion to be drawn about the agency action.” *See id.* at 1226. Accordingly, “the sufficiency of the [Petition] is the question on the merits, and there is no real distinction in this context between the question presented on a 12(b)(6) motion and a motion for summary judgment.” *Id.*

Under the applicable regulations, there are only three bases for challenging the FEC's ruling: (1) factual error; (2) improper calculation of the civil money penalty; or (3) the committee and its treasurer used "best efforts to file in a timely manner." 11 C.F.R. § 111.35(b)(1)-(3). Before this Court, petitioners do not argue that the RTB finding was based on a factual error or that the civil money penalty was improperly calculated.<sup>2</sup> Thus, the only challenge before this Court concerns petitioners' assertion that they used "best efforts" to file their Report 81 days late.

**A. The FEC Reasonably Found That Petitioners Did Not Use Best Efforts to File the Report in a Timely Manner**

Petitioners do not contend that the Report was timely filed under FECA and the Commission's regulations. (Pet. ¶¶ 7, 14.) Nor do petitioners challenge the validity of those regulations. Petitioners are admittedly experienced filers (*see id.* ¶ 20), who had filed previous reports as recently as December 4, 2009 (Exh. A at 43; *see also id.* at 4 (ROR)). The FEC gave petitioners notice of the Report's deadline over a month ahead of time, and on February 17, 2010, notified petitioners that they had missed the deadline. (Exh. A at 3.) Despite these efforts by the Commission, Robinson did not respond to the FEC regarding the late Report until April 15, 2010 (*id.*) — the same day he mailed the Report to the Secretary of the Senate (*see* Pet. ¶¶ 7, 14), 75 days after the due date. Nevertheless, petitioners claim they used "best efforts" to file the Report, and therefore should not have been penalized. (*Id.* ¶ 21.) The FEC reasonably rejected this argument.

A party claiming that it used "best efforts to file in a timely manner" must prove that (1) it was "prevented from filing in a timely manner by reasonably unforeseen circumstances

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<sup>2</sup> Petitioners argued in their RTB Challenge that the Commission improperly calculated the proposed civil money penalty (Exh. A at 6), but have waived this argument by not asserting it here.

that were beyond [its] control,” and (2) the untimely report was “filed no later than 24 hours after the end of these circumstances.” 11 C.F.R. § 111.35(b)(3)(i)-(ii). “[R]easonably unforeseen circumstances” include, but are not limited to: (1) a failure of FEC computers or FEC software; (2) a “widespread disruption” of the Internet; or (3) a “[s]evere weather or other disaster-related incident.” *Id.* § 111.35(c). They do not include circumstances such as a failure to know filing dates, inexperience, negligence, illness, or delays caused by committee vendors or contractors. *Id.* § 111.35(d).

The Petition asserts two alleged bases for a “best efforts” finding, both of which the Commission correctly found did not constitute a circumstance that prevented petitioners from filing on time.

**1. The FEC Reasonably Found That Robinson’s Alleged Need to First Complete His Tax Return Did Not Prevent Him From Timely Filing The Report**

First, petitioners claim that Robinson filed the Report late because he could not accurately complete the Report until after determining the amount of personal funds he spent on his campaign, which he allegedly could not do until completing his 2009 tax return on April 15, 2010. (Pet. ¶ 14; *see also* Exh. A at 6 (RTB Challenge).)

The Commission considered this argument, and reasonably concluded that petitioners had “failed to prove that [Robinson’s] need to prepare his taxes prevented them from filing the Year End Report on time.” (Exh. A at 4 (ROR).) As the Commission explained in the ROR, Robinson should have had access to all of the financial records necessary to complete the Report regardless of whether his 2009 tax return had been completed and filed. (*Id.* at 3-4.) As treasurer of the Committee, Robinson was required, on an ongoing basis, to keep track of and report loans he made, guaranteed, or endorsed to his Committee, including any derived from

loans he received from third parties. (*See id.* at 4 (ROR) (citing 11 C.F.R. § 104.3(a)(3)(vii)(B)).) As the candidate and the custodian of records for the Committee, Robinson had access to his own financial records and to the Committee's financial records. (*Id.*) Petitioners did not dispute these facts before the Commission, and do not dispute them now.

With access to these records, petitioners were able to file three reports with the FEC in October and December of 2009 disclosing that Robinson made loans to his Committee in 2009, despite the fact that he had yet to file his 2009 tax return. (*Id.*) The loans disclosed in these three prior reports totaled \$365,000, which constitute 97% of the total amount of 2009 candidate loans petitioners eventually disclosed in the untimely Report. (*Id.*) And yet, petitioners offered the Commission, and now offer this Court, no reason why their ability to tally the personal funds Robinson spent suddenly became dependent on Robinson's 2009 tax return. Rather, Robinson merely asserted (Exh. B at 1) that

[b]ecause the Committee's operations were entirely self-funded by Robinson, and because Robinson could not calculate the total amount of candidate loans provided to the Committee until his 2009 taxes were prepared, in order to ensure accuracy Robinson simply was unable to file the Report until those tax returns were prepared and filed.

This is *ipse dixit*: Robinson never explained what the purported causal relationship was between calculating his income taxes and calculating the total amount of loans provided to the Committee. The loans were in fact made to the Committee at the time the money was transferred, regardless of the total income or deductions Robinson may have had in 2009. Accordingly, the Commission's rejection of petitioners' tax return argument is supported by a rational basis.

**2. The FEC Reasonably Found That Robinson’s Need to Comply With Other FEC Notices Did Not Prevent Him From Timely Filing the Report**

Second, petitioners argue that their untimely filing should have been excused because they allegedly first had to respond to four notices the FEC sent to them: (1) a January 7, 2010, request for additional information (“RFAI”); (2) the February 17, 2010, notice of failure to file the Report; (3) a February 23, 2010, RFAI; and (4) a March 23, 2010, RFAI. (Pet. ¶ 15; *see also* Exh. A at 6 (RTB Challenge).)

The Commission considered this argument, and reasonably concluded that it also failed to excuse petitioners’ late filing or otherwise justify a “best efforts” finding. (Exh. A at 3 (ROR).) As explained in the Commission’s ROR, petitioners received only one of these notices — the January 7, 2010, RFAI — before the Report’s January 31, 2010, due date. (*Id.*) Thus, the other three notices could not have caused petitioners to miss the deadline. (*Id.*) In particular, the February 17, 2010, notice did not request additional information but was simply a reminder that the Report was late, and it urged petitioners to file the Report immediately. (Exh. A at 11.)

The January 7, 2010, RFAI requested that petitioners correct certain errors found in their previously filed October Quarterly Report by February 11, 2010. (Exh. A at 44-47; *see also* Exh. A at 3 (ROR).) As the Commission explained, petitioners received this RFAI more than three weeks before the Report was due, giving adequate time to complete both tasks. (Exh. A at 3.) And, in any event, Robinson’s duty to comply with the January 7, 2010, RFAI did not relieve him of his responsibility to file the Report on time. (*Id.*)

Accordingly, the Commission’s rejection of petitioner’s argument is supported by a rational basis.

## **B. Petitioners Have Waived Their Other Meritless Arguments**

The Petition raises two additional arguments, which the Court should deem waived and not consider: first, that the late filing should be overlooked because it allegedly caused no harm to the public interest (Pet. ¶¶ 18-19), and second, that petitioners' lack of previous reporting violations should have "weigh[ed] in favor" of a "best efforts" determination (*id.* ¶ 20).

A "respondent's failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver of the respondent's right to present such argument in a petition to the district court under 2 U.S.C. § 437g." 11 C.F.R. § 111.38. In order to raise an argument in a timely fashion during the administrative process, a party must raise the argument in its written response challenging RTB under 11 C.F.R. § 111.35, and not later in its objections to the ROR (unless the argument is "directly" responsive to the ROR). *See id.* § 111.36(f).

Petitioners failed to raise the above two arguments in their submission challenging RTB (*see* Exh. A at 6), and only raised them for the first time in their objections to the ROR (*see* Exh. B). The new arguments, however, were not responsive to the ROR's discussion and were thus untimely under 11 C.F.R. § 111.36(f). Petitioners have therefore waived their ability to raise these new arguments before this Court. *See* 11 C.F.R. § 111.38; *see also NLRB v. Saint-Gobain Abrasives, Inc.*, 426 F.3d 455, 458-59 (1st Cir. 2005) ("The general exhaustion requirement that prevails in administrative matters is a bedrock principle: 'as a general rule[,] courts should not topple over administrative decisions unless the administrative body not only has erred but has erred against objection made at the [appropriate] time.'" (alterations in original) (quoting *United States v. L.A. Tucker Truck Lines, Inc.*, 344 U.S. 33, 37 (1952))); *accord Cunningham v. FEC*, No. IP-01-0897-C-B/S, 2002 WL 31431557, at \*4 (S.D. Ind. Oct. 28, 2002). Judicial adherence to the raise-or-waive rule "simultaneously enhances the efficacy of the agency, fosters judicial

efficiency, and safeguards the integrity of the inter-branch review relationship.” *Saint-Gobain Abrasives*, 426 F.3d at 459 (internal quotation marks omitted).

In any event, neither waived argument is a valid ground for challenging the Commission’s decision, *see* 11 C.F.R. § 111.35(b)(1)-(3), and both are meritless on their own terms. First, it is untrue that petitioners’ violation did not harm the public interest. As discussed *supra* pp. 2-3, FECA’s disclosure and reporting requirements further at least three substantial government interests: (1) providing the electorate with information on campaign spending; (2) deterring corruption by exposing large contributions and expenditures; and (3) allowing the FEC to gather the data necessary to detect violations of the contribution limitations. *See Buckley*, 424 U.S. at 66-68. Given these substantial interests, public harm is presumed from a violation of the reporting requirements. *See FEC v. Furgatch*, 869 F.2d 1256, 1259 (9th Cir. 1989). Contrary to petitioners’ assertions (*see* Pet. ¶¶ 18-19), a failure to report causes public harm even where the candidate is self-funded, *see, e.g., Cox for U.S. Senate Comm., Inc. v. FEC*, No. 03-3715, 2004 WL 783435, at \*6 (N.D. Ill. Jan. 22, 2004) (pointing out that reporting by self-funded candidates allows the public to “ascertain prior to an election which candidates are incurring sizable obligations that may be discharged with the generosity of unidentified parties after the election”), and where the candidate lost the election, *see, e.g., FEC v. Toledano*, 317 F.3d 939, 953 (9th Cir. 2002) (“That [defendant] lost anyway, and the violation thus had no effect on the outcome of the election, does not change the fact that the public was harmed by the [FECA violation].”). This analysis is not changed by the fact that the election at issue was a special election.

Second, petitioners’ lack of previous reporting violations was properly considered by the Commission in determining the *amount* of their civil money penalty under the administrative

fine schedule under 11 C.F.R. § 111.43. (*See* Exh. A at 3 (ROR).) Petitioners' fine of \$6,050 is less than it would have been had they previously violated 2 U.S.C. § 434(a). *See* 11 C.F.R. § 111.43(a). Nothing in the FEC's regulations requires a lack of previous reporting violations to also "weigh in favor" of a "best efforts" determination under 11 C.F.R. § 111.35(b)(3), as petitioners erroneously claim. (*See* Pet. ¶ 20.)

### CONCLUSION

Because the FEC's final determination was not arbitrary, capricious, an abuse of discretion, or otherwise contrary to law, and is reasonably supported by the administrative record, the Court should dismiss the Petition with prejudice.<sup>3</sup>

Respectfully submitted,

Phillip Christopher Hughey  
Acting General Counsel

David Kolker  
Associate General Counsel

Kevin Deeley  
Assistant General Counsel

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<sup>3</sup> In the alternative, the Court could dismiss the Petition without prejudice for insufficient service of process under Rule 12(b)(5). Petitioners appear to have completed service, as they have filed an executed return of service demonstrating that they served the FEC by certified mail on August 16, 2010. (*See* Docket No. 3.) However, petitioners have failed to perfect service of process by also serving the United States as required by Rule 4(i)(2). To serve the United States, petitioners were required to deliver a copy of the summons and complaint to the United States Attorney for the District of Massachusetts and to the Attorney General, in Washington, D.C. *See* Fed. R. Civ. P. 4(i)(1)(A)-(B). As of October 8, 2010, petitioners have served neither.

/s/ Kevin P. Hancock

Kevin P. Hancock

Attorney

COUNSEL FOR DEFENDANT  
FEDERAL ELECTION COMMISSION

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Dated: October 8, 2010

**Certificate of Service**

I, Kevin P. Hancock, certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on October 8, 2010.

Dated: October 8, 2010

Respectfully submitted,

/s/ Kevin P. Hancock

Kevin P. Hancock

**EXHIBIT A**  
**AF# 2122, FEC Reviewing Officer Recommendation,**  
**Jun. 4, 2010, and attachments**

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2010 JUN -4 P 4: 06

**SENSITIVE**

June 4, 2010

MEMORANDUM

To: The Commission

Through: Alec Palmer *AP*  
Acting Staff Director

From: Patricia Carmona *PC*  
Chief Compliance Officer

Shawn Woodhead Werth *SWW*  
Reviewing Officer  
Office of Administrative Review

By: Jill I. Sugarman *JIS*  
Reviewing Analyst

Subject: Reviewing Officer Recommendation in AF# 2122 – Robinson  
Committee LLC and Jack E. Robinson, in his official capacity as  
Treasurer (C00355784)

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



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 4, 2010

**REVIEWING OFFICER RECOMMENDATION  
OFFICE OF ADMINISTRATIVE REVIEW (“OAR”)**

AF# 2122 – Robinson Committee, LLC and Jack E. Robinson, in his official capacity as Treasurer (C00355784)

**Summary of Recommendation**

Make a final determination that the respondents violated 2 U.S.C. § 434(a) and assess a \$6,050 civil money penalty.

**Reason-to-Believe Background**

On March 25, 2010, the Commission found reason to believe (“RTB”) that the respondents violated 2 U.S.C. § 434(a) for failing to file the 2009 Year End Report and made a preliminary determination that the civil money penalty was \$6,050, based on the schedule of penalties at 11 C.F.R. § 111.43. They were notified by the Reports Analysis Division (“RAD”) on March 29, 2010 of the Commission’s RTB finding and civil money penalty. The letter, sent to the address of record, was returned to RAD; however, a copy was sent to them via facsimile on April 15, 2010.

**Legal Requirements**

The Federal Election Campaign Act (“Act”) states that the treasurer of a principal campaign committee shall file a report for the quarter ending December 31 no later than January 31 of the following calendar year. 2 U.S.C. § 434(a)(2)(B) and 11 C.F.R. § 104.5(a)(1). All reports required to be filed by the principal campaign committee of a candidate for the office of U.S. Senator shall be filed with the Secretary of the Senate. 2 U.S.C. § 432(g)(1) and 11 C.F.R. § 105.2. 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 must be postmarked or deposited with the mailing service no later than January 31 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 and complete filing of reports as well as the accuracy of the information they contain. 11 C.F.R. § 104.14(d).

**Respondents’ Challenge and Analysis**

On April 26, 2010, the Commission received the written response (“challenge”) from the Treasurer who is challenging both the RTB finding and penalty. He asks the Commission to reconsider the fine because they have no prior penalties. The challenge focuses on three points:

- the filing of the Year End Report was dependent on amendments requested by the Commission for earlier reports that impacted the Year End Report, and thus, the report was effectively not due on January 31;
- the Commission improperly calculated the penalty; and
- they used best efforts to file timely but were prevented from doing so by a reasonably unforeseen circumstance: the Candidate had to calculate his 2009 tax liability. Since the campaign was funded solely by candidate loans, they could not file the report until the Candidate determined the total amount of loans owed to the Committee. He made this determination on April 15 and the report was filed the next day.

The respondents were notified of the report's due date before and after the filing deadline. On December 28, 2009, the Commission sent the Prior Notice for the Year End Report to robinsonesq@aol.com, the email address listed on their Statement of Organization. On February 17, 2010, the Commission sent them a non-filer notice at their address of record. The Treasurer did not contact Commission staff about this notice. On April 14, the RAD Analyst left a message for the Treasurer about the returned RTB letter. When he called her back on April 15, he said he would file the report over the upcoming weekend. The Commission received the Year End Report on April 22, 2010, 81 days late.

The Treasurer says that he had to amend prior reports before he could file the Year End Report and, therefore, it was not effectively due on January 31. The Commission's records show that only one Request for Additional Information ("RFAI") was sent to them before January 31. That request referenced the 2009 October Quarterly Report and was sent January 7, more than 3 weeks before the Year End Report was due. While the Treasurer may have been preparing an amended October Quarterly Report to comply with the RFAI's February 11 response date, this did not void his responsibility to file the Year End Report on time. There is no provision in the Act to extend a report's due date to provide more time for the treasurer to respond to an RFAI about a prior report. The RFAIs for the other reports were sent on February 23 and March 23, after the Year End filing deadline, and did not prevent the timely filing of the report.

There are four criteria used to calculate the amount of the civil money penalty. 11 C.F.R. § 111.43. They are: the election sensitivity of a report, the level of activity on the late report, the number of days late, and the number of prior violations. The Year End Report is not an election sensitive report and the respondents have no prior violations. They did not file the Year End Report before the RTB finding, so an estimated level of activity (\$187,418) was used to calculate the fine. 11 C.F.R. § 111.43(a) and (d)(2)(i). Using the schedule of penalties at 11 C.F.R. § 111.43(a) and the level of activity bracket of \$150,000 - \$199,999.99, the civil money penalty is  $\$6,050 \times [1 + (.25 \times 0)]$  or \$6,050. Therefore, the fine was properly calculated at the time of the RTB finding.

The respondents assert they used best efforts to file on time, but were prevented by the unreasonably unforeseen circumstance that the Candidate had to calculate his 2009

tax liability before the report could be filed. The best efforts defense, under which the Commission may decide that no violation occurred because the respondents used their best efforts to file on time, is a two part test. 11 C.F.R. § 111.35(b)(3) and (c).

The first part consists of the respondents demonstrating that they were prevented from filing on time by reasonably unforeseen circumstances that were beyond their control. With respect to this defense, the Commission states in its Explanation and Justification that the respondent bears the burden of showing that the reasonably unforeseen circumstances in fact prevented the timely and proper filing of the required report. The Commission has decided that this rule requires a strict causal relationship between the circumstances described in the challenge and the respondent's inability to timely file the report. For the second part of the test, the respondents must show that the report was properly filed within 24 hours after the resolution of the circumstances that prevented the report's timely filing.

Treasurers have several recordkeeping and reporting responsibilities. In addition to filing accurate and complete reports on time, the treasurer must report loans made, guaranteed or endorsed by the candidate to his authorized committee including those derived from a bank loan to the candidate or from an advance on the candidate's brokerage account, credit card, home equity line of credit or other lines of credit. 11 C.F.R. § 104.3(a)(3)(vii)(B).

Mr. Robinson is not only the Treasurer and Candidate, but he is also the Custodian of Records. Consequently, he had access to both his personal records and the Committee's records and could have calculated the total amount of loans he contributed to the campaign at any time. The October Quarterly Report was received October 20 and discloses loans from the Candidate of \$52,357. The 12 Day Pre-Primary/Pre-Special Report was received December 1 and discloses loans from the Candidate of \$136,000. Both reports cover activity for 2009 and yet the respondents were able to prepare and file them without waiting for the Candidate to calculate his tax liability.

The respondents filed 48-Hour Notices on December 1 and 4 that list a total of \$365,000 received by the Committee from the Candidate. That amount represents 97% of the total amount of candidate loans disclosed on the Year End Report. The respondents, therefore, knew about and had reported almost all of the candidate loans received during the Year End reporting period almost two months before the report was due. It is unclear why Mr. Robinson thought he needed to wait until his 2009 taxes were prepared before he could file the Year End Report. The respondents failed to prove that the Candidate's need to prepare his taxes prevented them from filing the Year End Report on time. Therefore, the respondents do not meet the first part of the test and their "best efforts" defense does not succeed.

Their challenge fails to address any of the three valid grounds 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.

Therefore, the Reviewing Officer 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 \$6,050.

**OAR Recommendations**

- (1) Adopt the Reviewing Officer recommendation for AF# 2122 involving the Robinson Committee, LLC and Jack E. Robinson, in his official capacity as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 2122 that the Robinson Committee, LLC and Jack E. Robinson, in his official capacity as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$6,050; and
- (3) Send the appropriate letter.

Reviewing Analyst: Jill I. Sugarman

**Attachments**

- Attachment 1 – Challenge Received from Respondents
- Attachment 2 – Declaration from RAD, Telecoms, Returned Envelope,  
and Fax Transmittal Sheet
- Attachment 3 – Declaration from OAR

Attachment # 1  
1 Page



ADMIN REVIEW

JACK E. ROBINSON, ESQ.

2010 APR 26 A 10: 56

P.O. Box 2587  
Duxbury, MA 02331  
RobinsonEsq@aol.com  
781-934-6755

April 16, 2010

Office of Administrative Review  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

C00355784  
AF#: 2122

Dear Sirs:

Pursuant to 11 C.F.R. § 111.35, Robinson Committee, LLC (the "Committee") hereby challenges the above-referenced alleged violation and proposed civil money penalty for the following reasons:

- (1) The Committee's filing of the 2009 Year-End Report (the "Report") was dependent upon amendments and clarifications requested by the Commission for earlier reports in 2009 that, obviously, had an impact on the Report. Thus, the Report was effectively not due on January 31, 2010.
- (2) The Commission improperly calculated the proposed civil money penalty.
- (3) The Committee used best efforts to timely file the Report but was prevented from doing so due to the reasonably unforeseen circumstances that the Candidate could not file the Report unless and until he calculated his 2009 tax liability, which he did on April 15, 2010. Within 24 hours thereafter, the Committee filed the subject report. Because the Committee's operations were entirely Candidate-funded through loans, the Committee was unable to file the report until the Candidate determined the total amount of loans outstanding to the Committee – which did not occur until late in the evening of the tax filing deadline of April 15, 2010.

In light of the foregoing, and the fact that the Committee has no prior penalty history, the Committee respectfully requests that the Commission not impose any penalty.

Sincerely,

Jack E. Robinson  
Treasurer

### 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 Robinson Committee, LLC:
    - A) Prior Notice, dated December 28, 2009, referencing the 2009 Year End Report (sent via electronic mail to: robinsonesq@aol.com);
    - B) Non-Filer Letter, dated February 17, 2010, referencing the 2009 Year End Report;
    - C) Reason-to-Believe Letter, dated March 29, 2010, referencing the 2009 Year End Report.
  3. I hereby certify that I have searched the Commission’s public records and find that Robinson Committee, LLC filed the 2009 Year End Report with the Secretary of Senate on April 22, 2010.
  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 28<sup>th</sup> day of April, 2010.



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



# YEAR-END REPORT NOTICE

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 FEDERAL ELECTION COMMISSION
 

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CONGRESSIONAL COMMITTEES

December 28, 2009

**CURRENT REPORT DUE:****REPORTING DATES**

<b>REPORT</b>	<b>CLOSE OF BOOKS<sup>1</sup></b>	<b>REG. CERT. &amp; OVERNIGHT MAILING DEADLINE</b>	<b>FILING DEADLINE</b>
Year-End	12/31/09	01/31/10	01/31/10 <sup>2</sup>

**WHO MUST FILE**

Principal campaign committees of congressional candidates<sup>3</sup> (including unopposed candidates and candidates whose names do not appear on the ballot) must file a Year-End Report.<sup>4</sup> 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. See 11 CFR 102.3.

Supplemental Filing Information is available on page 2 of this notice.

<sup>1</sup>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.

<sup>2</sup>Notice 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.

<sup>3</sup>Generally, 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 or expenditures. If the campaign has not crossed the \$5,000 threshold, it is not required to file reports. See also 11 CFR 100.3(a).

<sup>4</sup>If a candidate has more than one authorized committee, the principal campaign committee must also file a consolidated report on Form 3Z [PDF].

**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.

**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.

- Web Page: [Electronic Filing Page](#)
- *Candidate Guide for Congressional Candidates and Committees (Candidate Guide)*, pp. 82-84 [PDF]

**Paper Filing -- Meeting the Filing Deadline**

Paper report filing options – Registered, Certified or Overnight or First Class Mail.

- Web Page: [Link to Paper Forms](#) (for downloading and printing)
- *Candidate Guide*, p. 81 [PDF]

**COMPLIANCE****Treasurer Responsibility**

Committee treasurers 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.

- *Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings* [PDF]
- *Candidate Guide*, p. 7 [PDF]

**Administrative Fine Program**

Failure to file reports on time may be subject to civil money penalties up to \$17,600 (or more for repeat late- or non-filers).<sup>5</sup>

- Web Page: [Administrative Fine Program Page](#)
- *Candidate Guide*, pp. 81-82 [PDF]

**2009 REPORTING SCHEDULE**

- Web Page: [2009 Reporting Dates Page](#)
- The *Record* January 2009 issue [PDF]
- *Candidate Guide*, pp. 79-80 [PDF]

**DISCLOSURE OF LOBBYIST BUNDLING ACTIVITY**

Campaign committees must file [FEC Form 3L](#) [PDF] if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of \$16,000 during the reporting period (see page 1 of this notice).

- The *Record*: [March 2009 issue](#) [PDF]
- *Federal Register*: [Notice 2009-03 \(February 17, 2009\)](#) [PDF]

<sup>5</sup>Penalties 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 \$17,600, even for first-time violations.

**LOOKING AHEAD TO 2010****REPORTING SCHEDULE FOR 2010**

<b>REPORT</b>	<b>CLOSE OF BOOKS</b>	<b>REG. CERT. &amp; OVERNIGHT MAILING DEADLINE</b>	<b>FILING DEADLINE</b>
April Quarterly	03/31/10	04/15/10	04/15/10
July Quarterly	06/30/10	07/15/10	07/15/10
October Quarterly	09/30/10	10/15/10	10/15/10
Pre-General	10/13/10	10/18/10	10/21/10
48-Hour Notices	Period: 10/14/10 – 10/30/10 ---- see info below ----		
Post-General	11/22/10	12/02/10	12/02/10
Year-End	12/31/10	01/31/11	01/31/11

**WHO MUST FILE**

Campaigns that raise or spend more than \$5,000 for the 2010 election cycle (and thus trigger registration and reporting requirements) must file quarterly reports throughout 2010, 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. See 11 CFR 102.3.

**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, must reach the appropriate federal and/or state filing office(s) within 48 hours of the committee's receipt of the contribution(s).

- Web Page: [Electronic Filing Page](#)
- [Link to Paper Form 6 \[PDF\]](#) (for downloading and printing); and [Form 6 Instructions \[PDF\]](#)

**PRE- AND POST-ELECTION REPORTS**

A committee whose candidate participates in a 2010 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.

- Web Page: [2010 Reporting Dates Page](#)
- The *Record* January 2010 issue [PDF] – coming soon
- [Candidate Guide, p. 79-80 \[PDF\]](#)

<sup>1</sup>See footnote #1, p. 1 of this notice.

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



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

February 17, 2010

RQ-7

JACK E ROBINSON, TREASURER  
ROBINSON COMMITTEE LLC  
PO BOX 2587  
DUXBURY, MA 02331

IDENTIFICATION NUMBER: C00355784

REFERENCE: YEAR-END REPORT 11/19/2009 - 12/31/2009

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.

IT IS IMPORTANT THAT YOU FILE THIS REPORT IMMEDIATELY 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 (MAILING ADDRESS: OFFICE OF PUBLIC RECORDS, P.O. BOX 2517, ALEXANDRIA, VA 22301), 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. YOU CAN VERIFY THE COMMISSION'S RECEIPT OF ANY DOCUMENTS SUBMITTED BY YOUR COMMITTEE ON THE FEC WEBSITE AT WWW.FEC.GOV.

THE FAILURE TO TIMELY FILE THIS REPORT MAY RESULT IN CIVIL MONEY PENALTIES, AN AUDIT OR 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. DUE TO HEIGHTENED SECURITY SCREENING MEASURES, DELIVERY OF MAIL BY THE US POSTAL SERVICE MAY BE DELAYED. THE COMMISSION RECOMMENDS THAT YOU SUBMIT YOUR REPORT VIA OVERNIGHT DELIVERY OR COURIER SERVICE.

IF YOU HAVE ANY QUESTIONS REGARDING THIS MATTER, PLEASE CONTACT CHRISTOPHER RITCHIE AT OUR TOLL FREE NUMBER (800)424-9530. OUR DIRECT LOCAL NUMBER IS (202)694-1130.

SINCERELY,

*Patricia Carmona*  
PATRICIA CARMONA  
ASSISTANT STAFF DIRECTOR  
REPORTS ANALYSIS DIVISION (RAD)

10050252401



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

March 29, 2010

Jack E. Robinson as Treasurer  
Robinson Committee LLC  
P.O. Box 2587  
Duxbury, MA 02331

C00355784  
AF#: 2122

Dear Mr. Robinson:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a Year End Report of Receipts and Disbursements every calendar year. This report, covering the period through December 31, 2009, was due no later than January 31, 2010. 2 U.S.C. § 434(a). Records at the Federal Election Commission ("FEC") indicate that this report was not filed within thirty (30) days of the due date. You should file this report if you have not already done so.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. § 434(a). 2 U.S.C. § 437g(a)(4). On March 25, 2010, the FEC found that there is reason to believe ("RTB") that Robinson Committee LLC and you, as treasurer, violated 2 U.S.C. § 434(a) by failing to file timely this report on or before January 31, 2010. Based on the FEC's schedules of civil money penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$6,050. Please see the attached copy of the Commission's administrative fine regulations at 11 C.F.R. §§ 111.30-11.46. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 C.F.R. § 111.34. Your payment of \$6,050 is due within forty (40) days of the finding, or by May 4, 2010, and is based on these factors:

Sensitivity of Report: Not Election Sensitive  
Level of Activity: \$187,418  
Number of Days Late: Not Filed  
Number of Previous Civil Money Penalties Assessed: 0

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

**1. If You Choose to 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 May 4, 2010. 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 an 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 Robinson Committee LLC 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.

**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,



Matthew S. Petersen  
Chairman

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**ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at RTB is \$6,050 for the 2009 Year-End 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 May 4, 2010. 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: Robinson Committee LLC

FEC ID#: C00355784

AF#: 2122

PAYMENT DUE DATE: May 4, 2010

PAYMENT AMOUNT DUE: \$6,050

## Federal Election Commission

## § 111.32

penalty shall not exceed the greater of \$11,000 or an amount equal to 200% of any contribution or expenditure involved in the violation.

(ii) Notwithstanding paragraph (a)(2)(i) of this section, in the case of a knowing and willful violation of 2 U.S.C. 441f, the civil penalty shall not be less than 300% of the amount of any contribution involved in the violation and shall not exceed the greater of \$55,000 or 1,000% of the amount of any contribution involved in the violation.

(b) Any Commission member or employee, or any other person, who in violation of 2 U.S.C. 437g(a)(12)(A) makes public any notification or investigation under 2 U.S.C. 437g without receiving the written consent of the person receiving such notification, or the person with respect to whom such investigation is made, shall be fined not more than \$2,200. Any such member, employee, or other person who knowingly and willfully violates this provision shall be fined not more than \$6,500.

[62 FR 11317, Mar. 12, 1997; 62 FR 18167, Apr. 14, 1997; 65 FR 31794, May 19, 2000; 67 FR 76977, Dec. 13, 2002; 70 FR 34635, June 15, 2005]

## Subpart B—Administrative Fines

SOURCE: 65 FR 31794, May 19, 2000, unless otherwise noted.

## § 111.30 When will subpart B apply?

Subpart B applies to violations of the reporting requirements of 2 U.S.C. 434(a) committed by political committees and their treasurers that relate to the reporting periods that begin on or after July 14, 2000 and end on or before December 31, 2008. This subpart, however, does not apply to reports that were due between January 1, 2004 and February 10, 2004 and that relate to reporting periods that begin and end between January 1, 2004 and February 10, 2004.

[70 FR 75718, Dec. 21, 2005]

**§ 111.31 Does this subpart replace subpart A of this part for violations of the reporting requirements of 2 U.S.C. 434(a)?**

(a) No; §§ 111.1 through 111.8 and 111.20 through 111.24 shall apply to all compliance matters. This subpart will

apply, rather than §§ 111.9 through 111.19, when the Commission, on the basis of information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities, and when appropriate, determines that the compliance matter should be subject to this subpart. If the Commission determines that the violation should not be subject to this subpart, then the violation will be subject to all sections of subpart A of this part.

(b) Subpart B will apply to compliance matters resulting from a complaint filed pursuant to 11 CFR 111.4 through 111.7 if the complaint alleges a violation of 2 U.S.C. 434(a). If the complaint alleges violations of any other provision of any statute or regulation over which the Commission has jurisdiction, subpart A will apply to the alleged violations of these other provisions.

**§ 111.32 How will the Commission notify respondents of a reason to believe finding and a proposed civil money penalty?**

If the Commission determines, by an affirmative vote of at least four (4) of its members, that it has reason to believe that a respondent has violated 2 U.S.C. 434(a), the Chairman or Vice-Chairman shall notify such respondent of the Commission's finding. The written notification shall set forth the following:

(a) The alleged factual and legal basis supporting the finding including the type of report that was due, the filing deadline, the actual date filed (if filed), and the number of days the report was late (if filed);

(b) The applicable schedule of penalties;

(c) The number of times the respondent has been assessed a civil money penalty under this subpart during the current two-year election cycle and the prior two-year election cycle;

(d) The amount of the proposed civil money penalty based on the schedules of penalties set forth in 11 CFR 111.43 or 111.44; and

(e) An explanation of the respondent's right to challenge both the reason to believe finding and the proposed civil money penalty.

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**§ 111.33 What are the respondent's choices upon receiving the reason to believe finding and the proposed civil money penalty?**

The respondent must either send payment in the amount of the proposed civil money penalty pursuant to 11 CFR 111.34 or submit a written response pursuant to 11 CFR 111.35.

**§ 111.34 If the respondent decides to pay the civil money penalty and not to challenge the reason to believe finding, what should the respondent do?**

(a) The respondent shall transmit payment in the amount of the civil money penalty to the Commission within forty (40) days of the Commission's reason to believe finding.

(b) Upon receipt of the respondent's payment, the Commission shall send the respondent a final determination that the respondent has violated the statute or regulations and the amount of the civil money penalty and an acknowledgment of the respondent's payment.

**§ 111.35 If the respondent decides to challenge the alleged violation or proposed civil money penalty, what should the respondent do?**

(a) To challenge a reason to believe finding or proposed civil money penalty, the respondent must submit a written response to the Commission within forty (40) days of the Commission's reason to believe finding.

(b) The respondent's written response must assert at least one of the following grounds for challenging the reason to believe finding or proposed civil money penalty:

(1) The Commission's reason to believe finding is based on a factual error including, but not limited to, the committee was not required to file the report, or the committee timely filed the report in accordance with 11 CFR 100.19;

(2) The Commission improperly calculated the civil money penalty; or

(3) The respondent used best efforts to file in a timely manner in that:

(i) The respondent was prevented from filing in a timely manner by reasonably unforeseen circumstances that were beyond the control of the respondent; and

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(ii) The respondent filed no later than 24 hours after the end of these circumstances.

(c) Circumstances that will be considered reasonably unforeseen and beyond the control of respondent include, but are not limited to:

(1) A failure of Commission computers or Commission-provided software despite the respondent seeking technical assistance from Commission personnel and resources;

(2) A widespread disruption of information transmissions over the Internet not caused by any failure of the Commission's or respondent's computer systems or Internet service provider; and

(3) Severe weather or other disaster-related incident.

(d) Circumstances that will not be considered reasonably unforeseen and beyond the control of respondent include, but are not limited to:

(1) Negligence;

(2) Delays caused by committee vendors or contractors;

(3) Illness, inexperience, or unavailability of the treasurer or other staff;

(4) Committee computer, software or Internet service provider failures;

(5) A committee's failure to know filing dates; and

(6) A committee's failure to use filing software properly.

(e) Respondent's written response must detail the factual basis supporting its challenge and include supporting documentation.

[72 FR 14667, Mar. 29, 2007]

**§ 111.36 Who will review the respondent's written response?**

(a) A reviewing officer shall review the respondent's written response. The reviewing officer shall be a person who has not been involved in the reason to believe finding.

(b) The reviewing officer shall review the reason to believe finding with supporting documentation and the respondent's written response with supporting documentation. The reviewing officer may request supplemental information from the respondent and/or the Commission staff. The respondent shall submit the supplemental information to the reviewing officer within

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a time specified by the reviewing officer. The reviewing officer will be entitled to draw an adverse inference from the failure by the respondent to submit the supplemental information.

(c) All documents required to be submitted by the respondents pursuant to this section and § 111.35 should be submitted in the form of affidavits or declarations.

(d) If the Commission staff, after the respondent files a written response pursuant to § 111.35, forwards any additional documents pertaining to the matter to the reviewing officer for his or her examination, the reviewing officer shall also furnish a copy of the document(s) to the respondents.

(e) Upon completion of the review, the reviewing officer shall forward a written recommendation to the Commission along with all documents required under this section and 11 CFR 111.32 and 111.35.

(f) The reviewing office shall also forward a copy of the recommendation to the respondent. The respondent may file with the Commission Secretary a written response to the recommendation within ten (10) days of transmittal of the recommendation. This response may not raise any arguments not raised in the respondent's original written response or not directly responsive to the reviewing officer's recommendation.

**§ 111.37 What will the Commission do once it receives the respondent's written response and the reviewing officer's recommendation?**

(a) If the Commission, after having found reason to believe and after reviewing the respondent's written response and the reviewing officer's recommendation, determines by an affirmative vote of at least four (4) of its members, that the respondent has violated 2 U.S.C. 434(a) and the amount of the civil money penalty, the Commission shall authorize the reviewing officer to notify the respondent by letter of its final determination.

(b) If the Commission, after reviewing the reason to believe finding, the respondent's written response, and the reviewing officer's written recommendation, determines by an affirmative vote of at least four (4) of its

members, that no violation has occurred (either because the Commission had based its reason to believe finding on a factual error or because the respondent used best efforts to file in a timely manner) or otherwise terminates its proceedings, the Commission shall authorize the reviewing officer to notify the respondent by letter of its final determination.

(c) The Commission will modify the proposed civil money penalty only if the respondent is able to demonstrate that the amount of the proposed civil money penalty was calculated on an incorrect basis.

(d) When the Commission makes a final determination under this section, the statement of reasons for the Commission action will, unless otherwise indicated by the Commission, consist of the reasons provided by the reviewing officer for the recommendation, if approved by the Commission, although statements setting forth additional or different reasons may also be issued. If the reviewing officer's recommendation is modified or not approved, the Commission will indicate the grounds for its action and one or more statements of reasons may be issued.

[65 FR 31794, May 19, 2000, as amended at 72 FR 14668, Mar. 29, 2007]

**§ 111.38 Can the respondent appeal the Commission's final determination?**

Yes; within thirty (30) days of receipt of the Commission's final determination under 11 CFR 111.37, the respondent may submit a written petition to the district court of the United States for the district in which the respondent resides, or transacts business, requesting that the final determination be modified or set aside. The respondent's failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver of the respondent's right to present such argument in a petition to the district court under 2 U.S.C. 437g.

**§ 111.39 When must the respondent pay the civil money penalty?**

(a) If the respondent does not submit a written petition to the district court of the United States, the respondent must remit payment of the civil money

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penalty within thirty (30) days of receipt of the Commission's final determination under 11 CFR 111.37.

(b) If the respondent submits a written petition to the district court of the United States and, upon the final disposition of the civil action, is required to pay a civil money penalty, the respondent shall remit payment of the civil money penalty to the Commission within thirty (30) days of the final disposition of the civil action. The final disposition may consist of a judicial decision which is not reviewed by a higher court.

(c) Failure to pay the civil money penalty may result in the commencement of collection action under 31 U.S.C. 3701 *et seq.* (1996), or a civil suit pursuant to 2 U.S.C. 437g(a)(6)(A), or any other legal action deemed necessary by the Commission.

**§ 111.40 What happens if the respondent does not pay the civil money penalty pursuant to 11 CFR 111.34 and does not submit a written response to the reason to believe finding pursuant to 11 CFR 111.35?**

(a) If the Commission, after the respondent has failed to pay the civil money penalty and has failed to submit a written response, determines by an affirmative vote of at least four (4) of its members that the respondent has violated 2 U.S.C. 434(a) and determines the amount of the civil money penalty, the respondent shall be notified by letter of its final determination.

(b) The respondent shall transmit payment of the civil money penalty to the Commission within thirty (30) days of receipt of the Commission's final determination.

(c) Failure to pay the civil money penalty may result in the commencement of collection action under 31 U.S.C. 3701 *et seq.* (1996), or a civil suit pursuant to 2 U.S.C. 437g(a)(6)(A), or any other legal action deemed necessary by the Commission.

**§ 111.41 To whom should the civil money penalty payment be made payable?**

Payment of civil money penalties shall be made in the form of a check or

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money order made payable to the Federal Election Commission.

**§ 111.42 Will the enforcement file be made available to the public?**

(a) Yes; the Commission shall make the enforcement file available to the public.

(b) If neither the Commission nor the respondent commences a civil action, the Commission shall make the enforcement file available to the public pursuant to 11 CFR 4.4(a)(3).

(c) If a civil action is commenced, the Commission shall make the enforcement file available pursuant to 11 CFR 111.20(c).

**§ 111.43 What are the schedules of penalties?**

(a) The civil money penalty for all reports that are filed late or not filed, except election sensitive reports and pre-election reports under 11 CFR 104.5, shall be calculated as follows:

(i) For reports due before April 16, 2003:

(i) *Level of activity* means the total amount of receipts and disbursements for the period covered by the late report. If the report is not filed, the level of activity is the estimated level of activity as set forth in paragraph (a)(1)(ii) of this section.

(ii) *Estimated level of activity* means total receipts and disbursements reported in the current two-year election cycle divided by the number of reports filed to date covering the activity in the current two-year election cycle. If the respondent has not filed a report covering activity in the current two-year election cycle, estimated level of activity means total receipts and disbursements reported in the prior two-year election cycle divided by the number of reports filed covering the activity in the prior two-year election cycle.

(iii) The civil money penalty shall be calculated in accordance with the following schedule:

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If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1–24,999.99*	[\$100 + (\$25 × Number of days late)] × [1 + (.25 × Number of previous violations)].	+\$900 × [1 + (.25 × Number of previous violations)]
\$25,000–49,999.99	[\$200 + (\$50 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$1800 × [1 + (.25 × Number of previous violations)]
\$50,000–74,999.99	[\$300 + (\$75 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$2700 × [1 + (.25 × Number of previous violations)]
\$75,000–99,999.99	[\$400 + (\$100 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$3500 × [1 + (.25 × Number of previous violations)]
\$100,000–149,999.99	[\$600 + (\$125 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$4500 × [1 + (.25 × Number of previous violations)]
\$150,000–199,999.99	[\$800 + (\$150 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$5500 × [1 + (.25 × Number of previous violations)]
\$200,000–249,999.99	[\$1,000 + (\$175 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$6500 × [1 + (.25 × Number of previous violations)]
\$250,000–349,999.99	[\$1500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$8000 × [1 + (.25 × Number of previous violations)]
\$350,000–449,999.99	[\$2000 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$9000 × [1 + (.25 × Number of previous violations)]
\$450,000–549,999.99	[\$2500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$9500 × [1 + (.25 × Number of previous violations)]
\$550,000–649,999.99	[\$3000 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$10,000 × [1 + (.25 × Number of previous violations)]
\$650,000–749,999.99	[\$3500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$10,500 × [1 + (.25 × Number of previous violations)]
\$750,000–849,999.99	[\$4000 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,000 × [1 + (.25 × Number of previous violations)]
\$850,000–949,999.99	[\$4500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,500 × [1 + (.25 × Number of previous violations)]
\$950,000 or over	[\$5000 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$12,000 × [1 + (.25 × Number of previous violations)]

\*The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(2) For reports due on or after April 16, 2003:

(i) *Level of activity* means:

(A) For an authorized committee, the total amount of receipts and disbursements for the period covered by the late report. If the report is not filed, the level of activity is the estimated level of activity as set forth in paragraph (a)(2)(ii)(A) of this section.

(B) For an unauthorized committee, the total amount of receipts and disbursements for the period covered by the late report minus the total of: transfers received from non-Federal account(s) as reported on Line 18(a) of FEC Form 3X and disbursements for the non-Federal share of operating expenditures attributable to allocated Federal/non-Federal activity as reported on Line 21(a)(ii) of FEC Form 3X for the period covered by the late report. If the report is not filed, the level of activity is the estimated level of activity as set forth in paragraph (a)(2)(ii)(B) of this section.

(ii) *Estimated level of activity* means:

(A) For an authorized committee, total receipts and disbursements re-

ported in the current two-year election cycle divided by the number of reports filed to date covering the activity in the current two-year election cycle. If the respondent has not filed a report covering activity in the current two-year election cycle, estimated level of activity for an authorized committee means total receipts and disbursements reported in the prior two-year election cycle divided by the number of reports filed covering the activity in the prior two-year election cycle.

(B)(i) For an unauthorized committee, estimated level of activity is calculated as follows: [(Total receipts and disbursements reported in the current two-year cycle) – (Transfers received from non-Federal account(s) as reported on either Line 18(a) of FEC Form 3X or Line 18 of FEC Form 3X if before March 1, 2003 + Disbursements for the non-Federal share of operating expenditures attributable to allocated Federal/non-Federal activity as reported on Line 21(a)(ii) of FEC Form 3X)] + Number of reports filed to date covering the activity in the current two-year election cycle.

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(2) If the unauthorized committee has not filed a report covering activity in the current two-year election cycle, the estimated level of activity is calculated as follows: [(Total receipts and disbursements reported in the prior two-year election cycle) - (Transfers received from non-Federal account(s) as reported on either Line 18(a) of FEC Form 3X or Line 18 of FEC Form 3X if before March 1, 2003 + Disbursements

for the non-Federal Share of operating expenditures attributable to allocated Federal/non-Federal activity as reported on Line 21(a)(ii) of FEC Form 3X] + Number of reports filed covering the activity in the prior two-year election cycle.

(iii) The civil money penalty shall be calculated in accordance with the following schedule:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1-4,999.99 *	[\$25 + (\$5 x Number of days late)] x [1 + (.25 x Number of previous violations)].	\$250 x [1 + (.25 x Number of previous violations)]
\$5,000-9,999.99	[\$50 + (\$5 x Number of days late)] x [1 + (.25 x Number of previous violations)].	\$300 x [1 + (.25 x Number of previous violations)]
\$10,000-24,999.99	[\$100 + (\$5 x Number of days late)] x [1 + (.25 x Number of previous violations)].	\$500 x [1 + (.25 x Number of previous violations)]
\$25,000-49,999.99	[\$200 + (\$20 x Number of days late)] x [1 + (.25 x Number of previous violations)].	\$900 x [1 + (.25 x Number of previous violations)]
\$50,000-74,999.99	[\$300 + (\$75 x Number of days late)] x [1 + (.25 x Number of previous violations)].	\$2700 x [1 + (.25 x Number of previous violations)]
\$75,000-99,999.99	[\$400 + (\$100 x Number of days late)] x [1 + (.25 x Number of previous violations)].	\$3500 x [1 + (.25 x Number of previous violations)]
\$100,000-149,999.99	[\$600 + (\$125 x Number of days late)] x [1 + (.25 x Number of previous violations)].	\$4500 x [1 + (.25 x Number of previous violations)]
\$150,000-199,999.99	[\$800 + (\$150 x Number of days late)] x [1 + (.25 x Number of previous violations)].	\$5500 x [1 + (.25 x Number of previous violations)]
\$200,000-249,999.99	[\$1,000 + (\$175 x Number of days late)] x [1 + (.25 x Number of previous violations)].	\$6500 x [1 + (.25 x Number of previous violations)]
\$250,000-349,999.99	[\$1500 + (\$200 x Number of days late)] x [1 + (.25 x Number of previous violations)].	\$8000 x [1 + (.25 x Number of previous violations)]
\$350,000-449,999.99	[\$2000 + (\$200 x Number of days late)] x [1 + (.25 x Number of previous violations)].	\$9000 x [1 + (.25 x Number of previous violations)]
\$450,000-549,999.99	[\$2500 + (\$200 x Number of days late)] x [1 + (.25 x Number of previous violations)].	\$9500 x [1 + (.25 x Number of previous violations)]
\$550,000-649,999.99	[\$3000 + (\$200 x Number of days late)] x [1 + (.25 x Number of previous violations)].	\$10,000 x [1 + (.25 x Number of previous violations)]
\$650,000-749,999.99	[\$3500 + (\$200 x Number of days late)] x [1 + (.25 x Number of previous violations)].	\$10,500 x [1 + (.25 x Number of previous violations)]
\$750,000-849,999.99	[\$4000 + (\$200 x Number of days late)] x [1 + (.25 x Number of previous violations)].	\$11,000 x [1 + (.25 x Number of previous violations)]
\$850,000-949,999.00	[\$4500 + (\$200 x Number of days late)] x [1 + (.25 x Number of previous violations)].	\$11,500 x [1 + (.25 x Number of previous violations)]
\$950,000 or over	[\$5000 + (\$200 x Number of days late)] x [1 + (.25 x Number of previous violations)].	\$12,000 x [1 + (.25 x Number of previous violations)]

\* The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(b) The civil money penalty for election sensitive reports that are filed late or not filed shall be calculated as follows:

(1) For reports due before April 16, 2003:

(i) *Level of activity* has the same meaning as paragraph (a)(1)(i) of this section.

(ii) *Estimated level of activity* has the same meaning as paragraph (a)(1)(ii) of this section.

(iii) The civil money penalty shall be calculated in accordance with the following schedule:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1-24,999.99 *	[\$150 + (\$25 x Number of days late)] x [1 + (.25 x Number of previous violations)].	\$1000 x [1 + (.25 x Number of previous violations)]

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If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$25,000–49,999.99 .....	[\$300 + (\$50 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$2000 × [1 + (.25 × Number of previous violations)]
\$50,000–74,999.99 .....	[\$450 + (\$75 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$3000 × [1 + (.25 × Number of previous violations)]
\$75,000–99,999.99 .....	[\$600 + (\$100 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$4000 × [1 + (.25 × Number of previous violations)]
\$100,000–149,999.99 .....	[\$900 + (\$125 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$5000 × [1 + (.25 × Number of previous violations)]
\$150,000–199,999.99 .....	[\$1200 + (\$150 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$6000 × [1 + (.25 × Number of previous violations)]
\$200,000–249,999.99 .....	[\$1500 + (\$175 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$7500 × [1 + (.25 × Number of previous violations)]
\$250,000–349,999.99 .....	[\$2250 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$9000 × [1 + (.25 × Number of previous violations)]
\$350,000–449,999.99 .....	[\$3000 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$10,000 × [1 + (.25 × Number of previous violations)]
\$450,000–549,999.99 .....	[\$3750 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,000 × [1 + (.25 × Number of previous violations)]
\$550,000–649,999.99 .....	[\$4500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$12,000 × [1 + (.25 × Number of previous violations)]
\$650,000–749,999.99 .....	[\$5250 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$13,000 × [1 + (.25 × Number of previous violations)]
\$750,000–849,999.99 .....	[\$6000 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$14,000 × [1 + (.25 × Number of previous violations)]
\$850,000–949,999.99 .....	[\$6750 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$15,000 × [1 + (.25 × Number of previous violations)]
\$950,000 or over .....	[\$7500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$16,000 × [1 + (.25 × Number of previous violations)]

\* The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(2) For reports due on or after April 16, 2003:

(i) Level of activity has the same meaning as paragraph (a)(2)(i) of this section.

(ii) *Estimated level of activity* has the same meaning as paragraph (a)(2)(ii) of this section.

(iii) The civil money penalty shall be calculated in accordance with the following schedule:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1–\$4,999.99* .....	[\$50 + (\$10 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$500 × [1 + (.25 × Number of previous violations)].
\$5,000–\$9,999.99 .....	[\$100 + (\$10 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$600 × [1 + (.25 × Number of previous violations)].
\$10,000–24,999.99 .....	[\$150 + (\$10 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$900 × [1 + (.25 × Number of previous violations)].
\$25,000–49,999.99 .....	[\$300 + (\$25 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$1,400 × [1 + (.25 × Number of previous violations)].
\$50,000–74,999.99 .....	[\$450 + (\$75 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$3000 × [1 + (.25 × Number of previous violations)].
\$75,000–99,999.99 .....	[\$600 + (\$100 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$4000 × [1 + (.25 × Number of previous violations)].
\$100,000–149,999.99 .....	[\$900 + (\$125 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$5000 × [1 + (.25 × Number of previous violations)].
\$150,000–199,999.99 .....	[\$1200 + (\$150 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$6000 × [1 + (.25 × Number of previous violations)].
\$200,000–249,999.99 .....	[\$1500 + (\$175 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$7500 × [1 + (.25 × Number of previous violations)].
\$250,000–349,999.99 .....	[\$2250 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$9000 × [1 + (.25 × Number of previous violations)].
\$350,000–449,999.99 .....	[\$3000 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$10,000 × [1 + (.25 × Number of previous violations)].
\$450,000–549,999.99 .....	[\$3750 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,000 × [1 + (.25 × Number of previous violations)].
\$550,000–649,999.99 .....	[\$4500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$12,000 × [1 + (.25 × Number of previous violations)].
\$650,000–749,999.99 .....	[\$5250 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$13,000 × [1 + (.25 × Number of previous violations)].

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If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$750,000-849,999.99 .....	[\$6000 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$14,000 × [1 + (.25 × Number of previous violations)].
\$850,000-949,999.99 .....	[\$6750 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$15,000 × [1 + (.25 × Number of previous violations)].
\$950,000 or over .....	[\$7500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$16,000 × [1 + (.25 × Number of previous violations)].

\* The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(c) If the respondent fails to file a required report and the Commission cannot calculate the level of activity under paragraph (d) of this section, then the civil money penalty shall be \$5,500.

(d) *Definitions.* For this section only, the following definitions will apply:

*Election Sensitive Reports* means third quarter reports due on October 15th before the general election (for all committees required to file this report except committees of candidates who do not participate in that general election); monthly reports due October 20th before the general election (for all committees required to file this report except committees of candidates who do not participate in that general election); and pre-election reports for primary, general, and special elections under 11 CFR 104.5.

*Number of previous violations* mean all prior final civil money penalties assessed under this subpart during the current two-year election cycle and the prior two-year election cycle.

(e) For purposes of the schedules of penalties in paragraphs (a) and (b) of this section,

(1) Reports that are not election sensitive reports are considered to be filed late if they are filed after their due dates but within thirty (30) days of their due dates. These reports are considered to be not filed if they are filed after thirty (30) days of their due dates or not filed at all.

(2) Election sensitive reports are considered to be filed late if they are filed after their due dates but prior to four (4) days before the primary election for pre-primary reports, prior to four (4) days before the special election for pre-special election reports, or prior to four (4) days before the general election for all other election sensitive reports. These reports are considered to

be not filed if they are not filed prior to four (4) days before the primary election for pre-primary reports, prior to four (4) days before the special election for pre-special election reports or prior to four (4) days before the general election for all other election sensitive reports.

[65 FR 31794, May 19, 2000, as amended at 68 FR 12577, Mar. 17, 2003; 70 FR 34636, June 15, 2005]

**§ 111.44 What is the schedule of penalties for 48-hour notices that are not filed or are filed late?**

(a) If the respondent fails to file timely a notice regarding contribution(s) received after the 20th day but more than 48 hours before the election as required under 2 U.S.C. 434(a)(6), the civil money penalty will be calculated as follows:

(1) Civil money penalty = \$110 + (.10 × amount of the contribution(s) not timely reported).

(2) The civil money penalty calculated in paragraph (a)(1) of this section shall be increased by twenty-five percent (25%) for each prior violation.

(b) For purposes of this section, prior violation means a civil money penalty that has been assessed against the respondent under this subpart in the current two-year election cycle or the prior two-year election cycle.

[65 FR 31794, May 19, 2000, as amended at 70 FR 34636, June 15, 2005]

**§ 111.45 What actions will be taken to collect unpaid civil money penalties?**

The Commission may take any and all appropriate collection actions authorized and required by the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996 (31 U.S.C. 3701 et. seq.). The U.S.

## Federal Election Commission

## § 112.2

Department of the Treasury regulations at 31 CFR 285.2, 285.4, and 285.7 and the Federal Claims Collection Standards issued jointly by the Department of Justice and the U.S. Department of the Treasury at 31 CFR parts 900 through 904 also apply.

[65 FR 31794, May 19, 2000, as amended at 68 FR 12580, Mar. 17, 2003; 68 FR 16715, Apr. 7, 2003]

**§ 111.46 How will the respondent be notified of actions taken by the Commission and the reviewing officer?**

If a statement designating counsel has been filed in accordance with 11 CFR 111.23, all notifications and other communications to a respondent provided for in subpart B of this part will be sent to designated counsel. If a statement designating counsel has not been filed, all notifications and other communications to a respondent provided for in subpart B of this part will be sent to respondent political committee and its treasurer at the political committee's address as listed in the most recent Statement of Organization, or amendment thereto, filed with the Commission in accordance with 11 CFR 102.2.

[68 FR 12580, Mar. 17, 2003]

**PART 112—ADVISORY OPINIONS (2 U.S.C. 437f)**

**Sec.**

112.1 Requests for advisory opinions (2 U.S.C. 437f(a)(1)).

112.2 Public availability of requests (2 U.S.C. 437f(d)).

112.3 Written comments on requests (2 U.S.C. 437f(d)).

112.4 Issuance of advisory opinions (2 U.S.C. 437f (a) and (b)).

112.5 Reliance on advisory opinions (2 U.S.C. 437f(c)).

112.6 Reconsideration of advisory opinions.

**AUTHORITY:** 2 U.S.C. 437f, 438(a)(8).

**SOURCE:** 45 FR 15123, Mar. 7, 1980, unless otherwise noted.

**§ 112.1 Requests for advisory opinions (2 U.S.C. 437f(a)(1)).**

(a) Any person may request in writing an advisory opinion concerning the application of the Act, chapters 95 or 96 of the Internal Revenue Code of 1954, or

any regulation prescribed by the Commission. An authorized agent of the requesting person may submit the advisory opinion request, but the agent shall disclose the identity of his or her principal.

(b) The written advisory opinion request shall set forth a specific transaction or activity that the requesting person plans to undertake or is presently undertaking and intends to undertake in the future. Requests presenting a general question of Interpretation, or posing a hypothetical situation, or regarding the activities of third parties, do not qualify as advisory opinion requests.

(c) Advisory opinion requests shall include a complete description of all facts relevant to the specific transaction or activity with respect to which the request is made.

(d) The Office of General Counsel shall review all requests for advisory opinions submitted under 11 CFR 112.1. If the Office of General Counsel determines that a request for an advisory opinion is incomplete or otherwise not qualified under 11 CFR 112.1, it shall, within 10 calendar days of receipt of such request, notify the requesting person and specify the deficiencies in the request.

(e) Advisory opinion requests should be sent to the Federal Election Commission, Office of General Counsel, 999 E Street, NW., Washington, DC 20463.

(f) Upon receipt by the Commission, each request which qualifies as an advisory opinion request (AOR) under 11 CFR 112.1 shall be assigned an AOR number for reference purposes.

[45 FR 15123, Mar. 7, 1980, as amended at 50 FR 50778, Dec. 12, 1985]

**§ 112.2 Public availability of requests (2 U.S.C. 437f(d)).**

(a) Advisory opinion requests which qualify under 11 CFR 112.1 shall be made public at the Commission promptly upon their receipt.

(b) A copy of the original request and any supplements thereto, shall be available for public inspection and purchase at the Public Disclosure Division of the Commission.

# Rules and Regulations

Federal Register

Vol. 74, No. 125

Wednesday, July 1, 2009

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1600

### Employee Contribution Elections and Contribution Allocations

**AGENCY:** Federal Retirement Thrift Investment Board.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** The Federal Retirement Thrift Investment Board (Agency) is announcing the effective date of its regulation published on June 19, 2009 (74 FR 29111) pertaining to the timing of agency contributions.

**DATES:** *Effective Date:* The Agency's interim final rule published on June 19, 2009 (74 FR 29111) took effect on June 22, 2009 when President Obama signed HR 1256 (Pub. L. 111-31) which contained the Thrift Savings Plan Enhancement Act of 2009 (Act).

**FOR FURTHER INFORMATION CONTACT:** Laurissa Stokes at (202) 942-1645.

**SUPPLEMENTARY INFORMATION:** The Act provides that Agency Automatic (1%) Contributions and Agency Matching Contributions shall commence immediately. The regulatory amendment is necessary because FRTIB regulations follow current law, which provides that Agency Automatic (1%) Contributions and Agency Matching Contributions shall not commence until the equivalent of the second open season that begins after the employee commenced employment. The FRTIB is setting a August 1, 2009 effective date for this regulation to allow employing agencies sufficient time to make the necessary computer programming changes to implement it. The regulation took effect on June 22, 2009, and employing agencies must implement

this change as soon as practicable but no later than the first pay period in August.

**Gregory T. Long,**  
*Executive Director, Federal Retirement Thrift Investment Board.*  
[FR Doc. E9-15536 Filed 6-30-09; 8:45 am]  
**BILLING CODE 6760-01-P**

## FEDERAL ELECTION COMMISSION

11 CFR Part 111

[Notice 2009-09]

### Civil Monetary Penalties Inflation Adjustments

**AGENCY:** Federal Election Commission

**ACTION:** Final rules.

**SUMMARY:** In accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, the Federal Election Commission is adopting final rules to apply inflation adjustments to certain civil monetary penalties under the Federal Election Campaign Act of 1971, as amended ("FECA"), the Presidential Election Campaign Fund Act, and the Presidential Primary Matching Payment Account Act. The civil penalties being adjusted are for certain violations of these statutes that are not knowing and willful, involving contributions and expenditures; knowing and willful violations of the prohibition against the making of a contribution in the name of another; knowing and willful violations of the confidentiality provisions of FECA; certain penalties for late filed or non-filed reports under the administrative fines program; and failure to file timely 48-hour notices. The adjusted civil monetary penalties are calculated according to the formula set forth in the law and will be effective for violations occurring on or after the effective date of these rules. Further information is provided in the supplementary information that follows.

**DATES:** Effective on July 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert M. Knop, Assistant General Counsel, or Ms. Cheryl A.F. Hemsley, or Ms. Jessica Selinkoff, Attorneys, 999 E Street, NW., Washington, DC 20463, (202) 694-1650 or (t:00) 424-9530.

**SUPPLEMENTARY INFORMATION:** The Federal Civil Penalties Inflation

Adjustment Act of 1990, as amended,<sup>1</sup> (the "Inflation Adjustment Act") requires Federal agencies to adjust for inflation the civil monetary penalties within their jurisdiction at least once every four years according to detailed formulae. A civil monetary penalty ("civil penalty") is defined in the Inflation Adjustment Act as any penalty, fine, or other sanction that is for a specific amount, or has a maximum amount, as provided by Federal law, and is assessed or enforced by an agency in an administrative proceeding or by a Federal court pursuant to Federal law.<sup>2</sup> Further, the Inflation Adjustment Act contains a 10% penalty cap on the first adjustment of any civil penalty. That is, the first adjustment made to the civil penalty may not exceed 10% of the starting civil penalty.<sup>3</sup> Under the Federal Election Campaign Act of 1971 ("FECA"), as amended, 2 U.S.C. 431 *et seq.*, the Federal Election Commission ("Commission") has jurisdiction over several civil penalties for respondents who violate FECA, the Presidential Election Campaign Fund Act, 26 U.S.C. 9001 *et seq.*, or the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031 *et seq.* ("chapters 95 and 96 of Title 26"). These rules fulfill the Commission's non-discretionary obligation under the Inflation Adjustment Act to adjust for inflation, according to the prescribed formula, the civil monetary penalties ("civil penalties") within its jurisdiction.

### Immediate Effectiveness of Final Rule

The Commission is required by statute to adjust the civil penalties under its jurisdiction by a Cost of Living Adjustment ("COLA") formula. This application of the COLA does not involve Commission discretion or any policy judgments. Thus, the Commission finds that the "good cause" exception to the notice and comment requirement in section 553 of the Administrative Procedures Act applies to these rules because notice and comment are unnecessary. 5 U.S.C. 553(b)(B) and (d)(3).

For the same reasons, these rules do not need to be submitted to the Speaker

<sup>1</sup> 28 U.S.C. 2461 note, as amended by Debt Collection Improvement Act of 1996, Public Law 104-134, 110 Stat. 1321-73, sec. 31001(s)(1) (1996); Public Law 105-362, 112 Stat. 3293 (1998).

<sup>2</sup> 28 U.S.C. 2461 note (3)(2).

<sup>3</sup> 28 U.S.C. 2461 note (7).

of the House of Representatives or the President of the Senate under the Congressional Review Act, 5 U.S.C. 801 *et seq.*, and these rules are effective upon publication. 5 U.S.C. 808(2). Accordingly these amendments are effective on July 1, 2009. The new civil penalties are applicable only to violations that occur after this effective date.

**Explanation and Justification**

Under the Inflation Adjustment Act, the Commission must adjust civil penalties by a COLA defined as the percentage by which the U.S. Department of Labor's Consumer Price Index for all urban consumers ("CPI") for June of the year preceding the adjustment exceeds the CPI for June of the year in which each civil penalty was last set or adjusted.<sup>4</sup> The amount of the resulting increase is then subject to rounding rules based on the size of the civil penalty.<sup>5</sup> The Inflation Adjustment Act imposes a 10% cap on the first adjustment under its rules, but no cap on subsequent adjustments.

The Commission has previously applied the Inflation Adjustment Act formulae to its civil penalties in 1997,

2002, and 2005.<sup>6</sup> As explained in more detail below, the Commission has determined that the Inflation Adjustment Act now requires the Commission to adjust all civil penalties in 11 CFR 111.24 and some civil penalties in 11 CFR 111.43. The civil penalties in 11 CFR 111.44 will not change because of the rounding rules.

**1. 111.24—Civil Penalties (2 U.S.C. 437g(a)(5), (6), (12), 28 U.S.C. 2461 nt.)**

FECA provides for civil penalties for any person who violates any portion of FECA or chapters 95 and 96 of Title 26. FECA's civil penalties, found at 2 U.S.C. 437g(a)(5), (6), and (12), are organized into two tiers: One tier of civil penalties for violations of FECA or chapters 95 and 96 of Title 26, and a higher tier of civil penalties for "knowing and willful" violations of FECA or chapters 95 and 96 of Title 26. Commission regulations in section 111.24 set forth each civil penalty established by section 437g(a)(5), (6), and (12), as adjusted pursuant to the Inflation Adjustment Act.

**Example**

The following is a detailed example of the application of the Inflation

Adjustment Act formulae to FECA civil penalties. The \$5,000 civil penalties provided for in 2 U.S.C. 437g(a)(5)(A), (6)(A), and (6)(B) are implemented by the regulations at 11 CFR 111.24(a)(1) at their 2005 level of \$6,500. *See* 2005 Adjustment, 70 FR at 34634; 1997 Adjustment, 62 FR at 11316. To determine the 2009 adjustment, the CPI for June 2008 (218.815) is divided by the CPI for June 2005, the year the civil penalty was last adjusted (194.5), for a COLA of 1.125. Next, the raw inflation adjustment is determined by multiplying the present civil penalty (\$6,500) by the COLA increase (0.125) for a raw increase of \$812.50. The result is rounded to \$1,000. Finally, the rounded increase is added to the civil penalty, for a new section 111.24(a)(1) civil penalty of \$7,500.

Using the same Inflation Adjustment Act formulae, the Commission must also adjust other civil penalties in 11 CFR 111.24. Since each of these civil penalties has been previously adjusted, the 10% cap for first time adjustments does not apply to any of them. The complete list of all civil penalty adjustments in section 111.24 is as follows:

Section	Previous civil penalty	Last adjusted	COLA increase	Raw increase	Rounded to	New civil penalty
11 CFR 111.24(a)(1) .....	\$6,500	2005	0.125 (218.815/194.5)	\$812.50	\$1,000	\$7,500
11 CFR 111.24(a)(2)(i) .....	11,000	1997	0.365 (218.815/160.3)	4,015	5,000	16,000
11 CFR 111.24(a)(2)(ii) .....	55,000	2005	0.125 (218.815/194.5)	6,875	5,000	60,000
11 CFR 111.24(b) .....	2,200	1997	0.365 (218.815/160.3)	803	1,000	3,200
11 CFR 111.24(b) .....	6,500	2005	0.125 (218.815/194.5)	812.50	1,000	7,500

Note that the civil penalties in 11 CFR 111.24(a)(2)(i) and (b) have not been adjusted since 1997 because application of the rounding rules resulted in no change when adjustments were examined in 2002 and 2005.

**2. 11 CFR 111.43—Schedule of Penalties**

FECA permits the Commission to assess civil penalties for violations of the reporting requirements of 2 U.S.C. 434(a) in accordance with schedules of penalties established and published by the Commission. 2 U.S.C. 437g(a)(4)(C). Each schedule contains two columns, one for penalties for late-filed reports and one for penalties for non-filed

reports. Reports are considered to be late-filed if they are filed after their due date under 11 CFR 104.5 but before a date certain which is determined by whether the reports are election-sensitive or not.<sup>7</sup> Reports are considered not filed if they are filed after that date certain or are not filed at all. *See* 11 CFR 111.43(e)

The Commission first promulgated two schedules of penalties for late filing violations in 2000 in 11 CFR 111.43(a) and (b), for non-election-sensitive reports and election-sensitive reports, respectively. Explanation and Justification for Final Rules on Administrative Fines, 65 FR 31787 (May

19, 2000). The penalty calculations were based on the "level of activity," as defined in the 2000 regulations at 11 CFR 111.43(d), reported by the late-filing committee. Additionally, the Commission promulgated a civil penalty of \$5,500 at 11 CFR 111.43(c) for situations in which a committee fails to file a report and there is no "estimated level of activity," on which the Commission can base a civil penalty thereby making it impossible for the Commission to calculate the level of activity.

In 2003, the Commission reevaluated the administrative fines program and decided to reduce the civil penalties in

<sup>4</sup> 28 U.S.C. 2461 note (5)(b).

<sup>5</sup> 28 U.S.C. 2461 note (5)(a). The rounding rules applicable to the Commission's civil penalties require that if the existing penalty is less than or equal to \$100, the increase is rounded to the nearest \$10; if the existing penalty is greater than \$100 but less than or equal to \$1,000, the increase is rounded to the nearest \$100; if the existing penalty is greater than \$1,000 but less than or equal to \$10,000, the increase is rounded to the nearest \$1,000; and if the

existing penalty is greater than \$10,000 but less than or equal to \$100,000, the increase is rounded to the nearest \$5,000.

<sup>6</sup> *See* Explanation and Justification for Final Rules on Inflation Adjustments for Civil Monetary Penalties, 70 FR 34633 (June 15, 2005) ("2005 Adjustment"); Explanation and Justification for Final Rules on Adjustments to Civil Monetary Penalty Amounts, 62 FR 11316 (Mar. 12, 1997) ("1997 Adjustment"). In January 2002, the rounding

rules resulted in no adjustments. Agenda Doc. 02-06 (Jan. 17, 2002).

<sup>7</sup> Election-sensitive reports are those due just before an election. *See* 11 CFR 111.43(d)(1). The dissemination of information in these reports has the most meaningful impact because they are filed in proximity to an election. Accordingly, the schedule of penalties imposes a higher civil penalty for these reports than for all other reports, which are non-election-sensitive.

section 111.43(a) and (b) applicable to reports containing under \$50,000 in activity. It also repromulgated the remaining civil penalties. *See* Explanation and Justification for Final Rules on Administrative Fines, 68 FR 12572 (Mar. 17, 2003) ("2003 Rules"). Accordingly, the civil penalties for reports due on or after April 16, 2003 were set forth in new schedules at 11 CFR 111.43(a)(2) (non-election-sensitive) and 11 CFR 111.43(b)(2) (election-sensitive). The penalty schedules for previous reports were located in 11 CFR 111.43(a)(1) (non-election-sensitive) and 111.43(b)(1) (election-sensitive). The Commission also revised its definitions for "level of activity" and "estimated level of activity" for reports due on or after April 16, 2003.

The Commission has now determined that there is no need to retain the pre-April 2003 schedules at 11 CFR 111.43(a)(1) and (b)(1). Because the statute of limitations for enforcement of civil fines and penalties is five years from the date when the claim first accrued, a proceeding to enforce a civil penalty for a report due before April 16, 2003 would need to have been commenced before April 16, 2008. *See* 28 U.S.C. 2462. Accordingly, the Commission is removing paragraphs (a)(1) and (b)(1) from 11 CFR 111.43, including both the old schedules and the definitions for "level of activity" and "estimated level of activity" applicable to those schedules. Former 11 CFR 111.43(a)(2) and 11 CFR 111.43(b)(2) are being renumbered as 11 CFR 111.43(a) and 111.43(b), respectively. Additionally, because the removal of the old schedules at 11 CFR 111.43(a)(1) and (b)(1) obviates the need to distinguish between different definitions of "level of activity" and "estimated level of activity" for time periods before or after the 2003 Rules, the Commission is also moving, but not changing the substance of, those definitions from section 111.43(a)(2) and (b)(2) to the general definition section at 11 CFR 111.43(d). Finally, the Commission is numbering each of the definitions in section 111.43(d) for clarity.

In addition to these technical changes, the Commission must adjust the civil penalties schedules in section 111.43(a) and (b) pursuant to the Inflation Adjustment Act. These civil penalties schedules were set when the Commission repromulgated them in the 2003 rulemaking. In 2005, the Commission applied the Inflation Adjustment Act formulae to the civil penalties in section 111.43. Because of the rounding rules, however, none of

the penalties was adjusted. *See* 2005 Adjustment, 70 FR at 34635. Accordingly, this is the first adjustment of these civil penalties under the Inflation Adjustment Act and the 10% cap applies to any adjustments made.

To make the adjustments, the Inflation Adjustment Act formula is applied to each civil penalty in the schedules to determine what, if any, adjustment must be made. First, the CPI for 2008 is divided by the CPI for June of 2003 (218.815/183.7) to determine the applicable COLA of 0.191. Then, each civil penalty is multiplied by the COLA to determine the amount of the unrounded raw increase. Next, the statutory rounding formula is applied to that raw increase amount. The resulting rounded increase is then added to the current civil penalty to determine the new raw civil penalty. Finally, the statutory 10% penalty cap is applied as necessary. Accordingly, if the new raw civil penalty is larger than 110% of the current civil penalty, the raw penalty is adjusted downward to conform to that penalty cap. The actual adjustment to each civil penalty is shown in the schedules in the rule text, below.

The Commission must also adjust the \$5,500 civil penalty provided for in 2000 in 11 CFR 111.43(c), and repromulgated in 2003, which has not been adjusted pursuant to the Inflation Adjustment Act. To determine this year's adjustment, the CPI for June 2008 is divided by the CPI for June 2003 (218.815/183.7) for a COLA increase of 0.191. Next the \$5,500 is multiplied by the COLA for a raw increase of \$1,050.50, which is then rounded to \$1,000. Again, this first adjustment pursuant to the Inflation Adjustment Act is capped at 10 percent of the original penalty (\$5,500), for a new section 111.43(c) civil penalty of \$6,050.

### 3. 11 CFR 111.44—Schedule of Penalties for 48-Hour Notices

Principal campaign committees are required to report, within 48 hours of receipt, any contributions of \$1,000 or more that are received after the 20th day, but more than 48 hours before any election. 2 U.S.C. 434(a)(6). FECA permits the Commission to assess civil penalties for violations of the 48-hour notice reporting requirement. 2 U.S.C. 437g(a)(4)(C). The Commission last adjusted the civil penalty for these reporting violations in 2005 to \$110 + (.10 x amount of contribution(s) not timely reported). *See* 2005 Adjustment, 70 FR at 34635; Explanation and Justification for Final Rules on Administrative Fines 65 FR 31787, 31793 (May 19, 2000) To determine this year's adjustment, the CPI for June 2008

is divided by the CPI for June 2005 (218.815/194.5) for a COLA increase of 0.125. The civil penalty is then multiplied by the COLA for a raw increase of \$13.75, which is then rounded to \$0. Accordingly, the civil penalty in section 111.44 remains at \$110 + (.10 x amount of contribution(s) not timely reported).

While the Commission is not making any adjustments to the civil penalty in 11 CFR 111.44, it is correcting an incorrect phrase in section 111.44(b). Specifically, the phrase "civil money penalty" is incomplete and is being changed to "final civil money penalty."

### Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

The provisions of the Regulatory Flexibility Act are not applicable to this final rule because the Commission was not required to publish a notice of proposed rulemaking or to seek public comment under 5 U.S.C. 553 or any other laws. 5 U.S.C. 603(a) and 604(a). Therefore, no regulatory flexibility analysis is required.

### List of Subjects in 1 CFR Part 111

Administrative practice and procedures, Elections, Law enforcement, Penalties.

■ For the reasons set out in the preamble, the Federal Election Commission amends subchapter A of chapter I of title 11 of the *Code of Federal Regulations* as follows:

### PART 111—COMPLIANCE PROCEDURE (2 U.S.C. 437g, 437d(a))

■ 1. The authority citation for part 111 continues to read as follows:

**Authority** 2 U.S.C. 432(i), 437g, 437d(a), 438(a)(8); 28 U.S.C. 2461 nt.

■ 2. Section 111.24 is amended by revising paragraphs (a)(1), (a)(2)(i), (a)(2)(ii) and (b) to read as follows:

#### § 111.24 Civil Penalties (2 U.S.C. 437g(a)(5), (6), (12), 28 U.S.C. 2461 nt.).

(a) \* \* \*

(1) Except as provided in paragraph (a)(2) of this section, in the case of a violation of the Act or chapters 95 or 96 of title 26 (26 U.S.C.), the civil penalty shall not exceed the greater of \$7,500 or an amount equal to any contribution or expenditure involved in the violation.

(2) \* \* \*

(i) In the case of a knowing and willful violation of the Act or chapters 95 or 96 of title 26 (26 U.S.C.), the civil penalty shall not exceed the greater of \$16,000 or an amount equal to 200% of any contribution or expenditure involved in the violation.

(ii) Notwithstanding paragraph (a)(2)(i) of this section, in the case of a knowing and willful violation of 2 U.S.C. 441f, the civil penalty shall not be less than 300% of the amount of any contribution involved in the violation and shall not exceed the greater of \$60,000 or 1,000% of the amount of any contribution involved in the violation.

(b) Any Commission member or employee, or any other person, who in violation of 2 U.S.C. 437g(a)(12)(A)

makes public any notification or investigation under 2 U.S.C. 437g without receiving the written consent of the person receiving such notification, or the person with respect to whom such investigation is made, shall be fined not more than \$3,200. Any such member, employee, or other person who knowingly and willfully violates this provision shall be fined not more than \$7,500.

■ 3. Section 111.43 is amended by revising paragraphs (a), (b), (c), and (d) to read as follows:

**§ 111.43 What are the schedules of penalties?**

(a) The civil money penalty for all reports that are filed late or not filed, except election sensitive reports and pre-election reports under 11 CFR 104.5, shall be calculated in accordance with the following schedule of penalties:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1–4,999.99	[\$25 + (\$5 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$250 × [1 + (.25 × Number of previous violations)].
\$5,000–9,999.99	[\$55 + (\$5 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$330 × [1 + (.25 × Number of previous violations)].
\$10,000–24,999.99	[\$110 + (\$5 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$550 × [1 + (.25 × Number of previous violations)].
\$25,000–49,999.99	[\$200 + (\$20 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$990 × [1 + (.25 × Number of previous violations)].
\$50,000–74,999.99	[\$330 + (\$82.50 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$2,970 × [1 + (.25 × Number of previous violations)].
\$75,000–99,999.99	[\$440 + (\$110 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$3,850 × [1 + (.25 × Number of previous violations)].
\$100,000–149,999.99	[\$660 + (\$125 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$4,950 × [1 + (.25 × Number of previous violations)].
\$150,000–199,999.99	[\$880 + (\$150 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$6,050 × [1 + (.25 × Number of previous violations)].
\$200,000–249,999.99	[\$1,100 + (\$175 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$7,150 × [1 + (.25 × Number of previous violations)].
\$250,000–349,999.99	[\$1,500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$8,800 × [1 + (.25 × Number of previous violations)].
\$350,000–449,999.99	[\$2,000 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$9,900 × [1 + (.25 × Number of previous violations)].
\$450,000–549,999.99	[\$2,500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$10,450 × [1 + (.25 × Number of previous violations)].
\$550,000–649,999.99	[\$3,300 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,000 × [1 + (.25 × Number of previous violations)].
\$650,000–749,999.99	[\$3,850 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$10,500 × [1 + (.25 × Number of previous violations)].
\$750,000–849,999.99	[\$4,400 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,000 × [1 + (.25 × Number of previous violations)].
\$8,50,000–949,999.99	[\$4,950 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,500 × [1 + (.25 × Number of previous violations)].
\$950,000 or over	[\$5,500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$12,000 × [1 + (.25 × Number of previous violations)].

<sup>a</sup> The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(b) The civil money penalty for election sensitive reports that are filed late or not filed shall be calculated in accordance with the following schedule of penalties:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1–4,999.99 <sup>a</sup>	[\$55 + (\$10 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$550 × [1 + (.25 × Number of previous violations)].
\$5,000–9,999.99	[\$110 + (\$10 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$660 × [1 + (.25 × Number of previous violations)].
\$10,000–24,999.99	[\$150 + (\$10 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$990 × [1 + (.25 × Number of previous violations)].
\$25,000–49,999.99	[\$330 + (\$25 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$1,400 × [1 + (.25 × Number of previous violations)].
\$50,000–74,999.99	[\$495 + (\$82.50 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$3,300 × [1 + (.25 × Number of previous violations)].
\$75,000–99,999.99	[\$660 + (\$110 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$4,400 × [1 + (.25 × Number of previous violations)].

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$100,000–149,999.99 .....	[\$990 + (\$125 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$5,500 × [1 + (.25 × Number of previous violations)].
\$150,000–199,999.99 .....	[\$1,200 + (\$150 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$6,600 × [1 + (.25 × Number of previous violations)].
\$200,000–249,999.99 .....	[\$1,500 + (\$175 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$8,250 × [1 + (.25 × Number of previous violations)].
\$250,000–349,999.99 .....	[\$2,250 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$9,900 × [1 + (.25 × Number of previous violations)].
\$350,000–449,999.99 .....	[\$3,300 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,000 × [1 + (.25 × Number of previous violations)].
\$450,000–549,999.99 .....	[\$4,125 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,000 × [1 + (.25 × Number of previous violations)].
\$550,000–649,999.99 .....	[\$4,950 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$12,000 × [1 + (.25 × Number of previous violations)].
\$650,000–749,999.99 .....	[\$5,775 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$13,000 × [1 + (.25 × Number of previous violations)].
\$750,000–849,999.99 .....	[\$6,600 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$15,400 × [1 + (.25 × Number of previous violations)].
\$850,000–949,999.99 .....	[\$7,425 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$16,500 × [1 + (.25 × Number of previous violations)].
\$950,000 or over .....	[\$8,250 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$17,600 × [1 + (.25 × Number of previous violations)].

<sup>a</sup> The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(c) If the respondent fails to file a required report and the Commission cannot calculate the level of activity under paragraph (d) of this section, then the civil money penalty shall be \$6,500.

(d) *Definitions.* For this section only, the following definitions will apply:

(1) *Election Sensitive Reports* means third quarter reports due on October 15th before the general election (for all committees required to file this report except committees of candidates who do not participate in that general election); monthly reports due October 20th before the general election (for all committees required to file this report except committees of candidates who do not participate in that general election); and pre-election reports for primary, general, and special elections under 11 CFR 104.5.

(2) *Estimated level of activity* means:

(i) For an authorized committee, total receipts and disbursements reported in the current two-year election cycle divided by the number of reports filed to date covering the activity in the current two-year election cycle. If the respondent has not filed a report covering activity in the current two-year election cycle, estimated level of activity for an authorized committee means total receipts and disbursements reported in the prior two-year election cycle divided by the number of reports filed covering the activity in the prior two-year election cycle.

(ii)(A) For an unauthorized committee, estimated level of activity is calculated as follows: [(Total receipts and disbursements reported in the current two-year cycle) – (Transfers received from non-Federal account(s) as

reported on Line 13(a) of FEC Form 3X Disbursements for the non-Federal share of operating expenditures attributable to allocated Federal/non-Federal activity as reported on Line 21(a)(ii) of FEC Form 3X)] + Number of reports filed to date covering the activity in the current two-year election cycle.

(B) If the unauthorized committee has not filed a report covering activity in the current two-year election cycle, the estimated level of activity is calculated as follows: [(Total receipts and disbursements reported in the prior two-year election cycle – (Transfers received from non-Federal account(s) as reported on Line 18(a) of FEC Form 3X Disbursements for the non-Federal share of operating expenditures attributable to allocated Federal/non-Federal activity as reported on Line 21(a)(ii) of FEC Form 3X)] + Number of reports filed covering the activity in the prior two-year election cycle

(3) *Level of activity* means:

(i) For an authorized committee, the total amount of receipts and disbursements for the period covered by the late report. If the report is not filed, the level of activity is the estimated level of activity as set forth in paragraph (d)(2)(i) of this section.

(ii) For an unauthorized committee, the total amount of receipts and disbursements for the period covered by the late report minus the total of: Transfers received from non-Federal account(s) as reported on Line 18(a) of FEC Form 3X and disbursements for the non-Federal share of operating expenditures attributable to allocated Federal/non-Federal activity as reported on Line 21(a)(ii) of FEC Form 3X for the

period covered by the late report. If the report is not filed, the level of activity is the estimated level of activity as set forth in paragraph (d)(2)(ii) of this section

(4) *Number of previous violations* means all prior final civil money penalties assessed under this subpart during the current two-year election cycle and the prior two-year election cycle.

\* \* \* \* \*

**§ 111.44 [Amended]**

■ 4. In paragraph (b) of § 111.44, remove the words “civil money penalty” and add, in their place, the words “final civil money penalty.”

Dated: March 25, 2009.

On behalf of the Commission.

**Steven T. Walther,**

*Chairman, Federal Election Commission.*

**Editorial Note:** This document was received in the Office of the Federal Register on Thursday, June 25, 2009.

[FR Doc. E9–15483 Filed 6–30–09; 8:45 am]

BILLING CODE 6715–01–P

**SENSITIVE**

Committee ID: C00355784

Committee Name: ROBINSON COMMITTEE LLC

Committee Designation: PRINCIPAL CAMPAIGN COMMITTEE OF A CANDIDATE

Filing Frequency: QUARTERLY FILER

Candidate ID: SOMA00042

Candidate Name: ROBINSON, JACK E

Special Interest Group: Not Available

Multi-Candidate Status/Date: No

Date Effective:

Committee Type: SENATE

Treasurer Name: JACK E ROBINSON

Committee Address: PO BOX 2587  
DUXBURY, MA  
02331

Analyst Assigned: Andrew Karwoski

Analyst Extension: 1167

Contact	Communication Date & Time	Analyst	Type
Jack E Robinson	04/15/2010 09:48 AM	Rhiannon Magruder	Phone Call
<b>Summary</b>	He called me back regarding AF 2122 and stated that he would be filing 2009 Amended 12 Day Pre-Primary Report, 2009 Year End Report and 2010 April Quarterly Report this weekend. I faxed RTB Letter to 203-425-4555. He understands that if 2010 Year End Report is filed this weekend, AF 2122 fine will be recalculated based on real activity.		

Contact	Communication Date & Time	Analyst	Type
Jack E Robinson	04/14/2010 09:42 AM	Rhiannon Magruder	Phone Call
<b>Summary</b>	I called and left a message at his law firm asking that he return my call regarding AF 2122. RTB Letter was returned.		

Contact	Communication Date & Time	Analyst	Type
Jack E Robinson	02/18/2010 04:09 PM	Amanda J Iovino	Phone Call
<b>Summary</b>	Candidate called back regarding the referable issue and said he was in Europe for three weeks and asked for an extension. The analyst explained that no extensions were given. The candidate said he would mail his response in as soon as possible.		

Contact	Communication Date & Time	Analyst	Type
Jack E Robinson	02/17/2010 10:49 AM	Amanda J Iovino	Phone Call
<b>Summary</b>	Analyst called the committee regarding a referable issue. There was no answer so a message was left asking for a returned call to discuss the issue.		

CALL 1-800-222-1811 FOR PICKUP OR TRACKING OF ALL YOUR PACKAGES



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Label 11-B, March 2004

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Federal Agency Acct. No. or  
Postal Service Acct. No.

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NO DELIVERY  
 Weekend  Holiday  Mailer Signature

FROM: (PLEASE PRINT) PHONE (202) 494 1137  
FEC  
999 E St, NW  
Washington DC 20463

TO: (PLEASE PRINT) PHONE ( )  
Jack E Robinson  
Robinson Committee LLC  
PO Box 2587  
Duxbury, MA

0 2 3 3 1  
FOR INTERNATIONAL DESTINATIONS, WRITE COUNTRY NAME BELOW Envelope

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only

MODE = MEMORY TRANSMISSION

START= APR-15 09:06

END=APR-15 09:09

FILE NO. =437

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
001	OK	#	912034254555	005/005	00:01:36

-FEC REPORTS ANALYSIS -

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- \*\*\*\*\* -

2022193496- \*\*\*\*\*



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

## FAX TRANSMITTAL

Date: 4/15/2010

To: Jack Robinson

Robinson Committee LLC

Fax #: 203-425-4555

From: Rhannon Magruder

FEC Fax #: (202) 217-3496

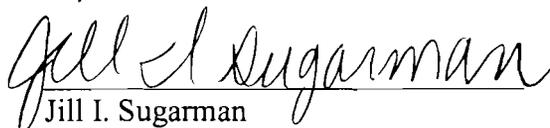
FEC Phone #: (800) 424-9530 or (202) 694-1130

Page Count: 5  
(including cover sheet)

**DECLARATION OF JILL I. SUGARMAN**

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 2009 Year End Report is due January 31, 2010. Senate principal campaign committees must file reports with the Secretary of the Senate. Reports sent by first class mail are considered filed on the date of receipt.
3. It is the practice of the Office of Public Records, Secretary of the Senate to date stamp each report as it is received and complete an envelope processing page disclosing the method used to file the report as well as either the date of receipt or postmark.
4. 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) Statement of Candidacy filed by Jack E. Robinson dated October 10, 2009. According to the Commission’s records, the Statement was received on October 20, 2009;
  - (b) Pages 1 and 3 of the Statement of Organization filed by the Robinson Committee, LLC and Jack E. Robinson, as Treasurer. According to the Commission’s records, the document is dated October 10, was received on October 20, 2009, and lists “robinsonesq@aol.com” as the Committee’s email address. Line 7 lists “Jack E. Robinson” as the Custodian of Records;
  - (c) Page 1 of the Summary Page and Page 2 of Schedule C for the 2009 October Quarterly Report filed by the Robinson Committee, LLC and Jack E. Robinson, as Treasurer. According to the Commission’s records, the report covers the period from July 1 through September 30, 2009 and was received on October 20, 2009. Schedule C lists \$52,357.00 in loans made or guaranteed by the candidate for the reporting period;
  - (d) Page 1 of the Summary Page and Page 3 of the Detailed Summary Page for the 2009 12 Day Pre-Primary/Pre-Special Report filed by the Robinson Committee, LLC and Jack E. Robinson, as Treasurer. According to the Commission’s records, the report covers the period from October 1 through November 18, 2009 and was received on December 1, 2009. Line 13(a) lists \$136,000.00 in loans made or guaranteed by the candidate for the reporting period;
  - (e) 2 pages of 48-Hour Notices filed by the Robinson Committee, LLC and Jack E. Robinson, as Treasurer. According to the Commission’s records, the 48-Hour Notices were received on December 1 and 4, 2009. They list contributions/loans received from Jack E. Robinson of \$265,000.00 and \$100,000.00 received on November 29, 2009 and December 4, 2009, respectively;
  - (f) Request for Additional Information dated January 7, 2010 which is addressed to the Robinson Committee, LLC and Jack E. Robinson, as Treasurer. According to the Commission’s records, the Request was sent by the Reports Analysis Division and references the October Quarterly Report. On Page 1 of the Request, it states “Response Due Date: February 11, 2010;”

- (g) Requests for Additional Information dated February 23 and March 23, 2010 which are addressed to the Robinson Committee, LLC and Jack E. Robinson, as Treasurer. According to the Commission's records, the Requests were sent by the Reports Analysis Division and reference the 12 Day Pre-Primary; 12 Day Pre-Special and Amended October Quarterly Reports; and
  - (h) Page 1 of the Summary Page, Page 3 of the Detailed Summary Page, the envelope, and the Senate Office of Public Records postmark sheet for the 2009 Year End Report filed via first class mail by the Robinson Committee, LLC and Jack E. Robinson, as Treasurer. According to the Commission's records, the report covers the period from November 19 through December 31, 2009, was received on April 22, 2010, and there is no postmark. Line 13(a) lists \$376,395.00 in loans made or guaranteed by the candidate for the reporting period.
5. 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 4th of June, 2010.



Jill I. Sugarman  
Reviewing Analyst  
Office of Administrative Review  
Federal Election Commission

**FEC FORM 2**  
**STATEMENT OF CANDIDACY**

SECRETARY OF THE SENATE  
09 OCT 20 PM 1:16

1. (a) Name of Candidate (in full) <b>Jack E. Robinson</b>		
(b) Address (number and street) <b>P.O. Box 2587</b>	<input checked="" type="checkbox"/> Check if address changed	2. Candidate's FEC Identification Number <b>C 00355784</b>
(c) City, State, and ZIP Code <b>Duxbury, MA 02331</b>	3. Is This Statement <input type="checkbox"/> New (N) OR <input checked="" type="checkbox"/> Amended (A)	
4. Party Affiliation <b>REP</b>	5. Office Sought <b>Senate</b>	6. State & District of Candidate <b>MA</b>

**DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE**

7. I hereby designate the following named political committee as my Principal Campaign Committee for the 2009-10 election(s).  
(year of election)

NOTE: This designation should be filed with the appropriate office listed in the instructions.

(a) Name of Committee (in full) <b>Robinson Committee, LLC</b>
(b) Address (number and street) <b>P.O. Box 2587</b>
(c) City, State, and ZIP Code <b>Duxbury, MA 02331</b>

**DESIGNATION OF OTHER AUTHORIZED COMMITTEES**

(including Joint Fundraising Representatives)

8. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of my candidacy.

NOTE: This designation should be filed with the principal campaign committee.

(a) Name of Committee (in full)
(b) Address (number and street)
(c) City, State, and ZIP Code

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

Signature of Candidate 	Date <b>10/10/09</b>
---	-------------------------

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

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FEC FORM 2 (REV. 03/2008)

20020422004

SECRETARY OF THE SENATE

09 OCT 20 PM 1:16

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.

12PB4M5

Robinson Committee, LLC

ADDRESS (number and street)

P.O. Box 2587

(Check if address is changed)

Duxbury

MA

02331

CITY

STATE

ZIP CODE

COMMITTEE'S E-MAIL ADDRESS (Please provide only one e-mail address)

robinsonesq@aol.com

(Check if address is changed)

COMMITTEE'S WEB PAGE ADDRESS (URL)

www.jackerobinson.com

(Check if address is changed)

2. DATE

10 / 10 / 2009

3. FEC IDENTIFICATION NUMBER

C 00355784

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

Jack E. Robinson

Signature of Treasurer

*Jack E. Robinson*

Date

10 / 10 / 2009

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. 4487g.

ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

Office Use Only

For further information contact: Federal Election Commission, 1100 ...

FEC FORM 1 (Revised 02/2009)

29020422008

FEC Form 1 (Revised 02/2009)

Page 3

Write or Type Committee Name

Robinson Committee, LLC

6. Name of Any Connected Organization, Affiliated Committee, Joint Fundraising Representative, or Leadership PAC Sponsor

\_\_\_\_\_

\_\_\_\_\_

Mailing Address

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CITY

STATE

ZIP CODE

Relationship:  Connected Organization  Affiliated Committee  Joint Fundraising Representative  Leadership PAC Sponsor

7. Custodian of Records: Identify by name, address (phone number - optional) and position of the person in possession of committee books and records.

Jack E. Robinson

Full Name

\_\_\_\_\_

Mailing Address

P.O. Box 2587

\_\_\_\_\_

Duxbury MA 02331

Title or Position

CITY

STATE

ZIP CODE

\_\_\_\_\_ Telephone number 781 - 934 - 6755

8. Treasurer: List the name and address (phone number - optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).

Jack E. Robinson

Full Name of Treasurer

\_\_\_\_\_

Mailing Address

P.O. Box 2587

\_\_\_\_\_

Duxbury MA 02331

Title or Position

CITY

STATE

ZIP CODE

Treasurer Telephone number 781 - 934 - 6755

29020422610

**FEC  
FORM 3**

**REPORT OF RECEIPTS  
AND DISBURSEMENTS**

For An Authorized Committee

SECRETARY OF THE SENATE

09 OCT 20 PM 1:16

Office Use Only

1. NAME OF COMMITTEE (in full) **TYPE OR PRINT** Example: If typing, type over the lines. **12FE4M5**  
Robinson Committee, LLC

ADDRESS (number and street) P.O. Box 2587  
 Check if different than previously reported. (ACC)  
Duxbury MA 02331

2. FEC IDENTIFICATION NUMBER **C** 00355784  
CITY STATE ZIP CODE  
STATE DISTRICT  
MA

3. IS THIS REPORT  NEW (N) OR  AMENDED (A)

4. TYPE OF REPORT (Choose One)  
(a) Quarterly Reports:  
 April 15 Quarterly Report (Q1)  
 July 15 Quarterly Report (Q2)  
 October 15 Quarterly Report (Q3)  
 January 31 Year-End Report (YE)  
 Termination Report (TER)

(b) 12-Day PRE-Election Report for the:  
 Primary (12P)  General (12G)  Runoff (12R)  
 Convention (12C)  Special (12S)  
Election on M M / P D / Y Y Y Y Y Y In the State of  
(c) 30-Day POST-Election Report for the:  
 General (30G)  Runoff (30R)  Special (30S)  
Election on M M / P D / Y Y Y Y Y Y In the State of

5. Covering Period 07<sup>th</sup> / 01<sup>st</sup> / 2008 through 09<sup>th</sup> / 30<sup>th</sup> / 2009

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.  
Type or Print Name of Treasurer Jack E. Robinson  
Signature of Treasurer *Jack E. Robinson* Date 10 / 10 / 2009

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

Office Use Only  
**FEC FORM 3**  
(Revised 02/2003)

29020422015

**SCHEDULE C (FEC Form 3)  
LOANS**

Use separate schedule(s) for each category of the Detailed Summary Page.

FOR LINE NUMBER: (check only one)

PAGE 2 OF 2

18a  
 19b

NAME OF COMMITTEE (in Full)

Robinson Committee, LLC

LOAN SOURCE Full Name (Last, First, Middle Initial)

Robinson, Jack E.

Election:

Primary  
 General  
 Other (specify) All

Mailing Address

P.O. Box 2587

City

Duxbury

State

MA

ZIP Code

02331

Original Amount of Loan

52,357.00

Cumulative Payment To Date

Balance Outstanding at Close of This Period

52,357.00

TERMS

Date Incurred

09 / 01 / 2009

Date Due

06 / 30 / 2010

Interest Rate

6.0 % (apr)

Secured:

Yes  No

List All Endorsers or Guarantors (if any) to Loan Source

1. Full Name (Last, First, Middle Initial)

Name of Employer

Mailing Address

Occupation

City

State

ZIP Code

Amount Guaranteed Outstanding:

2. Full Name (Last, First, Middle Initial)

Name of Employer

Mailing Address

Occupation

City

State

ZIP Code

Amount Guaranteed Outstanding:

3. Full Name (Last, First, Middle Initial)

Name of Employer

Mailing Address

Occupation

City

State

ZIP Code

Amount Guaranteed Outstanding:

4. Full Name (Last, First, Middle Initial)

Name of Employer

Mailing Address

Occupation

City

State

ZIP Code

Amount Guaranteed Outstanding:

SUBTOTALS This Period This Page (optional)

52,357.00

TOTALS This Period (last page in this line only)

337,253.83

Carry outstanding balance only to LINE 9, Schedule D, for this line. If no Schedule D, carry forward to appropriate line of Summary.

2020422022

SECRETARY OF THE SENATE  
09 DEC -1 PM 12:22

**FEC  
FORM 3**

**REPORT OF RECEIPTS  
AND DISBURSEMENTS**  
For An Authorized Committee

Office Use Only

1. NAME OF COMMITTEE (In full) **TYPE OR PRINT** Example: If typing, type over the lines. 12FE4M5

Robinson Committee, LLC

ADDRESS (number and street) P.O. Box 2587

Check if different than previously reported. (ACC)

Duxbury MA 02331

2. **FEC IDENTIFICATION NUMBER** C 00355784

3. IS THIS REPORT  **NEW** (N) OR  **AMENDED** (A)

STATE **MA** ZIP CODE MA DISTRICT

4. **TYPE OF REPORT** (Choose One)

(a) Quarterly Reports:

April 15 Quarterly Report (Q1)

July 15 Quarterly Report (Q2)

October 15 Quarterly Report (Q3)

January 31 Year-End Report (YE)

Termination Report (TER)

(b) 12-Day PRE-Election Report for the:

Primary (12P)  General (12G)  Runoff (12R)

Convention (12C)  Special (12S)

Election on 12 / 08 / 2009 in the State of MA

(c) 30-Day POST-Election Report for the:

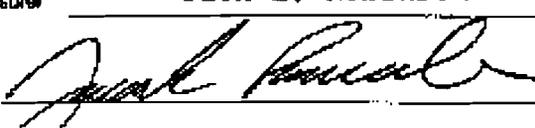
General (30G)  Runoff (30R)  Special (30S)

Election on M / M / Y in the State of  

5. Covering Period 10 / 01 / 2009 through 11 / 08 / 2009

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

Type or Print Name of Treasurer Jack E. Robinson

Signature of Treasurer  Date 11 / 23 / 2009

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

Office Use Only									
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**FEC FORM 3**  
(Revised 02/2008)

29020443783

**DETAILED SUMMARY PAGE**  
of Receipts

FEC Form 3 (Revised 12/2003)

Page 3

Write or Type Committee Name

Robinson Committee, LLC

Report Covering the Period: From:

10 / 01 / 2009

To:

11 / 18 / 2009

**I. RECEIPTS**

**COLUMN A**  
Total This Period

**COLUMN B**  
Election Cycle-to-Date

11. CONTRIBUTIONS (other than loans) FROM:

(a) Individuals/Persons Other Than Political Committees

(i) Itemized (Use Schedule A).....

.....

.....

(ii) Unitemized.....

.....

.....

(iii) TOTAL of contributions from individuals.....

.....

2,687.00

(b) Political Party Committees.....

.....

.....

(c) Other Political Committees (such as PACs).....

.....

.....

(d) The Candidate.....

.....

735.00

(e) TOTAL CONTRIBUTIONS (other than loans) (add Lines 11(a)(i), (b), (c), and (d)).....

.....

3,602.00

12. TRANSFERS FROM OTHER AUTHORIZED COMMITTEES.....

.....

534.58

13. LOANS:

(a) Made or Guaranteed by the Candidate.....

136,000.00

473,253.83

(b) All Other Loans.....

.....

.....

(c) TOTAL LOANS (add Lines 13(a) and (b)).....

136,000.00

473,253.83

14. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.).....

.....

.....

15. OTHER RECEIPTS (Dividends, Interest, etc.).....

.....

.....

16. TOTAL RECEIPTS (add Lines 11(e), 12, 13(c), 14, and 15) (Carry Total to Line 24, page 4).....

136,000.00

477,390.41

29020443785

# 48 HOUR NOTICE OF CONTRIBUTIONS/LOANS RECEIVED

(See Reverse Side for Instructions)

SECRETARY OF THE SENATE

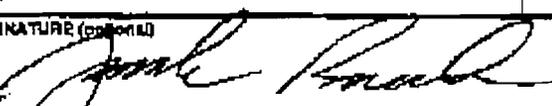
09 DEC -1 AM 10: 03

To be used to report all contributions (including loans) of \$1000 or more, received within 48 days of the election.

1. NAME OF COMMITTEE (if full)	
Robinson Committee, LLC	
ADDRESS (number and street)	
P.O. Box 2587	
CITY, STATE, and ZIP CODE	
Duxbury, MA 02331	
2. NAME OF CANDIDATE	3. OFFICE BOUGHT (State and District)
Jack E. Robinson	Senate - MA

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes other than using the name and address of any political committee to solicit contributions from such committee.

4. FEED IDENTIFICATION NUMBER  
C 00355784

A. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount
Jack E. Robinson P.O. Box 2587 Duxbury, MA 02331	self	11/29/09	\$265,000
	Occupation		
	attorney		
B. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount
	Occupation		
C. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount
	Occupation		
D. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount
	Occupation		
E. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount
	Occupation		
SIGNATURE (optional)		DATE	For further information contact: Federal Election Commission 800 E Street, NW, Washington, DC 20463 Toll Free 800-424-9530, Local 202-494-1100
		12/01/09	

**FEC FORM 6**  
(Revised 1/2001)

29020443751

LANGES.PDF

**48 HOUR NOTICE OF CONTRIBUTIONS/LOANS RECEIVED** SECRETARY OF THE SENATE  
 DEC -4 PM 5:04  
 (See reverse side for instructions)

To be used to report all contributions (including loans) of \$1000 or more, received within 20 days of the election.

1. NAME OF COMMITTEE OR FUND: **Robinson Committee, LLC**

ADDRESS (NUMBER AND STREET): **P.O. Box 2587**

CITY, STATE, and ZIP CODE: **Duxbury, MA 02331**

2. NAME OF CANDIDATE: **Jack E. Robinson**

3. OFFICE BOUGHT (State and District): **Senate - MA**

Any information copied from such Records and Statements may not be sold or used by any person for the purpose of making contributions or for commercial purposes other than using the name and address of any political committee to solicit contributions from such committee.

4. FEC IDENTIFICATION NUMBER: **C 00355784**

A. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount
<b>Jack E. Robinson</b> <b>P.O. Box 2587</b> <b>Duxbury, MA 02331</b>	self	12/4/09	\$100,000.00
	Occupation: attorney		
B. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount
	Occupation		
C. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount
	Occupation		
D. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount
	Occupation		
E. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount
	Occupation		
SIGNATURE (optional): 	DATE: 12/4/09	For further information contact: Federal Election Commission 950 E Street, NW, Washington, DC 20463 Toll Free 800-424-9530, Local 202-694-1100	

2902044428

SELAN03.PDF

**FEC FORM 6**  
(Revised 1/2001)



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RQ-2

January 7, 2010

Jack E. Robinson, Treasurer  
Robinson Committee, LLC  
P.O. Box 2587  
Duxbury, MA 02331

Response Due Date:  
February 11, 2010

Identification Number: C00355784

Reference: October Quarterly Report (7/1/06 - 9/30/09)

Dear Treasurer:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. This notice requests information essential to full public disclosure of your federal election campaign finances. **An adequate response must be received at the Senate Public Records Office by the response date noted above. Failure to adequately respond by the response date noted above could result in an audit or enforcement action.** Additional information is needed for the following 5 items:

1. Your committee failed to file a Post-Election Detailed Summary Page. The Post-Election Detailed Summary Page must be used in lieu of the Detailed Summary Page and Line Numbers 6-7 of the Summary Page for the first report filed after completion of the election cycle. The report filed encompasses the election held on 11/7/06. The Column C figures should total the activity for the period of 11/8/06 - 1/19/10. The Post-Election Detailed Summary Page can be downloaded from the FEC web site ([www.fec.gov](http://www.fec.gov)). Please amend your report to include a Post-Election Detailed Summary Page. (11 CFR §§ 104.2(a) and 104.3)
2. Please amend your report to include a supporting Schedule A for the amount reported on Line 12 of the Detailed Summary Page. All transfers to your committee from authorized committees of the same candidate must be itemized on Schedule A, regardless of the amount transferred. (11 CFR § 104.3(a)(4)(iii))
3. Please provide a Schedule A to support the amount reported on Line 13(a) of the Detailed Summary Page. Each person who makes a loan to your committee, or to the candidate acting as an agent of the committee,

10030210846

Robinson Committee, LLC

Page 2 of 4

must be itemized on Schedule A and Schedule C. The itemization on Schedule A must include the person's full name, mailing address and zip code, along with the name of his/her employer, his/her occupation, the date of the contribution/loan and the election cycle-to-date amount of contributions made by the person. Schedule C must include any endorser or guarantor of the loan, the date the loan was made and all other terms of the loan. If the loan is from the candidate, you must indicate whether it is from his/her personal funds, or was obtained by the candidate from a bank loan, brokerage account, credit card, home equity line of credit or other line of credit. (11 CFR § 104.3(a)(4)(iv))

4. When a committee reports receiving a loan from the candidate, it is necessary to clarify whether or not the candidate used personal funds or borrowed the money from a lending institution or some other source. Please amend your report to indicate whether the loan is from the candidate's personal funds or if he/she obtained the loan from a bank loan, brokerage account, credit card, home equity line of credit or other line of credit.

If the candidate loan was obtained from a lending institution, you must also file a Schedule C-1 with the Commission providing the name of the lending institution and the complete terms of the loan between the candidate and the lending institution. Schedule C-1 can be downloaded from the FEC website at <http://www.fec.gov>, or requested through the FEC Faxline at (202) 501-3413. Electronic filers must submit the Schedule C-1 electronically.

If the loan(s) was from personal funds, please acknowledge that fact in an amendment to this report. It is important to note that "personal funds" is strictly defined by Commission Regulations. See 11 CFR §100.33.

5. The Commission notes your statement, dated 7/15/09, regarding the transfer of loans from the Robinson Committee, LLC (C00426718) ("the House Committee") to the Robinson Committee, LLC (C00355784) ("the Senate Committee") pursuant to 11 CFR § 110.3(c)(4). However, the incorrect reporting of the loan transfer has caused the following issues on this report:

- The Detailed Summary Page of your report discloses information that inflates your cash on hand. Please be advised that the total

10030210847

Robinson Committee, LLC

Page 3 of 4

amount of loans transferred from the House Committee should not be included in your Schedule A total. (11 CFR § 104.3(a)(3))

- Your report discloses \$139,630.00 in other disbursements on Line 21, Column A, of the Detailed Summary Page. However, your report does not include a Schedule B to support this amount. Each disbursement to a person, which in the aggregate is greater than \$200 for the election cycle, must be itemized on Schedule B. (11 CFR § 104.3(b)(3)(ix))
- Commission Regulations require the continuous reporting of all outstanding loans. This report omits the loan(s) transferred from the House Committee. Please amend your report(s) to indicate the current status of the transferred loan in the amount of \$139,630.00, as well as the loan incurred by the Senate Committee on 8/30/2000 in the amount of \$145,866.83. (11 CFR §§ 104.3(d) and 104.11)

To correct these issues please amend your report to show the following:

- The loan transfer should be disclosed on a Memo Schedule A to avoid the misstatement of financial activity occurring in the period. It will not be necessary to show an offsetting amount on Schedule B.
- The loan incurred by the Senate Committee on 8/30/2000 cannot be combined with the loan incurred by the House Committee. The loan transferred from the House Committee must be disclosed on a separate Schedule C. (11 CFR § 116.2(c))

**Please note, you will not receive an additional notice from the Commission on this matter.** Adequate responses must be received by the Commission on or before the due date noted above to be taken into consideration in determining whether audit action will be initiated. Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action. **Requests for extensions of time in which to respond will not be considered.**

A written response or an amendment to your original report(s) correcting the above problems should be filed with the Senate Public Records Office. Please contact the Senate Public Records Office at (202) 224-0322 for instructions on how and where to file an amendment. If you should have any questions regarding this matter or wish to

10030210848

Robinson Committee, LLC

Page 4 of 4

verify the adequacy of your response, please contact me on our toll-free number (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division) or my local number (202) 694-1147.

Sincerely,



Amanda J. Iovino  
Campaign Finance Analyst  
Reports Analysis Division

410

10030210849



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RQ-2

February 23, 2010

Jack E. Robinson, Treasurer  
Robinson Committee, LLC  
P.O. Box 2587  
Duxbury, MA 02331

Response Due Date:  
March 30, 2010

Identification Number: C00355784

Reference: 12 Day Pre-Primary; 12 Day Pre-Special Report (10/1/09 - 11/18/09)

Dear Treasurer:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. This notice requests information essential to full public disclosure of your federal election campaign finances. **An adequate response must be received at the Senate Public Records Office by the response date noted above. Failure to adequately respond by the response date noted above could result in an audit or enforcement action.** Additional information is needed for the following 2 items:

1. Your report contains incorrect Column B figures for Lines 6(a), 6(b), 6(c), 7(a), 7(c), 11(a)(iii), 11(c), 11(e), 13(a), 13(c), 16, 17, 19(a), 19(c), 20(a), 20(d), 21, and 22 of the Summary and Detailed Summary Page information. When aggregating and reporting receipts and disbursements, candidate committees are required to disclose their activity on an election-cycle basis, from 11/8/06 to 1/19/10. Please amend your report to show election cycle-to-date figures for all aggregate amounts. (2 U.S.C. § 434(b))
2. Line 11(e), Column B, of the Detailed Summary Page information does not equal the sum of Lines 11(a) through 11(d). Please correct this discrepancy and file an amendment to your report. (11 CFR § 104.3(a)(3))

**Please note, you will not receive an additional notice from the Commission on this matter.** Adequate responses must be received by the Commission on or before the due date noted above to be taken into consideration in determining whether audit action will be initiated. Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action. **Requests for extensions of time in which to respond will not be considered.**

10030261158

A written response or an amendment to your original report(s) correcting the above problems should be filed with the Senate Public Records Office. Please contact the Senate Public Records Office at (202) 224-0322 for instructions on how and where to file an amendment. If you should have any questions regarding this matter or wish to verify the adequacy of your response, please contact me on our toll-free number (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division) or my local number (202) 694-1147.

Sincerely,



Amanda J. Iovino  
Campaign Finance Analyst  
Reports Analysis Division

410

10030261159



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RQ-2

March 23, 2010

Jack E. Robinson, Treasurer  
Robinson Committee, LLC  
P.O. Box 2587  
Duxbury, MA 02331

**Response Due Date:  
April 27, 2010**

Identification Number: C00355784

Reference: Amended October Quarterly Report (7/1/06 - 9/30/09), dated 2/22/10

Dear Treasurer:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. This notice requests information essential to full public disclosure of your federal election campaign finances. **An adequate response must be received at the Senate Public Records Office by the response date noted above. Failure to adequately respond by the response date noted above could result in an audit or enforcement action.** Additional information is needed for the following item:

Column B figures for the Summary and Detailed Summary Page information should equal the sum of the Column B figures on your previous report and the Column A figures on this report minus the Column C figures. Please file an amendment to your report to correct the Column B and Column C discrepancies for Line(s) 11(a)(iii), 11(d), 11(e), 12, 13(a), 13(c), 16, 17, 19(a), 19(c), 20(a), 20(d), 21, 22, and all subsequent report(s) that may be affected by this correction. Note that Column B should reflect only the election cycle-to-date totals. (2 U.S.C. § 434(b))

**Please note, you will not receive an additional notice from the Commission on this matter.** Adequate responses must be received by the Commission on or before the due date noted above to be taken into consideration in determining whether audit action will be initiated. Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action. **Requests for extensions of time in which to respond will not be considered.**

10030272764

A written response or an amendment to your original report(s) correcting the above problems should be filed with the Senate Public Records Office. Please contact the Senate Public Records Office at (202) 224-0322 for instructions on how and where to file an amendment. If you should have any questions regarding this matter or wish to verify the adequacy of your response, please contact me on our toll-free number (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division) or my local number (202) 694-1147.

Sincerely,



Amanda J. Iovino  
Campaign Finance Analyst  
Reports Analysis Division

410

10030272755

SECRETARY OF THE SENATE

10 APR 22 AM 10:22

FEC FORM 3

REPORT OF RECEIPTS AND DISBURSEMENTS

For An Authorized Committee

Office Use Only

1. NAME OF COMMITTEE (In full) TYPE OR PRINT Example: If typing, type over the lines. 12FE4M5 Robinson Committee, LLC

ADDRESS (number and street) PO Box 2587 Duxbury MA 02331

Check if different than previously reported. (ACC)

2. FEC IDENTIFICATION NUMBER C 00355784 3. IS THIS REPORT NEW OR AMENDED X NEW MA

4. TYPE OF REPORT (Choose One) (a) Quarterly Reports: April 15 Quarterly Report (Q1) July 15 Quarterly Report (Q2) October 15 Quarterly Report (Q3) X January 31 Year-End Report (YE) Termination Report (TER)

(b) 12-Day PRE-Election Report for the: Primary (12P) General (12G) Runoff (12R) Convention (12C) Special (12S) Election on 11/03/2009 in the State of MA (c) 30-Day POST-Election Report for the: General (30G) Runoff (30R) Special (30S) Election on 12/31/2009 in the State of MA

5. Covering Period 11/19/2009 through 12/31/2009

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete. Type or Print Name of Treasurer Jack E. Robinson

Signature of Treasurer [Signature] Date 04/16/2010

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. 5437g.

Office Use Only FEC FORM 3 (Revised 02/2003)

10020320751

**DETAILED SUMMARY PAGE**  
of Receipts

FEC Form 3 (Revised 12/2003)

Page 3

Write or Type Committee Name

Robinson Committee, LLC

Report Covering the Period: From:

11 / 19 / 2009

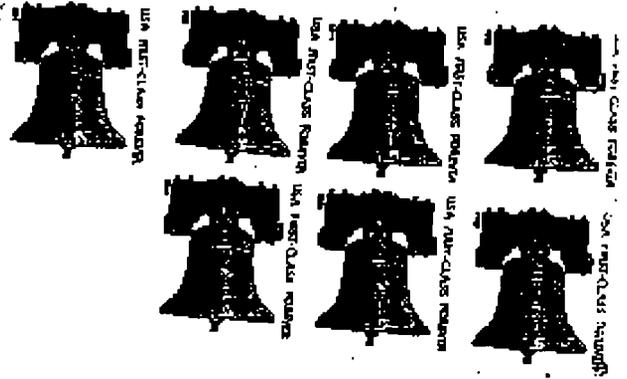
To:

12 / 31 / 2009

I. RECEIPTS	COLUMN A Total This Period	COLUMN B Election Cycle-to-Date
11. CONTRIBUTIONS (other than loans) FROM:		
(a) Individuals/Persons Other Than Political Committees		
(i) Itemized (use Schedule A).....		
(ii) Unitemized.....		
(iii) TOTAL of contributions from Individuals ▶		2,867
(b) Political Party Committees.....		
(c) Other Political Committees (such as PACs).....		
(d) The Candidate.....		735
(e) TOTAL CONTRIBUTIONS (other than loans) (add Lines 11(a)(ii), (b), (c), and (d))..		3,602
12. TRANSFERS FROM OTHER AUTHORIZED COMMITTEES.....		535
13. LOANS:		
(a) Made or Guaranteed by the Candidate.....	376,395	849,649
(b) All Other Loans.....		
(c) TOTAL LOANS (add Lines 13(a) and (b)).....	376,395	849,649
14. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.).....		
15. OTHER RECEIPTS (Dividends, Interest, etc.).....	2,698	2,698
16. TOTAL RECEIPTS (add Lines 11(e), 12, 13(c), 14, and 15) (Carry Total to Line 24, page 4)..... ▶	379,093	856,484

10020320753

SECRETARY OF THE SENATE  
10 APR 22 AM 10: 23



OFFICE OF PUBLIC RECORDS  
P.O. BOX 2517  
ALEXANDRIA, VA 22301-0517

**SCREENED  
BY THE SENATE  
POST OFFICE**

10020320773

NANCY ERICKSON  
SECRETARY

DANA K. MCALLUM  
SUPERINTENDENT  
HART SENATE OFFICE BUILDING  
SUITE 222  
WASHINGTON, DC 20510-7116  
PHONE: (202) 224-6922

# United States Senate

OFFICE OF THE SECRETARY

OFFICE OF PUBLIC RECORDS

THE PRECEDING DOCUMENT WAS:

HAND DELIVERED \_\_\_\_\_  
Date of Receipt

USPS FIRST CLASS MAIL \_\_\_\_\_  
Postmark

USPS REGISTERED/CERTIFIED \_\_\_\_\_  
Postmark

USPS PRIORITY MAIL \_\_\_\_\_  
Postmark

DELIVERY CONFIRMATION OR SIGNATURE CONFIRMATION LABEL.

USPS EXPRESS MAIL \_\_\_\_\_  
Postmark

OVERNIGHT DELIVERY SERVICE:

	SHIPPING DATE	NEXT BUSINESS DAY DELIVERY
FEDERAL EXPRESS	_____	<input type="checkbox"/>
UPS	_____	<input type="checkbox"/>
DHL	_____	<input type="checkbox"/>
AIRBORNE EXPRESS	_____	<input type="checkbox"/>

RECEIVED FROM FEDERAL ELECTION COMMISSION \_\_\_\_\_  
Date of Receipt

POSTMARK ILLEGIBLE  NO POSTMARK

FAX \_\_\_\_\_  
Date of Receipt

OTHER \_\_\_\_\_  
Date of Receipt or Postmark

PREPARER RD DATE PREPARED 09-22-10

10020320774

FEC OFFICE OF  
ADMIN REVIEW



2010 JUN 25 P 1:19

JACK E. ROBINSON, ESQ.

FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

P.O. Box 2587  
Duxbury, MA 02331  
RobinsonEsq@aol.com  
781-934-6755

2010 JUN 21 P 12:09

June 18, 2010

**VIA FEDERAL EXPRESS**

Attn: Secretary  
Federal Election Commission  
999 E Street, NW  
Washington, D.C. 20004

**C00355784**  
**AF# 2122**

Dear Sir/Madam:

This shall serve as the Response of Robinson Committee, LLC (“Committee”) and the Committee’s Treasurer Jack E. Robinson (“Robinson”) to the reviewing officer’s recommendation dated June 4, 2010 that the Committee and Robinson violated 2 U.S.C. § 434(a) by failing to file a 2009 Year End Report and should be assessed a civil money penalty of \$6,050 (the “Recommendation”). The Recommendation was sent to the Committee and Robinson on June 8, 2010. Thus, this Response is timely. *See* 11 C.F.R. § 111.36(f).

The Recommendation should be rejected and no penalty should be assessed because the Year End Report was merely late as opposed to not having been filed at all. Furthermore, the Committee and Robinson used their “best efforts” to file the Report on time but were unable to do so in light of the unique circumstances of the Massachusetts special senate primary that occurred in December 2009. Finally, assuming a penalty is appropriate, it should be no more than \$1,000 because the reviewing officer incorrectly computed the amount. *See* 11 C.F.R. § 111.43.

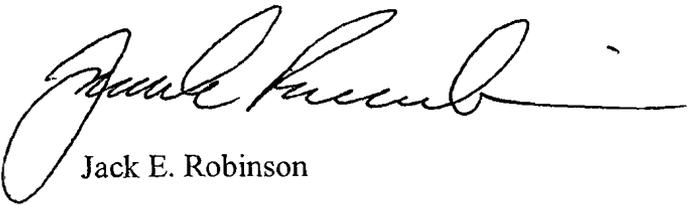
The Recommendation is based on the faulty premise that the Report could have been completed before Robinson’s tax returns were filed. *See* Recommendation at 3 (“It is unclear why Mr. Robinson thought he needed to wait until his 2009 taxes were prepared before he could file the Year End Report.”). Because the Committee’s operations were entirely self-funded by Robinson, and because Robinson could not calculate the total amount of candidate loans provided to the Committee until his 2009 taxes were prepared, in order to ensure accuracy Robinson simply was unable to file the Report until those tax returns were prepared and filed. Robinson filed the Report at the same time he filed his tax returns – April 15, 2010.

Adding to the Committee's filing burden was the necessity to respond to numerous Requests for Additional Information from the Commission dated January 7, 2010 (before the Report was due), February 23, 2010, and March 23, 2010.

Finally, even though the Report was admittedly filed 81 days late, the harm to the public interest was nonexistent because (1) the Committee's operations were entirely funded by Robinson, and (2) Robinson lost the Massachusetts special Republican senate primary held in December 2009 to the ultimate general election winner – Sen. Scott Brown. Once the primary was over in early December 2009, the public's interest in the Committee's financial operations and disclosure was nonexistent because the public's focus turned entirely to the campaign finances of the two general election candidates – Sen. Brown and his Democratic opponent Martha Coakley. In sum, no harm occurred by virtue of the late filing of the Committee's Year End report (even if filed 81 days late) under the unique circumstances created by the special senate election in Massachusetts that occurred in December 2009 (primary) and January 2010 (general).

In light of the truly unique circumstances of this matter, the best efforts utilized by the Committee and Robinson to file accurate reports in a timely manner, and no prior violations by the Committee or Robinson, the Commission should, pursuant to 11 C.F.R. § 111.37(b), reject the Recommendation in its entirety. Alternatively, the Commission should assess a penalty of no more than \$1,000 based on incorrect calculations by the reviewing officer.

Sincerely,



Jack E. Robinson



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 23, 2010

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Jack E. Robinson, in his official capacity as Treasurer  
Robinson Committee, LLC  
P.O. Box 2587  
Duxbury, Massachusetts 02331

C00355784  
AF# 2122

Dear Mr. Robinson:

On March 25, 2010, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that the Robinson Committee, LLC and you, in your official capacity as Treasurer, violated 2 U.S.C. § 434(a) for failing to file the 2009 Year End Report. By letter dated March 29, 2010, the Commission sent you notification of the RTB finding that included a civil money penalty calculated at RTB of \$6,050 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On April 26, 2010, the Office of Administrative Review received the written response from you challenging the RTB finding and 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 the Robinson Committee, LLC and you, in your official capacity as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty in the amount of \$6,050 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 June 8, 2010.

On June 21, 2010, the Commission received your response. On July 22, 2010, the Commission adopted the Reviewing Officer's recommendation and made a final determination that the Robinson Committee, LLC and you, in your official capacity as Treasurer, violated 2 U.S.C. § 434(a) and assessed a civil money penalty of \$6,050. 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

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 Dayna Brown on our toll free number (800)424-9530 (press 0, then ext. 1660) or (202)694-1660.

On behalf of the Commission,



Matthew S. Petersen  
Chairman

Attachment

-----  
**ADMINISTRATIVE FINE PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the civil money penalty is \$6,050 for the 2009 Year End 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**  
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FOR: Robinson Committee, LLC

FEC ID#: C00355784

AF#: 2122

PAYMENT AMOUNT DUE: \$6,050