



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 1759

DATE SCANNED 3-4-09

SCANNER NO. 2

SCAN OPERATOR JmH

29092623630



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2007 SEP 13 A 9:55

September 12, 2007

**SENSITIVE**

MEMORANDUM

TO: THE COMMISSION

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

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

PATRICIA CARMONA *PC*  
ACTING ASSISTANT STAFF DIRECTOR  
REPORTS ANALYSIS DIVISION

BY: *PR* RHIANNON RYAN/CHRISTOPHER RITCHIE *CR*  
COMPLIANCE BRANCH

SUBJECT: REASON TO BELIEVE RECOMMENDATION – 2007 MID-  
YEAR REPORT FOR THE ADMINISTRATIVE FINE  
PROGRAM

Attached is the name of a political committee and its treasurer who failed to file the 2007 Mid-Year Report in accordance with 2 U.S.C. 434(a). The Mid-Year Report was due on July 31, 2007.

The committee listed in the attached RTB Circulation Report filed the report more than five (5) days after the due date and thus the report would be considered late. In accordance with the schedule of civil money penalties for reports at 11 C.F.R. 111.43, the committee should be assessed the civil money penalty highlighted on the attached circulation report.

**Recommendation**

1. Find reason to believe that the political committee and treasurer listed on the RTB Circulation Report violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the RTB Circulation Report.
2. Send the appropriate letter.

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Federal Election Commission  
Reason to Believe Circulation Report  
2007 MID-YEAR REPORT Not Election Sensitive 07/31/2007 UNAUTH

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
1759	C00407882	SAVE NEW YORK PAC		HORNAK, ROBERT	\$858,744	0	8/9/2007	9	\$858,744	\$6,300

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Reason To Believe Recommendation – ) AF 1759  
2007 Mid Year Report For The )  
Administrative Fine Program )

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on September 18, 2007, the Commission decided by a vote of 5-0 to take the following actions in AF 1759:

1. Find reason to believe that the Save New York PAC and Robert Hornak, treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be in the amount of \$6,300.
2. Send the appropriate letter.

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

Attest:

September 18, 2007  
Date

Darlene Harris  
for Mary W. Dove  
Secretary of the Commission

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

September 19, 2007

Robert Hornak  
Save New York PAC  
P.O. Box 230882  
Ansonia Station  
New York, NY 10023

C00407882  
AF#: 1759

Dear Robert Hornak:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a Mid-Year Report of Receipts and Disbursements in any calendar year other than one during which a regularly scheduled general election is held. This report, covering the period through June 30th, shall be filed no later than July 31st. 2 U.S.C. 434(a). Records at the Federal Election Commission ("FEC") indicate that this report was filed on 8/9/2007, 9 days late.

The Act was further amended in 1999 to permit the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. 434(a). 2 U.S.C. 437g(a)(4). On 9/18/2007, the FEC found that there is reason to believe ("RTB") that Save New York PAC and you, as treasurer, violated 2 U.S.C. 434(a) by failing to file timely this report on or before July 31st. 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 \$6,300.00. It is due by 10/28/2007 and is based on these factors:

Election Sensitivity of Report: Not Election Sensitive  
Level of Activity: \$858,744.00  
Number of Days Late: 9  
Number of Previous Civil Money Penalties Assessed: 0

**To Pay the Calculated Civil Money Penalty**

To pay the calculated civil money penalty, send the enclosed remittance and your payment to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

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

To challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found on page one, to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must be received by 10/28/2007. 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 in the RTB finding; miscalculation of the calculated civil money penalty

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by the FEC; or your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to, a failure of Commission computers or Commission-provided software despite you seeking technical assistance from Commission personnel and resources; a widespread disruption of information transmissions over the Internet that is not caused by the Commission's or your computer systems or Internet service provider; and severe weather or other disaster-related incident. **Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to, negligence; delays caused by vendors or contractors; treasurer and staff illness, inexperience or unavailability; committee computer, software, or internet service provider failures; failure to know filing dates; and failure to use filing software properly.** Your response must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 C.F.R. 111.35.

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

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

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

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

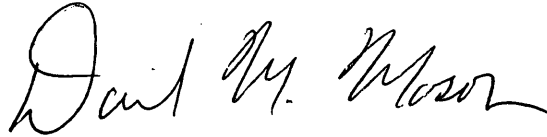
This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. 437g(a)(2). It will remain confidential in accordance with 2 U.S.C. 437g(a)(4)(B) and 437g(a)(12)(A) until it is placed on the public record in accordance 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-

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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,

A handwritten signature in cursive script that reads "David M. Mason". The signature is written in black ink and is positioned above the printed name and title.

David M. Mason  
Vice 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 \$6,300.00 for the 2007 Mid-Year Report 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 10/28/2007. 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: Save New York PAC

FEC ID#: C00407882

AF#: 1759

PAYMENT DUE DATE: 10/28/2007

PAYMENT AMOUNT DUE: \$6,300.00

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2007 NOV -5 P 12:48

Save New York PAC  
P.O. Box 230882, Ansonia Station  
New York, New York 10023

October 28, 2007

Mr. David M. Mason  
Office of Administrative Review  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

Re: AF#: 1759, Committee #: C00407882

Dear Mr. Mason:

This is in response to the Federal Election Commission's Calculated Civil Money Penalty concerning the late filing of the July 31<sup>st</sup>, 2007 Mid-Year Report. We are challenging the penalty based on best efforts to file the report in a timely fashion.

I have served as a treasurer for many New York state and local campaign committees. However, this is my first time serving as a treasurer for a federal committee. I had only recently taken over as treasurer for Save New York PAC when the mid-year report came due. Unfortunately, there is no way to learn the process of reporting using the FEC software, except as actual reports come due.

There are many processes unique to the FEC system, including and especially the uploading of donor information into the program. The directions on the FEC leave much to the imagination, as they are incomplete and vague. It literally took days to resolve the problem of formatting the information so that it could properly be reported. Once the information was formatted, there is an extremely complicated and lengthy process of matching duplicate or repeat donors. This process alone took three days of work.

And finally, once the information was complete, I thought I had uploaded the report to the FEC. Unfortunately, this was not the case, and it took a phone call from an associate to inform me that the report was not properly submitted.

While this explanation could easily be dismissed as beginner's incompetence, and there is certainly some truth to that, it is also true that if the FEC's software was more user friendly and the instructions more clear and direct, the report would not have been as late as it turned out to be.

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Additionally, the fine is being based on activity of \$858,744.00. This is a poor way of determining the PAC's ability to pay considering the largest expense the PAC incurs is for fundraising. In fact, the majority of money raised goes toward the expense of raising those funds. Direct mail, which is our only current fundraising mechanism, is fairly costly and only leaves a portion of the funds raised for other expenses and to support the PAC's endorsed candidates.

While the PAC should be held accountable for the late filing, the PAC's best efforts to file must be taken into account as well as the PAC's past record of never filing late and responding to every request for more information in a timely manor.

We contend that the fine, at \$6,300.00, is very high and out of line with the PAC's ability to pay and the responsibility it should hold. In New York, a late filing for either a state or local committee would result in a fine in the hundreds of dollars, not thousands. We request that the FEC review this determination and come to a more reasonable amount for a fine.

If you need any more information or we can be if further assistance, please don't hesitate to call me at (546) 662-1969.

Sincerely,



Robert Hornak  
Treasurer

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Via First Class Mail

October 29, 2007

Robert Hornak, as Treasurer  
Save New York PAC  
P.O. Box 230882  
Ansonia Station, NY 10023

C00407882  
AF# 1759

Dear Mr. Hornak:

On October 29, 2007, the Commission received the written response ("challenge") which is being reviewed by the Office of Administrative Review. If you have any questions regarding the 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 "Jill Sugarman".

Jill Sugarman  
Reviewing Analyst  
Office of Administrative Review

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Date: October 30, 2007

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

AF#: 1759

Committee Name: Save New York PAC

Committee ID#: C00407882

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

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

**Attachments:**

**Copy of RTB Circulation Report, dated September 12, 2007 and RTB  
Certification, dated September 18, 2007: Y**

**Attachment #: 1**

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

**Attachment #: 2**

**Telecoms and Visitcoms in Response to RTB Letter (Y/N):**

**Other Relevant Telecoms (Y/N): N**

**Attachment #: N/A**

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

**Attachment #: N/A**

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

**-RTB Letter, dated September 19, 2007.**

**Attachment #: 4**

**Other RAD Information: (Y/N): N**

**Attachment#: N/A**

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SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature  <input checked="" type="checkbox"/> Agent  <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name)            Meaghan Healy</p> <p>C. Date of Delivery            9/24/07</p>
<p>1. Article Addressed to:</p> <p>Robert Hornak            Save New York PAC            PO Box 220 882            Ansonia Station            New York, NY 10023</p>	<p>D. Is delivery address different from item 1? <input checked="" type="checkbox"/> Yes            If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>SEP 24 2007            ANSONIA STATION NEW YORK NY</p> <p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail    <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered    <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail    <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee)    <input type="checkbox"/> Yes</p>
<p>2. Article Number            (Transfer from service label)</p>	<p>7005 1820 0002 3465 5127</p>
<p>PS Form 3811, February 2004    Domestic Return Receipt    102595-02-M-1540</p>	

**DECLARATION OF NATALIYA IOFFE**

1. I am the Acting Chief of the Compliance Branch for the Reports Analysis Division of the Federal Election Commission ("Commission"). In my capacity as Acting 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 Save New York PAC:
- A) Reason-to-Believe Letter, dated September 19, 2007, referencing the 2007 Mid-Year Report.
3. I hereby certify that I have searched the Commission's public records and find that Save New York PAC filed the 2007 Mid-Year Report with the Commission on August 9, 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 30<sup>th</sup> day of October, 2007.



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

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2008 JAN 16 P 3: 56

January 16, 2008

MEMORANDUM

To: The Commission

Through: Patrina M. Clark  
Staff Director

From: John D. Gibson  
Chief Compliance Officer

Shawn Woodhead Wertz  
Reviewing Officer  
Office of Administrative Review

By: Maureen Benitz  
Reviewing Analyst

Subject: AF# 1759 – Save New York PAC and Robert Hornak, as Treasurer  
(C00407882)

**SENSITIVE**

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

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

January 16, 2008

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

AF# 1759 – Save New York PAC and Robert Hornak, as Treasurer (C00407882)

On September 18, 2007, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to timely file the 2007 Mid Year Report and made a preliminary determination that the civil money penalty was \$6,300 based on the schedule of penalties at 11 C.F.R. § 111.43. They were notified by the Reports Analysis Division ("RAD") on September 19, 2007 of the Commission's RTB finding and civil money penalty.

**Respondents' Response**

On November 5, 2007, the Commission received the written response ("challenge") from the Treasurer requesting that the Commission reduce the civil money penalty because of their best efforts to file on time. He states that the FEC software was not user friendly, especially to a new Treasurer and it took days to resolve format and duplicate donor problems. Once he finished, the Treasurer thought he successfully uploaded the report but was later told by an associate that he had not. Had the software and the user's manual been easier to use and follow, the report would not have been filed as late as it was. In addition, he requests that the penalty be reduced because most of the PAC's expenses are for fundraising, is out of line with respect to their ability to pay, and is not comparable to New York's fines for late filing.

**Analysis**

The Mid Year Report was filed on August 9, 2007, 9 days late.

The Federal Election Campaign Act ("Act") states that the treasurer of a committee other than an authorized committee of a candidate shall file a report for the period ending June 30 no later than July 31. 2 U.S.C. § 434(a)(4)(A)(iv) and 11 C.F.R. § 104.5(c)(2)(i)(A). Political committees required to file reports with the Commission must file in an electronic format if they received or expect to receive contributions or made or expect to make expenditures in a calendar year aggregating in excess of \$50,000. 2 U.S.C. § 434(a)(11) and 11 C.F.R. § 104.18(a). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

Their challenge focuses on their difficulties in electronically filing the report and that the software and user's manual are hard to understand. Commission records show that the Treasurer assumed his position on April 25, 2007. On April 30, a copy of the FECFile software was downloaded from the Commission's web site and the name "Robert Hornak" was provided as the contact. From that time until August 2, three months later, he did not contact the Electronic Filing Office ("EFO") or RAD staff for help or assistance in using the FECFile software or the user's manual. They were notified on August 1 that the report had not been filed. On August 2, one day after the notification was emailed to "rahornak@gmail.com," the Treasurer contacted the EFO about the excel import format for the FECFile software. The EFO staff explained how to convert and import the data into the FECFile software, and told him to call back if he had questions. He did not contact the EFO again until August 9, seven days after the initial phone call, and sought help with a validation error. The report was filed on this day.

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Although the Treasurer asserts he used his best efforts to file on time, the best efforts defense is a two-part test: the respondents 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. 11 C.F.R. § 111.35(b)(3). With respect to this defense, the Commission states in its Explanation and Justification that

“Best efforts” is a high standard set by FECA.... [T]o satisfy the “best efforts” defense, a respondent must demonstrate that it attempted to use all available methods to file, but that timely filing by each method was *prevented* by the reasonably unforeseen circumstances beyond the control of the respondent.... Under the revised rule, a respondent’s challenge will not succeed if its “best efforts” defense is based on any of these circumstances [at 11 C.F.R. § 111.35(d)] as the cause of the failure to file timely. [Emphasis in original]

A “best efforts” defense will not succeed if it is based on any circumstances listed at 11 C.F.R. § 111.35(d), and two of those circumstances are inexperience of the treasurer and failure to use filing software properly. In this case, the failure to file the report on time rests on the Treasurer’s inexperience in the use of the electronic filing software to prepare the report and successfully upload it to the Commission. There is no indication that he sought help from the EFO or RAD staff before the report was due to prepare it nor did he follow up to see if he had successfully filed it. Then, after speaking with the EFO staff on August 2, he still waited another week before he called back to get more help to file the report. Therefore, the respondents do not meet the first part of the test and their “best efforts” defense does not succeed.

Another issue in their challenge addresses the way the fine is calculated. The Treasurer says that most of the Committee’s expenses are related to fundraising. The administrative fine program’s schedule of civil money penalties is based on four factors – if the report is election sensitive or not election sensitive, the level of activity, the number of days late, and any previous civil money penalties assessed. The level of activity is calculated by adding the total amount of receipts and the total amount of disbursements on the late filed report. 11 C.F.R. § 111.43(a), (d), and (e). The Mid Year Report is not election sensitive, was filed nine days late, and there are no previous civil money penalties assessed. The Report discloses \$430,880 in receipts and \$427,864 in disbursements, for a total activity level of \$858,744. Using the same level of activity (\$858,744) as was used at the time of the RTB finding, the amount of the civil money penalty at final determination would be  $[\$4,500 + (\$200 \times 9)] \times [1 + (.25 \times 0)]$  or \$6,300. Based on these four factors, the fine was correctly calculated.

The other issues raised in the challenge (that fines assessed by New York State for late filing are much less than the fines assessed by the Commission and the Committee has few resources to pay the fine since most of its expenses are fundraising costs) do not fall within the list of any of the three valid excuses 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 \$6,300.

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**OAR Recommendations**

- (1) Adopt the Reviewing Officer recommendation for AF# 1759 involving the Save New York PAC and Robert Hornak, as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 1759 that the Save New York PAC and Robert Hornak, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$6,300; and
- (3) Send the appropriate letter.

Reviewing Analyst: Maureen Benitz

Attachments

Attachment 1 – Challenge Received from Respondents

Attachment 2 –


Attachment 3 – Declaration from RAD :

Attachment 4 – Declaration from OAR

29092623647

**DECLARATION OF MAUREEN BENITZ**

1. I am the Reviewing Analyst in the Office of Administrative Review for the Federal Election Commission ("Commission"). In my capacity as Reviewing Analyst, I conduct research with respect to all challenges submitted in accordance with the Administrative Fine program.
2. The 2007 Mid Year Report is due July 31, 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 July 31 to be timely filed.
3. I hereby certify that I have searched the Commission's public records and that the documents identified herein are true and accurate copies of:
  - (a) Pages 1 and 3 of the Statement of Organization filed by the Save New York PAC and Robert Hornak, as Treasurer. According to Commission records, the Statement was received on April 25, 2007; the amendment box is checked on Line 4; and Robert Hornak is listed as Treasurer on Line 8; and
  - (b) Pages 1 and 2 of the Summary Page for the 2007 Mid Year Report filed electronically by the Save New York PAC and Robert Hornak, as Treasurer. According to Commission records, the Report covers the period from January 1 through June 30, 2007 and was received on August 9, 2007. Lines 6(c) and 7, Column A, list \$430,880.03 in receipts and \$427,864.59 in disbursements, respectively, for this period.
4. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Washington on the 16<sup>th</sup> of January, 2008.

  
\_\_\_\_\_  
Maureen Benitz  
Reviewing Analyst  
Office of Administrative Review  
Federal Election Commission

29092623648

**FEC  
FORM 1**

**STATEMENT OF  
ORGANIZATION**

(See Instructions)

DTG: 04/25/07

1. NAME OF COMMITTEE (in full)  (Check if name is changed) Example: If typing, type over the lines 12FE4M5

SAVE NEW YORK PAC

ADDRESS (continued)

PO BOX 290662

(Check if address is changed)

ANSONIA STATION

NEW YORK NY 10029

CITY STATE ZIP CODE

COMMITTEE'S E-MAIL ADDRESS

rahornak@gmail.com

COMMITTEE'S WEB PAGE ADDRESS (URL)

COMMITTEE'S FAX NUMBER

2. DATE 04 25 2007

3. FEC IDENTIFICATION NUMBER C C00407882

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 ROBERT HORNAK

Signature of Treasurer Electronically Filed by ROBERT HORNAK Date 04 25 2007

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

ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS

29092623649

Write or Type Committee Name

SAVE NEW YORK PAC

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

Full Name ROBERT HORNAK

Mailing Address 20-27 23RD STREET

ASTORIA NY 11105
Title or Position CITY STATE ZIP CODE
TREASURER Telephone number 646 827 3818

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).

Full Name of Treasurer ROBERT HORNAK

Mailing Address 20-27 23RD STREET

ASTORIA NY 11105
Title or Position CITY STATE ZIP CODE
TREASURER Telephone number 646 827 3818

Full Name of Designated Agent MICHAEL BENJAMIN

Mailing Address PO BOX 230882 ANSONIA STATION

NEW YORK NY 10023
Title or Position CITY STATE ZIP CODE
CHAIRMAN Telephone number 646 216 8493

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**SUMMARY PAGE  
OF RECEIPTS AND DISBURSEMENTS**

FEC Form 3X (Rev. 02/2003)

Page 2

Write or Type Committee Name  
SAVE NEW YORK PAC

Report Covering the Period: From: <sup>M</sup> 01 <sup>D</sup> 01 <sup>Y</sup> 2007 To: <sup>M</sup> 06 <sup>D</sup> 30 <sup>Y</sup> 2007

	COLUMN A This Period	COLUMN B Calendar Year-to-Date
6. (a) Cash on Hand January 1 <sup>Y</sup> 2007		20340.74
(b) Cash on Hand at Beginning of Reporting Period .....	20340.74	
(c) Total Receipts (from Line 19) .....	430880.03	430880.03
(d) Subtotal (add lines 6(b) and 6(c) for Column A and Lines 6(b) and 6(c) for Column B) .....	451220.77	451220.77
7. Total Disbursements (from Line 31) .....	427864.59	427864.59
8. Cash on Hand at Close of Reporting Period (subtract Line 7 from Line 6(d)) .....	23356.18	23356.18
9. Debts and Obligations owed TO the committee (itemize all on Schedule C and/or Schedule D) .....	0.00	
10. Debts and Obligations owed BY the committee (itemize all on Schedule C and/or Schedule D) .....	130266.06	

This Committee has qualified as a multicandidate committee. (see FEC FORM 1M)

**For further information contact:**

Federal Election Commission  
999 E street, NW  
Washington, DC 20463

Toll Free 800-424-9530  
Local 202-694-1100

29092623652



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**VIA OVERNIGHT DELIVERY**

January 22, 2008

Robert Hornak, as Treasurer  
Save New York PAC  
P.O. Box 230882  
New York, NY 10023-0015

C00407882  
AF# 1759

Dear Mr. Hornak:

On September 18, 2007, the Federal Election Commission ("Commission") found reason to believe ("RTB") that the Save New York PAC and you, as Treasurer ("respondents"), violated 2 U.S.C. § 434(a) for failing to file the 2007 Mid Year Report. The Commission also made a preliminary determination that the civil money penalty was \$6,300 based on the schedule of penalties at 11 C.F.R. § 111.43.

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

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Maureen Benitz", written over a printed name and title.

Maureen Benitz  
Reviewing Analyst  
Office of Administrative Review

Attachment

29092623653



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2008 FEB 11 A 10: 27

February 8, 2008

MEMORANDUM

**SENSITIVE**

To: The Commission

Through: Patrina M. Clark *JM*  
Staff Director *PC*

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

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

By: Maureen Benitz *MB*  
Reviewing Analyst

Subject: Final Determination Recommendation in AF# 1759 - Save New  
York PAC and Robert Hornak, as Treasurer (C00407882)

On September 18, 2007, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to file the 2007 Mid Year Report. The Report was filed on August 9, 2007 and is considered not filed for purposes of the civil money penalty. As a result, the Commission also made a preliminary determination that the civil money penalty was \$6,300 based on the schedule of penalties at 11 C.F.R. § 111.43.

On November 5, 2007, the Commission received their written response ("challenge"). After reviewing the challenge, the Reviewing Officer's recommendation dated January 16, 2008 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. The Reviewing Officer recommended that the Commission make a final determination that they violated 2 U.S.C. § 434(a) and assess a \$6,300 civil money penalty because they submitted no evidence that a factual error was made in the RTB finding, that the penalty was miscalculated at RTB or that they used best efforts to file on time. 11 C.F.R. § 111.35(b).

Within 10 days of transmittal of the recommendation, they may file a written response with the Commission Secretary which may not raise any arguments not raised in

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their 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 Recommendation in AF# 1759 involving the Save New York PAC and Robert Hornak, as Treasurer;
- (2) Make a final determination in AF# 1759 that the Save New York PAC and Robert Hornak, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$6,300 and
- (3) Send the appropriate letter.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
)  
Final Determination Recommendation: ) AF 1759  
Save New York PAC and Robert Hornak, )  
as Treasurer (C00407882) )

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on November 19, 2008, the Commission decided by a vote of 5-0 to take the following actions in AF 1759:

1. Adopt the Reviewing Officer Recommendation in AF 1759 involving the Save New York PAC and Robert Hornak, as Treasurer.
2. Make a final determination in AF 1759 that the Save New York PAC and Robert Hornak, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$6,300.
3. Send the appropriate letter.

Commissioners Bauerly, Hunter, McGahn II, Petersen, and Weintraub voted affirmatively for the decision. Commissioner Walther did not vote.

Attest:

November 20, 2008  
Date

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

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 24, 2008

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Robert Hornak, as Treasurer  
Save New York PAC  
P.O. Box 230882  
Ansonia Station  
New York, NY 10023

C00407882  
AF# 1759

Dear Mr. Hornak:

On September 18, 2007, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that the Save New York PAC and you, as Treasurer, violated 2 U.S.C. § 434(a) for failing to timely file the 2007 Mid Year Report. By letter dated September 19, 2007, the Commission sent you notification of the RTB finding that included a civil money penalty calculated at RTB of \$6,300 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On November 5, 2007, the Office of Administrative Review received the written response from you challenging the RTB civil money penalty.

The Reviewing Officer reviewed the Commission's RTB finding with its supporting documentation and the written response. Based on this review, the Reviewing Officer recommended that the Commission make a final determination that the Save New York PAC and you, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty in the amount of \$6,300 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 January 22, 2008.

On November 19, 2008, the Commission adopted the Reviewing Officer's recommendation and made a final determination that the Save New York PAC and you, as Treasurer, violated 2 U.S.C. § 434(a) and assessed a civil money penalty of \$6,300. 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.

**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.

**If You Do Not Pay the Civil Money Penalty**

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Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA") as amended by the Debt Collection Improvement Act of 1996 ("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 Maureen Benitz on our toll free number (800)424-9530 (press 0, then ext. 1660) or (202)694-1660.

Sincerely,



Donald F. McGahn II  
Chairman

Attachment

cc: Scott B. MacKenzie, as Treasurer

29092625658

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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 \$6,300 for the 2007 Mid Year 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: Save New York PAC

FEC ID#: C00407882

AF#: 1759

PAYMENT AMOUNT DUE: \$6,300

29092625659

FOR: Save New York PAC

FEC ID#: C00407882

2-19

AF#: 1759

4300.00

PAYMENT AMOUNT DUE: \$6,300

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07/14

RECEIVED 12-08-'08 13:09 FROM- 2123198095 TO- RMO DIRECT 0002/005

QUALITY IS OUR PRIORITY FOR LOCKBOX 9058  
SEQ# 001 \$ 0000430000 BA# 1 02-23-09 20 9



SAVE NEW YORK PAC (C00407882) [REDACTED] AF # 1759	FIRST VIRGINIA COMMUNITY BANK 11325 RANDOM HILLS DRIVE SUITE 240 FAIRFAX, VA 22030	002108 056009505
Pay Four Thousand Three Hundred Dollars And 00 Cents	DATE Feb 18, 2009	AMOUNT \$4,300.00
to the Order of: FEDERAL ELECTION COMMISSION PO BOX 979058 ST LOUIS, MO 63197-9000	 Authorized Signature	

QUALITY IS OUR PRIORITY FOR LOCKBOX 9058  
SEQ# 001 \$ 0000200000 BA# 1 01-08-09 20 4



SAVE NEW YORK PAC [REDACTED]	FIRST VIRGINIA COMMUNITY BANK 11325 RANDOM HILLS DRIVE SUITE 240 FAIRFAX, VA 22030	002103 056009505
Pay Two Thousand Dollars And 00 Cents	DATE Jan 6, 2009	AMOUNT \$2,000.00
to the Order of: FEDERAL ELECTION COMMISSION PO BOX 979058 ST LOUIS, MO 63197-9000	 Authorized Signature	



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 1759

DATE SCANNED 3-4-09

SCANNER NO. 2

SCAN OPERATOR JMS

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