



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 1748

DATE SCANNED 2-12-08

SCANNER NO. 2

SCAN OPERATOR JN10

28092614950



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

FEDERAL ELECTION COMMISSION  
COMMISSION  
SECRETARIAT

2007 JUL -6 P 4:57

July 6, 2007  
**SENSITIVE**

MEMORANDUM

TO: THE COMMISSION

THROUGH: PATRINA M. CLARK *PC*  
STAFF DIRECTOR *pmc*

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

CRAIG CROOKS *CC*  
ACTING ASSISTANT STAFF DIRECTOR  
REPORTS ANALYSIS DIVISION

BY: PATRICIA CARMONA / RHIANNON RYAN *PC* *RR*  
COMPLIANCE BRANCH

SUBJECT: REASON TO BELIEVE RECOMMENDATION – 2007 APRIL  
QUARTERLY REPORT FOR THE ADMINISTRATIVE FINE  
PROGRAM

Attached is a list of political committees and their treasurers who failed to file the 2007 April Quarterly Report in accordance with 2 U.S.C. 434(a). The April Quarterly Report was due on April 15, 2007.

The committees listed in the attached RTB Circulation Report either failed to file the report, filed the report more than five (5) days after the due date, or filed the report more than thirty (30) days after the due date (considered a non-filed report). In accordance with the schedule of civil money penalties for reports at 11 C.F.R. 111.43, these committees should be assessed the civil money penalties highlighted on the attached circulation report.

**Recommendation**

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

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Federal Election Commission  
Reason to Believe Circulation Report  
2007 APRIL QUARTERLY Not Election Sensitive 04/15/2007 H\_S\_P

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
1740	C00411652	BOB MCEWEN FOR CONGRESS COMMITTEE	MCEWEN, BOB	LIZ MCEWEN ✓	\$208,428	0		Not Filed	\$208,428 (est)	\$6,500
1741	C00411603	CHARLIE STUART FOR CONGRESS	STUART, CHARLES SAMUEL	JEFFREY S. BERGER	\$203,843	0		Not Filed	\$203,843 (est)	\$6,500
1742	C00416438	COMMITTEE TO ELECT OZ BENGUR	BENGUR, O. R. OZ	JOANNE M. RUBIN	\$171,072	0		Not Filed	\$171,072 (est)	\$5,000
1743	C00427328	DERRICK SHEPHERD CAMPAIGN COMMITTEE	SHEPHERD, DERRICK	BYRON LEE	\$243,579	0		Not Filed	\$243,579 (est)	\$6,500
1744	C00424978	DONZELLA JAMES FOR US CONGRESS CAMPAIGN 2006	JAMES, DONZELLA	ELMO JAMES	\$117,024	1		Not Filed	\$117,024 (est)	\$5,625
1745	C00428193	FRANK ENRIQUEZ FOR CONGRESS	ENRIQUEZ, FRANK	PRESTON E. HENRICHSON	\$203,635	0		Not Filed	\$203,635 (est)	\$6,500
1746	C00423210	FRIENDS TO ELECT VANCE W CHEEK JR	CHEEK, VANCE W. JR	FRANK LITTLE	\$210,081	1		Not Filed	\$210,081 (est)	\$8,125
1747	C00399055	GRAF FOR CONGRESS	GRAF, RANDALL RANDY	THOMAS E. LINN	\$246,372	0		Not Filed	\$246,372 (est)	\$6,500
1748	C00414102	JOE SULZER FOR CONGRESS COMMITTEE	SULZER, JOSEPH P.	ROBERT HITCHENS	\$143,057	0		Not Filed	\$143,057 (est)	\$4,500
1749	C00424655	MEJIAS FOR CONGRESS	MEJIAS, DAVID L.	MICHAEL G. NORMAN	\$304,091	0		Not Filed	\$304,091 (est)	\$8,000
1750	C00393090	PEOPLE FOR CARL ANDREWS COMMITTEE	ANDREWS, EMANUEL C.	STEPHEN R. BOKSER	\$128,627	0		Not Filed	\$128,627 (est)	\$4,500
1751	C00395822	SCHWARZ FOR CONGRESS	SCHWARZ, JOHN	ROBERT HANS SCHULER	\$329,678	0		Not Filed	\$329,678 (est)	\$8,000
1752	C00419820	SKINNER FOR CONGRESS 06	SKINNER, NANCY ANN	CHUCK SKINNER	\$118,016	0		Not Filed	\$118,016 (est)	\$4,500

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7/6/2007 10:01 AM

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
1754	C00422360	TJ COX CONGRESSIONAL CAMPAIGN COMMITTEE	COX, TJ	SUSAN W. SEIDEN	\$253,181	0		Not Filed	\$253,181 (est)	\$8,000
1755	C00415034	VAS FOR CONGRESS	VAS, JOSEPH	MELVIN RAMOS	\$260,408	0		Not Filed	\$260,408 (est)	\$8,000

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
)  
Reason To Believe Recommendation 2007 )  
April Quarterly Report for the )  
Administrative Fine Program: )  
MCEWEN, BOB, and MCEWEN, LIZ as ) AF# 1740  
treasurer; )  
STUART, CHARLES SAMUEL, and ) AF# 1741  
JEFFREY S. BERGER as treasurer; )  
BENGUR, O R OZ, and JOANNE M ) AF# 1742  
RUBIN as treasurer; )  
SHEPHERD, DERRICK, and BYRON LEE ) AF# 1743  
as treasurer; )  
JAMES, DONZELLA, and ELMO JAMES ) AF# 1744  
as treasurer; )  
ENRIQUEZ, FRANK, and PRESTON E ) AF# 1745  
HENRICHSON as treasurer; )  
CHEEK, VANCE W JR, and FRANK ) AF# 1746  
LITTLE as treasurer; )  
GRAF, RANDALL RANDY, and ) AF# 1747  
THOMAS E LINN as treasurer; )  
SULZER, JOSEPH P, and ROBERT ) AF# 1748  
HITCHENS as treasurer; )  
MEJIAS, DAVID L, and MICHAEL G ) AF# 1749  
NORMAN as treasurer; )  
ANDREWS, EMANUEL C, and STEPHEN ) AF# 1750  
R BOKSER as treasurer; )  
SCHWARZ, JOHN, and ROBERT HANS ) AF# 1751  
SCHULER as treasurer; )  
  
COX, T J, and SUSAN W SEIDEN as ) AF# 1754  
treasurer; )  
VAS, JOSEPH, and RAMOS, MELVIN as ) AF# 1755  
treasurer; )

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CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on July 12, 2007 the Commission took the following actions on the Reason To Believe Recommendation 2007 April Quarterly Report for the Administrative Fine Program, as recommended in the Reports Analysis Division's Memorandum dated July 06, 2007, on the following committees:

AF#1740 Decided by a vote of 5-0 to: (1) find reason to believe that MCEWEN, BOB, and MCEWEN, LIZ as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Lenhard, Mason, von Spakovsky, Walther, and Weintraub voted affirmatively for the decision.

AF#1741 Decided by a vote of 5-0 to: (1) find reason to believe that STUART, CHARLES SAMUEL, and JEFFREY S. BERGER as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Lenhard, Mason, von Spakovsky, Walther, and Weintraub voted affirmatively for the decision.

AF#1742 Decided by a vote of 5-0 to: (1) find reason to believe that BENGUR, O R OZ, and JOANNE M RUBIN as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Lenhard, Mason, von Spakovsky, Walther, and Weintraub voted affirmatively for the decision.

AF#1743 Decided by a vote of 5-0 to: (1) find reason to believe that SHEPHERD, DERRICK, and BYRON LEE as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Lenhard, Mason, von Spakovsky, Walther, and Weintraub voted affirmatively for the decision.

AF#1744 Decided by a vote of 5-0 to: (1) find reason to believe that JAMES, DONZELLA, and ELMO JAMES as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Lenhard, Mason, von Spakovsky, Walther, and Weintraub voted affirmatively for the decision.

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AF#1745 Decided by a vote of 5-0 to: (1) find reason to believe that ENRIQUEZ, FRANK, and PRESTON E HENRICHSON as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Lenhard, Mason, von Spakovsky, Walther, and Weintraub voted affirmatively for the decision.

AF#1746 Decided by a vote of 5-0 to: (1) find reason to believe that CHEEK, VANCE W JR, and FRANK LITTLE as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Lenhard, Mason, von Spakovsky, Walther, and Weintraub voted affirmatively for the decision.

AF#1747 Decided by a vote of 5-0 to: (1) find reason to believe that GRAF, RANDALL RANDY, and THOMAS E LINN as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Lenhard, Mason, von Spakovsky, Walther, and Weintraub voted affirmatively for the decision.

AF#1748 Decided by a vote of 5-0 to: (1) find reason to believe that SULZER, JOSEPH P, and ROBERT HITCHENS as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Lenhard, Mason, von Spakovsky, Walther, and Weintraub voted affirmatively for the decision.

AF#1749 Decided by a vote of 5-0 to: (1) find reason to believe that MEJIAS, DAVID L, and MICHAEL G NORMAN as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Lenhard, Mason, von Spakovsky, Walther, and Weintraub voted affirmatively for the decision.

AF#1750 Decided by a vote of 5-0 to: (1) find reason to believe that ANDREWS, EMANUEL C, and STEPHEN R BOKSER as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Lenhard, Mason, von Spakovsky, Walther, and Weintraub voted affirmatively for the decision.

AF#1751 Decided by a vote of 5-0 to: (1) find reason to believe that SCHWARZ, JOHN, and ROBERT HANS SCHULER as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Lenhard, Mason, von Spakovsky, Walther, and Weintraub voted affirmatively for the decision.

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AF#1754 Decided by a vote of 5-0 to: (1) find reason to believe that COX, T J, and SUSAN W SEIDEN as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Lenhard, Mason, von Spakovsky, Walther, and Weintraub voted affirmatively for the decision.

AF#1755 Decided by a vote of 5-0 to: (1) find reason to believe that VAS, JOSEPH, and RAMOS, MELVIN as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Lenhard, Mason, von Spakovsky, Walther, and Weintraub voted affirmatively for the decision.

Attest:

July 13, 2007  
Date

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

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 16, 2007

Robert Hitchens  
Joe Sulzer for Congress Committee  
P.O. Box 165  
Chillicothe, OH 45601

C00414102  
AF#: 1748

Dear Robert Hitchens:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file an April Quarterly Report of Receipts and Disbursements every calendar year. This report, covering the period through March 31st, shall be filed no later than April 15th. 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 was further amended in 1999 to permit the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. 434(a). 2 U.S.C. 437g(a)(4). On 7/12/2007, the FEC found that there is reason to believe ("RTB") that Joe Sulzer for Congress Committee and you, as treasurer, violated 2 U.S.C. 434(a) by failing to file timely this report on or before April 15th. Based on the FEC's schedules of civil money penalties at 11 C.F.R. 111.43, the amount of your civil money penalty calculated at the RTB stage is \$4,500. It is due by 8/21/2007 and is based on these factors:

Election Sensitivity of Report: Not Election Sensitive  
Level of Activity: \$143,057  
Number of Days Late: Not Filed  
Number of Previous Civil Money Penalties Assessed: 0 - -

#### **To Pay the Calculated Civil Money Penalty**

To pay the calculated civil money penalty, send the enclosed remittance and your payment to the FEC at the address on page 3. Upon receipt of your payment, the FEC will send you a final determination letter.

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

To challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found on page one, to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must be received by 8/21/2007. Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty. The FEC will only consider challenges that are based on a factual error, miscalculation of the calculated civil money penalty by the FEC, or the existence of extraordinary circumstances that persisted for more than 48 hours that were beyond your control and prevented you from filing the report in a timely manner. Your response must include the

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factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. Examples of circumstances that will not be considered extraordinary include, but are not limited to, negligence, problems with vendors or contractors, staff illness, computer failures and similar circumstances. 11 C.F.R. 111.35(b)(1)(iii) and (4).

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

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

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

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

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

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

Additional information on the FEC's administrative fine program, including the final regulations, is located at the FEC's website at [www.FEC.gov](http://www.FEC.gov). If you have questions regarding the payment of the calculated civil money penalty, please contact Rhiannon Ryan in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

Sincerely,



Robert D. Lenhard  
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 \$4,500 for the 2007 April Quarterly Report.

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

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

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

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

The remittance and your payment are due by 8/21/2007. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

**PAYMENTS BY PERSONAL CHECK**

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

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**

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FOR: Joe Sulzer for Congress Committee

FEC ID#: C00414102

AF#: 1748

PAYMENT DUE DATE: 8/21/2007

PAYMENT AMOUNT DUE: \$4,500

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AD...

2007 AUG 13 A 9: 41

**SULZER FOR CONGRESS COMMITTEE  
38 SOUTH PAINT STREET  
CHILLICOTHE, OHIO 45601  
740-774-6320**

Robert Hitchens,  
Treasurer

August 6, 2007

Federal Elections Commission  
Office of Administrative Review  
999 E Street, NW  
Washington, D. C. 20463

RE: C00414102  
AF#: 1748

Dear Commission Members:

With this correspondence I, on behalf of the Committee and its Treasurer, appeal the decision of the FEC by its letter dated July 16, 2007.

An order has been issued by the FEC imposing a civil penalty against the Committee and or its Treasurer in the amount of \$4,500.00. This penalty is for failure to file the April Quarterly Report for 2007.

It is the Committee's and the Treasurer's position that the fine is excessive and unreasonable. With the end of the primary election in May, 2006, the undersigned and the Treasurer have been without the assistance of any staff members that previously maintained and filed the FEC reports. Hence, it has been a struggle in working with the software in order to properly report and file the necessary reports with the FEC.

In June of this year the undersigned again retained the services of the software company to assist in preparing and filing reports with the FEC. Unfortunately, the software company would not assist any further until another substantial payment was made to them. Due to the lack of funds in the campaign account and the personal financial struggle of the undersigned, it was not until two weeks ago that the software company began to assist the undersigned in the preparation and filing of the necessary reports.

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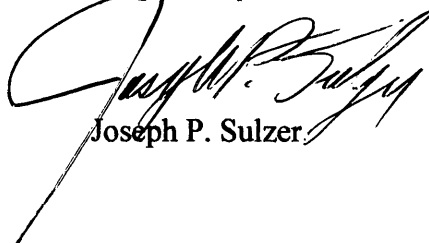
As of the date of this letter not only have all quarterly reports been filed and or amended but a termination of the committee was prepared and filed as well. As a result there are no funds left in the campaign account, which has been closed as well.

In fact, because the undersigned was attempting to file correct reports and with the difficulty of using the software as noted above the quarterly reports to the FEC incorrectly reported the actual cash on hand. The reported actual cash on hand far exceeded the actual amount in the account. This is reflected in the corrected quarterly reports as filed with the FEC.

I appeal to the compassion and reasonableness of the FEC to forgive the \$4,500.00 penalty assessed since the Committee never had the funds available to pay such a heavy fine. I also appeal the fact that neither I nor the Treasurer has the resources personally to pay such a fine.

With the fact that a termination of the committee has been filed with the FEC as of today and the circumstances as outlined above I respectfully ask the FEC to forgive the entire \$4,500.00 penalty assessed against the Committee.

Respectfully submitted,



Joseph P. Sulzer

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Via First Class Mail

August 14, 2007

Robert Hitchens, as Treasurer  
Joe Sulzer for Congress Committee  
P.O. Box 165  
Chillicothe, Ohio 45601

C00414102  
AF# 1748

Dear Mr. Hitchens:

On August 13, 2007, the Commission received the written response ("challenge") from Joseph P. Sulzer which is being reviewed by the Office of Administrative Review. If you have any questions regarding your challenge, please contact this Office on our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

Sincerely,

A handwritten signature in cursive script that reads "Shawn Woodhead Werth".

Shawn Woodhead Werth  
Reviewing Officer  
Office of Administrative Review

28092614963

**Date:** August 14, 2007

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

**AF#:** 1748

**Committee Name:** Joe Sulzer for Congress Committee

**Committee ID#:** C00414102

**Committee Address (if different than in RTB letter):** 38 South Paint Street  
Chillicothe, OH 45601

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

**Attachments:**

**Copy of RTB Circulation Report, dated July 6, 2007 and RTB Certification,  
dated July 12, 2007: Y**

**Attachment #: 1**

**Certified Return Receipt (to be forwarded at later date if not yet received)(Y/N):Y**

**Attachment #: 2**

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

**Attachment #: N/A**

**RAD Staff Declaration (Y/N): Y**

**-Non-Filer Letter, dated April 30, 2007.**

**-RTB Letter, dated July 16, 2007.**

**Attachment #: 4**

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**SENDER: COMPLETE THIS SECTION**

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

1. Article Addressed to:

Robert Hitchens  
Joe Sulzer For Congress Committee  
38 S Paint St.  
Chillicothe, OH 45601

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X *Marlene Morris*  Agent  
 Addressee

B. Received by (Printed Name)

*MARLENE MORRIS*

C. Date of Delivery

*7-15-04*

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

3. Service Type

- Certified Mail  Express Mail
- Registered  Return Receipt for Merchandise
- Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number  
(Transfer from service label)

7005 1820 0002 3465 9675

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**DECLARATION OF PATRICIA CARMONA**

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 Joe Sulzer for Congress Committee:
  - A) Non-Filer Letter, dated April 30, 2007, referencing the 2007 April Quarterly Report;
  - B) Reason-to-Believe Letter, dated July 16, 2007, referencing the 2007 April Quarterly Report.
3. I hereby certify that I have searched the Commission's public records and find that Joe Sulzer for Congress Committee filed the 2007 April Quarterly Report with the Commission on August 3, 2007.
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 14<sup>th</sup> day of August, 2007.



Patricia Carmona  
Chief, Compliance Branch  
Reports Analysis Division  
Federal Election Commission

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

April 30, 2007

RQ-7

Robert Hitchens, Treasurer  
Joe Sulzer For Congress Committee  
P.O. Box 165  
Chillicothe, OH 45601

IDENTIFICATION NUMBER: C00414102

Reference: April Quarterly Report 1/1/2007 - 3/31/2007

Dear Treasurer:

It has come to the attention of the Federal Election Commission that you may have failed to file the above referenced report of receipts and expenditures as required by the Federal Election Campaign Act, as amended. You were previously notified of the due date for this report.

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, 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](http://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 Swapna Krishna at our toll free number (800)424-9530. Our direct local number is (202)694-1130.

Sincerely,

John D. Gibson  
Assistant Staff Director  
Reports Analysis Division (RAD)

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2007 NOV 20 P 4: 31

November 20, 2007

**MEMORANDUM**

**SENSITIVE**

To: The Commission

Through: Patrina M. Clark *PMC*  
Staff Director

From: John D. Gibson *JDG*  
Chief Compliance Officer

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

By: Jill Sugarman *JS*  
Reviewing Analyst

Subject: AF# 1748 – Joe Sulzer for Congress Committee and Robert Hitchens, as  
Treasurer (C00414102)

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

28092614968



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 20, 2007

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

AF# 1748 – Joe Sulzer for Congress Committee and Robert Hitchens, as Treasurer  
(C00414102)

On July 12, 2007, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to file the 2007 April Quarterly Report and made a preliminary determination that the civil money penalty was \$4,500 based on the schedule of penalties at 11 C.F.R. § 111.43. They were notified by the Reports Analysis Division ("RAD") on July 16, 2007, of the Commission's RTB finding and civil money penalty. The letter, sent to the address of record, was returned to the Commission on July 30, 2007; however, the copy of the letter sent to the alternate address provided by the respondents, 38 South Paint Street, Chillicothe, OH 45601, was received on July 18, 2007.

**Respondents' Response**

On August 13, 2007, the Commission received the written response ("challenge") from the Candidate, on behalf of the respondents, who states that, since the Primary Election in May 2006, he and the Treasurer have been without the staff who maintained and filed the reports. Consequently, he struggled with the software to properly disclose the data and file the necessary reports. In June, he once more retained the services of the software company, but they refused to provide further assistance until a substantial payment was made to them. Due to the lack of funds in the campaign account and the Candidate's own financial troubles, it was not until late July that the software company began to help in the preparation and filing of the reports.

All quarterly reports including a Termination Report have now been filed, the campaign account is closed, and the quarterly reports were amended to fix cash-on-hand balances misreported on earlier filings due to his difficulties in using the software. He appeals to the Commission's compassion and reasonableness to forgive the penalty, which he calls unreasonable and excessive, since the Committee has no leftover funds and neither he nor the Treasurer is able to pay the fine.

**Analysis of Challenge**

The April Quarterly Report was filed on August 3, 2007, 110 days late.

The Federal Election Campaign Act ("Act") requires that a report for the quarter ending March 31, 2007 be filed no later than April 15<sup>th</sup>. 2 U.S.C. § 434(a)(2)(A)(iii) and 11 C.F.R. § 104.5(a)(1)(i). Reports filed electronically must be received and validated at or before 11:59 p.m. Eastern Standard/Daylight Time on April 15, 2007 to be timely filed. 11 C.F.R. §§ 104.5(e) and 100.19(c). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

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The respondents were notified on two occasions that they must file this report. On April 16, the day after the report was due, the Electronic Filing Office ("EFO") sent a notice to the email address which they previously provided, jabbey@joesulzer.com, informing them that they had failed to file the report. They were notified a second time when RAD sent them the Non-Filer Notice on April 30. There is no indication from RAD's telecoms (written records of telephone conversations) or the EFO logs that the respondents tried to contact anyone or electronically file the report in response to these notifications. In addition, during the June 13 call with the Analyst, when the Candidate called for help with another report, the Analyst told him that the 2007 April Quarterly Report was outstanding and stressed the importance of filing it.

At the time of the RTB finding for the April Quarterly Report, the Commission had not received the report; therefore, the estimated level of activity (\$143,057) was used to calculate the RTB civil money penalty. On August 3, 2007, the respondents filed the April Quarterly Report which discloses total receipts of \$0 and total disbursements of \$36, resulting in a level of activity totaling \$36. Since the schedule of penalties at 11 C.F.R. § 111.43(a)(2) states that a penalty for respondents with no prior violations shall not exceed the level of activity in the report, the civil money penalty for the April Quarterly Report is \$36 (reduced from the RTB civil money penalty of \$4,500).

Negligence, delays caused by vendors, and unavailability of the Treasurer and other staff are included at 11 C.F.R. § 111.35(d) as examples of circumstances that are not considered reasonably unforeseen and beyond the respondents' control. The other issues raised in the challenge (the inability of the Committee, Candidate or Treasurer to pay the fine and the filing of a Termination Report) also do not fall within the list of defenses enumerated at 11 C.F.R. § 111.35(b). These are: (i) the RTB finding is based on factual errors; and/or (ii) the improper calculation of the civil money penalty; and/or (iii) they used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances that were beyond their control and they filed the report no later than 24 hours after the end of these circumstances. The Reviewing Officer, therefore, recommends that the Commission make a final determination that the respondents violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$36 (reduced from the RTB civil money penalty of \$4,500).

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## OAR Recommendations

- (1) Adopt the Reviewing Officer recommendation for AF# 1748 involving the Joe Sulzer for Congress Committee and Robert Hitchens, as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 1748 that the Joe Sulzer for Congress Committee and Robert Hitchens, as Treasurer, violated 2 U.S.C. § 434(a) and, based on the actual level of activity disclosed on the April Quarterly Report (\$36), assess a civil money penalty of \$36 (reduced from the RTB civil money of \$4,500); and
- (3) Send the appropriate letter.

Reviewing Analyst: Jill I. Sugarman

### Attachments

Attachment 1 – Challenge Received from Respondents

Attachment 2 –

Attachment 3 – Declaration from RAD,  
and Memorandum to File

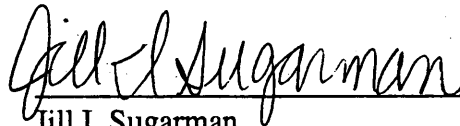
Certified Mail Green Card,

Attachment 4 – Declaration from OAR

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**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 2007 April Quarterly Report is due April 15, 2007. If electronically filed, it must be received and validated by the Commission at or before 11:59 p.m., Eastern Standard/Daylight Time on April 15 to be timely filed.
- 3) It is the practice of Commission's Information Division to send, via email, prior notification of a report's due date to committees and treasurers approximately 3 weeks before the due date if they have provided an email address on the Statement of Organization. It is also the practice of this Division to place reporting notices on the Commission's web site for public access at [http://www.fec.gov/info/report\\_dates.shtml#quarterly](http://www.fec.gov/info/report_dates.shtml#quarterly).
- 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 Page 1 of the Summary Page and Page 4 of the Detailed Summary Page for the 2007 April Quarterly Report electronically filed by the Joe Sulzer for Congress Committee and Robert Hitchens, as Treasurer. According to the Commission's records, the report covers the period from January 1 through March 31, 2007, and was received on August 3, 2007. Lines 24 and 26 list \$0.00 in total receipts and \$36.00 in total disbursements, respectively, 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 20<sup>th</sup> of November, 2007.



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

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# APRIL QUARTERLY REPORT NOTICE

FEDERAL ELECTION COMMISSION

CONGRESSIONAL COMMITTEES

March 22, 2007

## CURRENT REPORT DUE:

REPORT	REPORTING PERIOD <sup>1</sup>	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
April Quarterly	01/01/07 - 03/31/07	04/15/07	04/15/07 <sup>2</sup>

## REPORTING SCHEDULE FOR REMAINDER OF 2007:

REPORT	REPORTING PERIOD <sup>1</sup>	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
July Quarterly	04/01/07 - 06/30/07	07/15/07	07/15/07 <sup>2</sup>
October Quarterly	07/01/07 - 09/30/07	10/15/07	10/15/07
Year-End	10/01/07 - 12/31/07	01/31/08	01/31/08

Supplemental Filing Information is available on pages 2 and 3 of this notice.

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

<sup>2</sup>Notice that this filing date 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 the Secretary of the Senate's) close of business on the last business day before the deadline.

## SUPPLEMENTAL FILING INFORMATION

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

### WHO MUST FILE

Principal campaign committees of congressional candidates<sup>3</sup> (including unopposed candidates and candidates whose names do not appear on the ballot) must file Quarterly Reports.<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.

### METHODS OF FILING REPORTS

#### Electronic Filing

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

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

#### Registered & Certified Mail

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

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<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 received or expenditures made. If the campaign has not exceeded the \$5,000 threshold, it is not required to file reports. See also 11 CFR 100.3(a)(2) & (3).

<sup>4</sup>If the campaign has more than one authorized committee in addition to the principal campaign committee, the principal campaign committee must also file a consolidated report on Form 3Z.

### **Overnight Mail**

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

### **Other Means of Filing**

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

Paper forms are available at the FEC website at [www.fec.gov/info/forms.shtml](http://www.fec.gov/info/forms.shtml).

## **COMPLIANCE**

**Treasurer Responsibility.** Treasurers of political committees are responsible for both the timeliness and the accuracy of all reports. They may be subject to monetary penalties if reports are inaccurate or are not filed on time.

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

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

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

**Form 3Z-1.** Principal campaign committees of U.S. House and U.S. Senate candidates running in 2008 must file FEC Form 3Z-1 as part of their 2007 July Quarterly and Year-End Reports. The information provided on this form allows opposing candidates to compute their "gross receipts advantage" which is used to determine whether a candidate is entitled to increased contribution and coordinated expenditure limits under the "Millionaires' Amendment."<sup>6</sup>

<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 \$16,000, even for first-time violations.

<sup>6</sup> See *Millionaires' Amendment* brochure on the FEC website at [www.fec.gov/pages/brochures/millionaire.shtml](http://www.fec.gov/pages/brochures/millionaire.shtml).

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

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FEC FORM 3

REPORT OF RECEIPTS AND DISBURSEMENTS

For An Authorized Committee

Office Use Only

1. NAME OF COMMITTEE (In full) USE FEC MAILING LABEL OR TYPE OR PRINT Example: If typing, type over the lines

Joe Sulzer for Congress Committee

ADDRESS (number and street)

38 South Paint Street

Check if different than previously reported. (ACC)

Chillicothe

OH

45801

2. FEC IDENTIFICATION NUMBER

C00414102

CITY

STATE

ZIP CODE

STATE DISTRICT

3. IS THIS REPORT NEW OR AMENDED

x

NEW (N) OR

AMENDED (A)

OH

18

4. TYPE OF REPORT (Choose One)

(a) Quarterly Reports:

X 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

In the State of

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

General (30G)

Runoff (30R)

Special (30S)

Election on

in the State of

5. Covering Period 01 01 2007 through 03 31 2007

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 Robert Hitchens

Signature of Treasurer Electronically Filed by Robert Hitchens Date 10 15 2006

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

FEC FORM 3 (Revised 02/2003)

28092614976

**DETAILED SUMMARY PAGE**  
of Disbursements

FEC Form 3 (Revised 02/2003)

Page 4

**II. DISBURSEMENTS**

**COLUMN A**  
Total This Period

**COLUMN B**  
Election Cycle to-Date

17. OPERATING EXPENDITURES.....	36.00	72.00
18. TRANSFERS TO OTHER AUTHORIZED COMMITTEES.....	0.00	0.00
<hr/>		
18. LOAN REPAYMENTS:		
(a) Of Loans Made or Guaranteed by the Candidate.....	0.00	0.00
(b) Of all Other Loans.....	0.00	0.00
(c) TOTAL LOAN REPAYMENTS (add Lines 18(a) and (b)).....	0.00	0.00
<hr/>		
20. REFUNDS OF CONTRIBUTIONS TO:		
(a) Individuals/Persons Other Than Political Committees.....	0.00	0.00
(b) Political Party Committees.....	0.00	0.00
(c) Other Political Committees (such as PACs).....	0.00	0.00
(d) TOTAL CONTRIBUTION REFUNDS (add Lines 20(a), (b), and (c)).....	0.00	0.00
<hr/>		
21. OTHER DISBURSEMENTS.....	0.00	0.00
<hr/>		
22. TOTAL DISBURSEMENTS (add Lines 17, 18, 19(c), 20(d), and 21) ▶	36.00	72.00

**III. CASH SUMMARY**

23. CASH ON HAND AT BEGINNING OF REPORTING PERIOD.....	562.94
24. TOTAL RECEIPTS THIS PERIOD (from Line 16, page 3).....	0.00
25. SUBTOTAL (add Line 23 and Line 24).....	562.94
26. TOTAL DISBURSEMENTS THIS PERIOD (from Line 22).....	36.00
27. CASH ON HAND AT CLOSE OF REPORTING PERIOD (subtract Line 26 from Line 25).....	526.94

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**VIA OVERNIGHT DELIVERY**

November 26, 2007

Robert Hitchens, as Treasurer  
Joe Sulzer for Congress Committee  
P.O. Box 165  
Chillicothe, OH 45601

C00414102  
AF# 1748

Dear Mr. Hitchens:

On July 12, 2007, the Federal Election Commission ("Commission") found reason to believe ("RTB") that the Joe Sulzer for Congress Committee and you, as Treasurer ("respondents"), violated 2 U.S.C. § 434(a) for failing to file the 2007 April Quarterly Report. The Commission also made a preliminary determination that the civil money penalty was \$4,500 based on the schedule of penalties at 11 C.F.R. § 111.43.

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

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

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

Sincerely,

A handwritten signature in cursive script that reads "Jill I. Sugarman".

Jill I. Sugarman  
Reviewing Analyst  
Office of Administrative Review

Attachment

28092614978



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 11, 2007

**MEMORANDUM**

To: The Commission

Through: Patrina M. Clark  
Staff Director

From: John D. Gibson  
Chief Compliance Officer

Shawn Woodhead Werth  
Reviewing Officer  
Office of Administrative Review

By: Jill I. Sugarman  
Reviewing Analyst

Subject: Final Determination Recommendation in AF# 1748 – Joe Sulzer for Congress Committee and Robert Hitchens, as Treasurer (C00414102)

On July 12, 2007, the Commission found reason to believe that the respondents violated 2 U.S.C. § 434(a) for failing to file the 2007 April Quarterly Report. Because they had not filed the report, the Commission made a preliminary determination, using the estimated level of activity, that the civil money penalty was \$4,500 based on the schedule of penalties at 11 C.F.R. § 111.43.

At the time of the RTB finding for the April Quarterly Report, the Commission had not received the report; therefore, the estimated level of activity (\$143,057) was used to calculate the RTB civil money penalty. On August 3, 2007, the respondents filed the April Quarterly Report which discloses total receipts of \$0 and total disbursements of \$36, resulting in a level of activity totaling \$36. Since the schedule of penalties at 11 C.F.R. § 111.43(a)(2) states that a penalty for respondents with no prior violations shall not exceed the level of activity in the report, the civil money penalty for the April Quarterly Report is \$36 (reduced from the RTB civil money penalty of \$4,500).

On August 13, 2007, the Commission received the respondents' written response ("challenge"). After reviewing the challenge, the Reviewing Officer's recommendation dated November 20, 2007 was forwarded to the Commission, a copy was sent to the respondents, and is hereby incorporated by reference. The Reviewing Officer recommended that the Commission make a final determination that they violated 2 U.S.C. § 434(a) and based on the actual level of

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activity for the April Quarterly reporting period (\$36), assess a civil money penalty of \$36 because they submitted no evidence that the RTB finding was based on factual errors, that the civil money penalty was improperly calculated at RTB, or that 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.

Within 10 days of transmittal of the recommendation, the respondents may file a written response with the Commission Secretary which may not raise any arguments not raised in the respondents' challenge or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). As of this date, a written response has not been received.

### **OAR Recommendations**

- (1) Adopt the Reviewing Officer's recommendation for AF# 1748 involving the Joe Sulzer for Congress Committee and Robert Hitchens, as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 1748 that the Joe Sulzer for Congress Committee and Robert Hitchens, as Treasurer, violated 2 U.S.C. § 434(a) and, based on the level of activity disclosed on the April Quarterly Report filed August 3, 2007 (\$36), assess a civil money penalty of \$36 (reduced from the RTB civil money penalty of \$4,500); and
- (3) Send the appropriate letter.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
)  
Final Determination Recommendation: ) AF 1748  
Joe Sulzer for Congress Committee and )  
Robert Hitchens, as Treasurer )  
(C00414102) )

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on December 17, 2007, the Commission decided by a vote of 5-0 to take the following actions in AF 1748:

1. Adopt the Reviewing Officer's recommendation for AF #1748 involving the Joe Sulzer for Congress Committee and Robert Hitchens, as Treasurer, in making the final determination, as recommended in the Reviewing Officer's Memorandum dated December 11, 2007.
2. Make a final determination in AF #1748 that Joe Sulzer for Congress Committee and Robert Hitchens, as Treasurer, violated 2 U.S.C. § 434(a) and, based on the level of activity disclosed on the April Quarterly Report filed August 3, 2007 (\$36), assess a civil money penalty of \$36 (reduced from the RTB civil money penalty of \$4,500).
3. Send the appropriate letter.

Commissioners Lenhard, Mason, von Spakovsky, Walther and Weintraub voted affirmatively for the decision.

Attest:

December 18, 2007  
Date

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

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 20, 2007

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Robert Hitchens, as Treasurer  
Joe Sulzer for Congress Congress  
P.O. Box 165  
Chillicothe, OH 45601

C00414102  
AF# 1748

Dear Mr. Hitchens:

On July 12, 2007, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that the Joe Sulzer for Congress Committee and you, as Treasurer, violated 2 U.S.C. § 434(a) for failing to file the 2007 April Quarterly Report. By letter dated July 16, 2007, the Commission sent you notification of the RTB finding that included a civil money penalty calculated at RTB of \$4,500 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On August 13, 2007, the Office of Administrative Review received the written response from Mr. Sulzer challenging the RTB finding.

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 reduce the RTB civil money penalty because it was calculated on an estimated level of activity, make a final determination that the Joe Sulzer for Congress Committee and you, as Treasurer, violated 2 U.S.C. § 434(a) and, based on the actual level of activity disclosed on the 2007 April Quarterly Report filed August 3, 2007 (\$36), assess a civil money penalty in the amount of \$36 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 November 20, 2007.

On December 17, 2007, the Commission adopted the Reviewing Officer's recommendation, made a final determination that the Joe Sulzer for Congress Committee and you, as Treasurer, violated 2 U.S.C. § 434(a) and based on the level of activity disclosed on the 2007 April Quarterly Report (\$36), assessed a civil money penalty of \$36 (reduced from the RTB civil money penalty of \$4,500). It is based on the same factors used to calculate the civil money penalty at RTB except that the actual rather than the estimated level of activity was used. A copy of the final determination memorandum is attached.

**To Pay the Civil Money Penalty**

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.

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**If You Do Not Pay the 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 ("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 Appeal the Final Determination and/or Civil Money Penalty**

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

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

Sincerely,



Robert D. Lenhard  
Chairman

Attachment

28092614983

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**ADMINISTRATIVE FINE PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the civil money penalty is \$36 for the 2007 April Quarterly Report.

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

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

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

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

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

**PAYMENTS BY PERSONAL CHECK**

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

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**  
-----

FOR: Joe Sulzer for Congress Committee

FEC ID#: C00414102

AF#: 1748

PAYMENT AMOUNT DUE: \$36

**SULZER FOR CONGRESS COMMITTEE  
38 SOUTH PAINT STREET  
CHILLICOTHE, OHIO 45601  
740-774-6320**

Robert Hitchens,  
Treasurer

January 24, 2008

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

RE: FEC ID#: C00414102  
AF#: 1715 & 1748

To Whom It May Concern:

Enclosed please a find check from the Committee payable to the Federal Election Commission in the sum of \$66.00.

This payment is for penalties imposed by the FEC in the above referenced matters.

Payment stubs from the FEC accompany the check.

Sincerely yours,

Joseph P. Sulzer

28092614985

FOR: Joe Sulzer for Congress Committee

FEC ID#: C00414102

AF#: 1748

PAYMENT AMOUNT DUE: \$36

3



QUALITY IS OUR PRIORITY FOR LOCKBOX 9058  
SEQ# 001 \$ 0000006600 BA# 1 01-30-08 20 9

<b>FTB</b> Fifth Third Bank (Ohio Valley)		No. <u>12</u>
PAY TO THE ORDER OF <u>Federal Election Commission</u>		Date <u>Feb 24, 2008</u>
Sulzer, Joe / 10100		\$ <u>36.00</u>
PLEASE ENTER ACCOUNT NUMBER HERE		DOLLARS
<u>[Redacted]</u>		<u>[Redacted]</u>
<u>[Redacted]</u>		<u>[Redacted]</u>
<u>[Redacted]</u>		<u>[Redacted]</u>

28092614986



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 1748

DATE SCANNED 2-12-08

SCANNER NO. 2

SCAN OPERATOR JMA

28092614987