

RECEIVED

By Office of the Commission Secretary at 1:10 pm, Aug 08, 2023



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

August 8, 2023

MEMORANDUM

TO: The Commission

THROUGH: Alec Palmer *AP*
Staff Director

FROM: Patricia C. Orrock *DC* for PCO
Chief Compliance Officer

Debbie Chacona *DC*
Assistant Staff Director
Reports Analysis Division

BY: Kristin D. Roser *KDR*
Compliance Branch

SUBJECT: Reason to Believe Recommendation -
Failure to File 48-Hour Notices under the Administrative Fine Program

Attached is the name of a principal campaign committee that has failed to timely file 48-hour notices with the Commission for contributions of \$1,000.00 or more received from (1) the close of books for the Missouri 12-Day Pre-Primary Report up to 48 hours before the August 2, 2022 Primary Election and (2) from the close of books for the 12-Day Pre-General Report up to 48 hours before the November 8, 2022 General Election in accordance with 52 U.S.C. § 30104(a) and 11 CFR. § 104.5(f). The committee, Ann Wagner for Congress, represents a candidate who won the 2022 General Election. The committee is being referred for failing to timely file 48-hour notices for contributions totaling \$27,000.00.

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

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

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

Recommendation

1. Find reason to believe that Ann Wagner for Congress and Thomas C. Datwyler, in their official capacity as treasurer, violated 52 U.S.C. § 30104(a) and make a preliminary determination that a civil money penalty of \$3,560 be assessed.
2. Send the appropriate letter.

Attachments

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

AF 4659

Committee ID: C00495846

Committee Name: Ann Wagner for Congress

Report Types: October Quarterly Report (7/14/2022 – 9/30/2022)

30-Day Post-General Report (10/20/2022 – 11/28/2022)

Primary 48-Hour Reporting Period: 7/14/2022 – 7/30/2022

General 48-Hour Reporting Period: 10/20/2022 – 11/5/2022

CONTRIBUTOR	DATE	AMOUNT	REPORTING PERIOD
NEMES, ALAN S. MR. ¹	7/23/2022	\$2,000.00	PRIMARY
NATIONAL AUTOMOBILE DEALERS ASSOCIATION (NADA) PAC	7/25/2022	\$2,500.00	PRIMARY
DOUGHTERY, JOHN	7/29/2022	\$1,000.00	PRIMARY
EMPLOYEES OF RAYTHEON TECHNOLOGIES CORPORATION PAC	7/29/2022	\$1,000.00	PRIMARY
BUNGE NORTH AMERICA INC POLITICAL ACTION COMMITTEE	10/25/2022	\$1,000.00	GENERAL
CENTENE CORPORATION POLITICAL ACTION COMMITTEE (CENTENE PAC)	10/25/2022	\$2,500.00	GENERAL
CONSERVATIVE PROMISES PAC	10/25/2022	\$1,000.00	GENERAL
FIGHT ON PAC	10/25/2022	\$1,000.00	GENERAL
MILGRAM, ANDREW ²	10/31/2022	\$2,000.00	GENERAL
AMERICAN BANKERS ASSOCIATION PAC (BANKPAC)	11/03/2022	\$2,500.00	GENERAL
GRANT, MINDY ³	11/03/2022	\$2,000.00	GENERAL
THE GOLDMAN SACHS GROUP, INC. POLITICAL ACTION COMMITTEE	11/03/2022	\$2,500.00	GENERAL
ERICKSON, GEOFFREY ⁴	11/04/2022	\$2,000.00	GENERAL
KANER, ELIZABETH ⁵	11/04/2022	\$2,000.00	GENERAL
KARZHEVSKY, GREG ⁶	11/04/2022	\$2,000.00	GENERAL
TOTAL		\$27,000.00	

¹ This contribution was earmarked through Democracy Engine, Inc., PAC on 7/23/2022.

² This contribution was earmarked through Democracy Engine, Inc., PAC on 10/31/2022.

³ This contribution was earmarked through Democracy Engine, Inc., PAC on 11/3/2022.

⁴ This contribution was earmarked through Democracy Engine, Inc., PAC on 11/4/2022.

⁵ This contribution was earmarked through Democracy Engine, Inc., PAC on 11/4/2022.

⁶ This contribution was earmarked through Democracy Engine, Inc., PAC on 11/4/2022.

Proposed Civil Money Penalty: \$3,560 ((5 Notices Not Filed at \$172 each) + (10% of the Overall Contributions Not Reported))

Federal Election Commission
Reason to Believe Circulation Report
48-Hour Notification Report

8/7/2023 12:42 PM

AF#	Committee ID	Committee Name	State	Election	Candidate Name	Treasurer	Prev Violations	Notices Not Filed	LOA	Penalty
4659	C00495846	ANN WAGNER FOR CONGRESS	MO	2022	ANN L.WAGNER	THOMAS C. DATWYLER	0	5	\$27,000	\$3,560

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) AF 4659
 Reason to Believe Recommendation -)
 Failure to File 48-Hour Notices under the)
 Administrative Fine Program: Ann)
 Wagner for Congress and Thomas C.)
 Datwyler, in their official capacity as)
 treasurer)

CERTIFICATION

I, Vicktoria J. Allen, Deputy Secretary of the Federal Election Commission, do hereby certify that on August 10, 2023, the Commission decided by a vote of 5-0 to take the following actions in AF 4659:

1. Find reason to believe that Ann Wagner for Congress and Thomas C. Datwyler, in their official capacity as treasurer, violated 52 U.S.C. § 30104(a) and make a preliminary determination that a civil money penalty of \$3,560 be assessed.
2. Send the appropriate letter.

Commissioners Broussard, Cooksey, Lindenbaum, Trainor, and Weintraub voted affirmatively for the decision. Commissioner Dickerson did not vote.

Attest:

**Vicktoria J
Allen**

Digitally signed by Vicktoria J
Allen
Date: 2023.08.11 10:20:57
-04'00'



Vicktoria J. Allen
Deputy Secretary of the Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AF

August 11, 2023

Thomas C. Datwyler, in official capacity as Treasurer
Ann Wagner for Congress
PO Box 50
Ballwin, MO 63022

C00495846

AF#: 4659
FINE: \$3,560

Dear Thomas C. Datwyler,

The Federal Election Campaign Act of 1971, as amended, 52 U.S.C. § 30101, et seq. ("the Act"), requires principal campaign committees of candidates for federal office to notify in writing the Federal Election Commission (the "Commission" or "FEC") and the Secretary of State, as appropriate, of any contribution of \$1,000 or more, received by any authorized committee of the candidate after the 20th day, but more than 48 hours before, any election. 52 U.S.C. § 30104(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. *Id.* These notification requirements are in addition to all other reporting requirements. 52 U.S.C. § 30104(a). Our records indicate that Ann Wagner for Congress did not submit 48-Hour Notices for contributions of \$1,000 or more, received between July 14, 2022 and July 30, 2022, and between October 20, 2022 and November 5, 2022, totaling \$27,000, as required by 52 U.S.C. § 30104(a)(6)(A). Attachment 1.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 52 U.S.C. § 30104(a). 52 U.S.C. § 30109(a)(4). On August 10, 2023, the Commission found that there is Reason to Believe ("RTB") that Ann Wagner for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) by failing to file the 48-Hour Notices. Based on the Commission's schedule of civil money penalties at 11 C.F.R. § 111.44, the amount of your civil money penalty calculated at the RTB stage is \$3,560. Please see the attached copy of the Commission's administrative fine regulations at 11 C.F.R. §§ 111.30-111.55. Attachment 2. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. <http://www.fec.gov/af/af.shtml>. 11 CFR § 111.34. The amount of the civil money penalty is \$172 for each non-filed notice plus 10 percent of the dollar amount of the contributions not timely reported. The civil money penalty increases by 25

ANN WAGNER FOR CONGRESS

Page 2 of 5

percent for each prior violation. Send your payment of \$3,560 within forty (40) days of the finding, or by September 19, 2023.

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 decide to challenge the RTB finding and/or calculated civil money penalty, you must email a written response to the FEC's Office of Administrative Review at administrativefines@fec.gov. Your response must include the AF# (found at the top of page 1 under your committee's identification number) and be received within forty (40) days of the Commission's RTB finding, or September 19, 2023. 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 factors: (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). 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).

If you fail to timely raise a factual argument in your challenge to the RTB finding, your right to present such an argument in an appeal to the U.S. District Court under 52 U.S.C. § 30109 shall be deemed waived. 11 C.F.R. § 111.38.

It should also be noted that, all challenges to an RTB finding and/or calculated civil

ANN WAGNER FOR CONGRESS

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money penalty should be converted to PDF (Portable Document Format) and emailed to administrativefines@fec.gov. The Commission encourages the use of electronic signatures on electronically submitted documents, but scanned copies of ink signatures will be accepted. Electronically submitted challenges will be deemed received on the date they are electronically received by staff.

In addition, 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 submit a written response challenging the RTB finding and/or calculated civil money penalty, the FEC will conclude that the factual allegations are true and make a final determination that Ann Wagner for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(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 Commission 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. § 111.51(a)(2).

3. If You Choose to Pay the Civil Money Penalty

If you decide to pay the calculated civil money penalty, please follow the payment instructions below. Upon receipt of your payment, the FEC will send you a final determination letter.

You may remit payment by Automated Clearinghouse ("ACH") withdrawal from your bank account, or by debit or credit card through Pay.gov, the federal government's secure portal for online collections. Visit <http://www.fec.gov/af/pay.shtml> to be directed to Pay.gov's Administrative Fine Program Payment form. Please use the details at the top of this letter to complete the required fields.

NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS

Partial Payments

ANN WAGNER FOR CONGRESS

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If you make a payment in an amount less than the calculated civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assesses upon making a final determination.

Settlement Offers

Any offer to settle or compromise a debt owed to the Commission will be rejected. This includes making a payment in an amount less than the calculated civil money penalty assessed or any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assesses upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 52 U.S.C. § 30109(a)(2). Unless you notify the FEC in writing that you wish the matter to be made public, it will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) until it is placed on the public record at the conclusion of this matter in accordance with 11 C.F.R. § 111.42.

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 Jacqueline Gausepohl 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. 1158) or (202) 694-1158.

On behalf of the Commission,



Dara Lindenbaum
Chair

ANN WAGNER FOR CONGRESS

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

AF 4659

Committee ID: C00495846

Committee Name: Ann Wagner for Congress

Report Types: October Quarterly Report (7/14/2022 – 9/30/2022)

30-Day Post-General Report (10/20/2022 – 11/28/2022)

Primary 48-Hour Reporting Period: 7/14/2022 – 7/30/2022

General 48-Hour Reporting Period: 10/20/2022 – 11/5/2022

CONTRIBUTOR	DATE	AMOUNT	REPORTING PERIOD
NEMES, ALAN S. MR. ¹	7/23/2022	\$2,000.00	PRIMARY
NATIONAL AUTOMOBILE DEALERS ASSOCIATION (NADA) PAC	7/25/2022	\$2,500.00	PRIMARY
DOUGHTERY, JOHN	7/29/2022	\$1,000.00	PRIMARY
EMPLOYEES OF RAYTHEON TECHNOLOGIES CORPORATION PAC	7/29/2022	\$1,000.00	PRIMARY
BUNGE NORTH AMERICA INC POLITICAL ACTION COMMITTEE	10/25/2022	\$1,000.00	GENERAL
CENTENE CORPORATION POLITICAL ACTION COMMITTEE (CENTENE PAC)	10/25/2022	\$2,500.00	GENERAL
CONSERVATIVE PROMISES PAC	10/25/2022	\$1,000.00	GENERAL
FIGHT ON PAC	10/25/2022	\$1,000.00	GENERAL
MILGRAM, ANDREW ²	10/31/2022	\$2,000.00	GENERAL
AMERICAN BANKERS ASSOCIATION PAC (BANKPAC)	11/03/2022	\$2,500.00	GENERAL
GRANT, MINDY ³	11/03/2022	\$2,000.00	GENERAL
THE GOLDMAN SACHS GROUP, INC. POLITICAL ACTION COMMITTEE	11/03/2022	\$2,500.00	GENERAL
ERICKSON, GEOFFREY ⁴	11/04/2022	\$2,000.00	GENERAL
KANER, ELIZABETH ⁵	11/04/2022	\$2,000.00	GENERAL
KARZHEVSKY, GREG ⁶	11/04/2022	\$2,000.00	GENERAL
TOTAL		\$27,000.00	

¹ This contribution was earmarked through Democracy Engine, Inc., PAC on 7/23/2022.

² This contribution was earmarked through Democracy Engine, Inc., PAC on 10/31/2022.

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⁵ This contribution was earmarked through Democracy Engine, Inc., PAC on 11/4/2022.

⁶ This contribution was earmarked through Democracy Engine, Inc., PAC on 11/4/2022.

Proposed Civil Money Penalty: \$3,560 ((5 Notices Not Filed at \$172 each) + (10% of the Overall Contributions Not Reported))

RECEIVED

By Office of the Commission Secretary at 10:58 am, Sep 26, 2023



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

September 26, 2023

MEMORANDUM

TO: The Commission

THROUGH: Alec Palmer *AP*
Staff Director

FROM: Patricia C. Orrock *PCO*
Chief Compliance Officer

Debbie Chacona *DC*
Assistant Staff Director
Reports Analysis Division

BY: *KDR*
Kristin D. Roser
Reports Analysis Division
Compliance Branch

SUBJECT: Administrative Fine Program – Final Determination Recommendation for the Failure to File 48-Hour Notices

Attached is a list identifying a political committee and its treasurer against which the Commission has found reason to believe (RTB) and assessed a proposed civil money penalty calculated at RTB for failure to file or failure to timely file the appropriate 48-Hour Notices for the 2022 Primary and 2022 General Elections. The committee has paid the civil money penalty requested at RTB.

In accordance with 11 CFR § 111.34, the Commission shall send a final determination notice to the respondent that has paid the civil money penalty.

RAD Recommendation

- (1) Make a final determination that the political committee and its treasurer, in their official capacity, listed on the attached report violated 52 U.S.C. § 30104(a) and assess the final civil money penalty so indicated.
- (2) Send the appropriate letter.

Federal Election Commission
Final Determination Circulation Report
48-Hour Notification Report

9/26/2023 8:13 AM

AF#	Committee ID	Committee Name	State	Election	Candidate Name	Treasurer	Prev Violations	Notices Not Filed	LOA	RTB Date	RTB Penalty	FD Penalty	Date Paid	Amount Paid
4659	C00495846	ANN WAGNER FOR CONGRESS	MO	2022	ANN L. WAGNER	THOMAS C. DATWYLER	0	5	\$27,000	08/10/2023	\$3,560	\$3,560	08/11/2023	\$3,560

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) AF 4659
 Administrative Fine Program – Final)
 Determination Recommendation for the)
 Failure to File 48-Hour Notices: Ann)
 Wagner for Congress and Thomas C.)
 Datwyler in their official capacity as)
 treasurer)

CERTIFICATION

I, Vicktoria J. Allen, Deputy Secretary of the Federal Election Commission, do hereby certify that on September 28, 2023, the Commission decided by a vote of 6-0 to take the following actions in AF 4659:

1. Make a final determination that Ann Wagner for Congress and Thomas C. Datwyler in their official capacity as treasurer violated 52 U.S.C. § 30104(a) and assess the final civil money penalty in the amount of \$3,560.
2. Send the appropriate letter.

Commissioners Broussard, Cooksey, Dickerson, Lindenbaum, Trainor, and Weintraub voted affirmatively for the decision.

Attest:



Vicktoria J Allen Digitally signed by Vicktoria J Allen
Date: 2023.09.28 16:12:04 -04'00'

 Vicktoria J. Allen
 Deputy Secretary of the Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AF

September 29, 2023

Thomas C. Datwyler, in official capacity as Treasurer
Ann Wagner for Congress
P.O. Box 50
Ballwin, MO 63022

C00495846

AF#: 4659

Dear Thomas C. Datwyler,

On August 10, 2023, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Ann Wagner for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) for failing to file 48-Hour Notices for contributions of \$1,000 or more, received between July 14, 2022 and July 30, 2022 and between October 20, 2022 and November 5, 2022, totaling \$27,000. By letter dated August 11, 2023, the Commission notified you of the RTB finding and the civil money penalty calculated at the RTB stage totaling \$3,560, in accordance with the schedule of penalties at 11 C.F.R. § 111.44.

On August 11, 2023, the Commission received payment of the civil money penalty calculated at the RTB stage. The Commission made a final determination on September 28, 2023 that Ann Wagner for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a), assessed a civil money penalty in the amount of \$3,560 in accordance with 11 C.F.R. § 111.44, and voted to close the file.

The confidentiality provisions at 52 U.S.C. § 30109(a)(12) no longer apply and this matter is now public. Pursuant to 11 C.F.R. §§ 111.42(b) and 111.20(c), the file will be placed on the public record within thirty (30) days from the date of this notification.

If you have any questions regarding this matter, please contact Jacqueline Gausepohl on our toll-free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130.

On behalf of the Commission,

A handwritten signature in black ink, appearing to read "Dara Lindenbaum".

Dara Lindenbaum
Chair