



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 1774

DATE SCANNED 9/15/09

SCANNER NO. 2

SCAN OPERATOR SES

29092641701



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

September 18, 2008

MEMORANDUM

**SENSITIVE**

TO: THE COMMISSION  
THROUGH: JOSEPH F. STOLTZ *JFS*  
ACTING STAFF DIRECTOR  
FROM: JOHN D. GIBSON *JDG*  
CHIEF COMPLIANCE OFFICER

PATRICIA CARMONA *PC*  
ASSISTANT STAFF DIRECTOR  
REPORTS ANALYSIS DIVISION

BY: NATALIYA IOFFE/ *NIO* RHIANNON MAGRUDER/ *RM* CHRIS RITCHIE *CR*  
COMPLIANCE BRANCH

SUBJECT: WITHDRAWAL AND RESUBMISSION OF REASON TO  
BELIEVE RECOMMENDATION – 2007 YEAR-END REPORT  
FOR THE ADMINISTRATIVE FINE PROGRAM

2008 SEP 18 P 12:15  
FEDERAL ELECTION COMMISSION  
SECRETARIAT

We are withdrawing the document circulated to the Commission on March 26, 2008 in order to reflect updates disclosed in recent filings received by the Commission. Attached is the list of political committees and their treasurers who failed to file the 2007 Year-End Report in accordance with 2 U.S.C. 434(a). The Year-End Report was due on January 31, 2008.

The committees listed in the attached RTB Circulation Report either 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 CFR 111.43, these committees should be assessed the civil money penalties highlighted on the attached circulation report.

**Recommendation**

1. Find reason to believe that the 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 YEAR-END Not Election Sensitive 01/31/2008 H\_S\_P\_UNAUTH

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
1770	C00396028	AL GREEN FOR CONGRESS	GREEN, ALEXANDER	WILLIAM A. LAWSON	\$205,117	5	2/6/2008	6	\$53,559	\$1,687
1771	C00411694	AMERICAN SHIPPING GROUP MARINE RESOURCES GROUP		MR. ROBERT MAGEE	\$125,437	0	2/6/2008	6	\$47,382	\$320
1772	C00434456	BOB HILL FOR CONGRESS	HILL, ROBERT ANTHONY	KATHLEEN KUKIELKA	\$322,400	0	2/24/2008	24	\$5,710	\$170
1773	C00390583	BROWNSTEIN HYATT FARBER SCHRECK, P.C. POLITICAL ACTION COMMITTEE		MR. STEVEN C. DEMBY	\$143,004	0	3/18/2008	Not Filed	\$74,002	\$2,700
1774	C00431666	GEORGE FEARING FOR CONGRESS	FEARING, GEORGE BARR	DOUGLAS MCKINLEY	\$103,471	0	2/6/2008	6	\$50,666	\$750
1775	C00274944	COLLEGE OF AMERICAN PATHOLOGISTS POLITICAL ACTION COMMITTEE		DR. RENEE R. ELLERBROEK	\$942,324	0	2/7/2008	7	\$68,451	\$825
1776	C00085910	FERT PAC (THE POLITICAL ACTION COMMITTEE OF THE FERTILIZER INSTITUTE)		CAROL-LEE ESTABROOK	\$124,563	0	2/7/2008	7	\$11,153	\$135
1777	C00014555	FOOD MARKETING INSTITUTE POLITICAL ACTION COMMITTEE, FOODPAC		JOHN J. MOTLEY, III	\$396,996	0	2/6/2008	6	\$39,614	\$320
1778	C00328835	HARRIS COUNTY REPUBLICAN PARTY		LARRY M. HICKS	\$137,062	0	2/12/2008	12	\$20,924	\$160
1779	C00158865	HUDSON VALLEY PAC		MR. LEO WEINBERG	\$131,911	0	3/10/2008	Not Filed	\$12,894	\$500

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9/18/2008 8:50 AM

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
1780	C00423202	MIKE GRAVEL FOR PRESIDENT 2008	GRAVEL, MIKE	MIKE GRAVEL	\$863,390	0	3/2/2008	Not Filed	\$303,462	\$8,000
1781	C00034272	NATIONAL CHICKEN COUNCIL POLITICAL ACTION COMMITTEE		GEORGE WATTS	\$245,386	0	2/27/2008	27	\$42,220	\$740
1782	C00150045	UNITED BROTHERHOOD OF CARPENTERS/JOINERS OF AMER NEW ENGLAND REG CARPENTERS LEGIS EMP CMTE		GLENN MARSHALL	\$120,758	3	2/8/2008	8	\$60,348	\$1,575

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
)  
Withdrawal and Resubmission of Reason )  
To Believe Recommendation - 2007 Year- )  
End Report for the Administrative Fine )  
Program: )  
AL GREEN FOR CONGRESS, and ) AF# 1770  
WILLIAM A LAWSON as treasurer; )  
AMERICAN SHIPPING GROUP ) AF# 1771  
MARINE RESOURCES GROUP, and )  
MAGEE, ROBERT MR as treasurer; )  
BOB HILL FOR CONGRESS, and ) AF# 1772  
KATHLEEN KUKIELKA as treasurer; )  
BROWNSTEIN HYATT FARBER ) AF# 1773  
SCHRECK, P.C. POLITICAL ACTION )  
COMMITTEE, and DEMBY, STEVEN C. )  
MR. as treasurer; )  
GEORGE FEARING FOR CONGRESS, ) AF# 1774  
and MCKINLEY, DOUGLAS as treasurer; )  
COLLEGE OF AMERICAN ) AF# 1775  
PATHOLOGISTS POLITICAL ACTION )  
COMMITTEE, and ELLERBROEK, )  
RENEE R DR. as treasurer; )  
FERT PAC (THE POLITICAL ACTION ) AF# 1776  
COMMITTEE OF THE FERTILIZER )  
INSTITUTE), and ESTABROOK, CAROL- )  
LEE as treasurer; )  
FOOD MARKETING INSTITUTE ) AF# 1777  
POLITICAL ACTION COMMITTEE, )  
FOODPAC, and MOTLEY, JOHN J III as )  
treasurer; )  
HARRIS COUNTY REPUBLICAN ) AF# 1778  
PARTY, and LARRY M HICKS as )  
treasurer; )  
HUDSON VALLEY PAC, and ) AF# 1779  
WEINBERG, LEO MR. as treasurer; )  
MIKE GRAVEL FOR PRESIDENT 2008, ) AF# 1780  
and MIKE GRAVEL as treasurer; )

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NATIONAL CHICKEN COUNCIL ) AF# 1781  
POLITICAL ACTION COMMITTEE, and )  
WATTS, GEORGE as treasurer; )  
UNITED BROTHERHOOD OF ) AF# 1782  
CARPENTERS/JOINERS OF AMER NEW )  
ENGLAND REG CARPENTERS LEGIS )  
EMP CMTE, and GLENN MARSHALL as )  
treasurer; )

AMENDED CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on September 19, 2008 the Commission took the following actions on the Withdrawal and Resubmission of Reason To Believe Recommendation - 2007 Year-End Report for the Administrative Fine Program as recommended in the Reports Analysis Division's Memorandum dated September 18, 2008, on the following committees:

AF#1770 Decided by a vote of 6-0 to: (1) find reason to believe that AL GREEN FOR CONGRESS, and WILLIAM A LAWSON 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1771 Decided by a vote of 6-0 to: (1) find reason to believe that AMERICAN SHIPPING GROUP MARINE RESOURCES GROUP, and MAGEE, ROBERT MR 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1772 Decided by a vote of 6-0 to: (1) find reason to believe that BOB HILL FOR CONGRESS, and KATHLEEN KUKIELKA 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

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AF#1773 Decided by a vote of 6-0 to: (1) find reason to believe that BROWNSTEIN HYATT FARBER SCHRECK, P.C. POLITICAL ACTION COMMITTEE, and DEMBY, STEVEN C. MR. 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1774 Decided by a vote of 6-0 to: (1) find reason to believe that GEORGE FEARING FOR CONGRESS, and MCKINLEY, DOUGLAS 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1775 Decided by a vote of 6-0 to: (1) find reason to believe that COLLEGE OF AMERICAN PATHOLOGISTS POLITICAL ACTION COMMITTEE, and ELLERBROEK, RENEE R DR. 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1776 Decided by a vote of 6-0 to: (1) find reason to believe that FERT PAC (THE POLITICAL ACTION COMMITTEE OF THE FERTILIZER INSTITUTE), and ESTABROOK, CAROL-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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1777 Decided by a vote of 6-0 to: (1) find reason to believe that FOOD MARKETING INSTITUTE POLITICAL ACTION COMMITTEE, FOODPAC, and MOTLEY, JOHN J III 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1778 Decided by a vote of 6-0 to: (1) find reason to believe that HARRIS COUNTY REPUBLICAN PARTY, and LARRY M HICKS 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1779 Decided by a vote of 6-0 to: (1) find reason to believe that HUDSON VALLEY PAC, and WEINBERG, LEO MR. as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount

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indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1780 Decided by a vote of 6-0 to: (1) find reason to believe that MIKE GRAVEL FOR PRESIDENT 2008, and MIKE GRAVEL 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1781 Decided by a vote of 6-0 to: (1) find reason to believe that NATIONAL CHICKEN COUNCIL POLITICAL ACTION COMMITTEE, and WATTS, GEORGE 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1782 Decided by a vote of 6-0 to: (1) find reason to believe that UNITED BROTHERHOOD OF CARPENTERS/JOINERS OF AMER NEW ENGLAND REG CARPENTERS LEGIS EMP CMTE, and GLENN MARSHALL 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

October 27, 2008  
Date

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

29092641708



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

September 22, 2008

Douglas McKinley  
George Fearing for Congress  
1815 George Washington Way  
Richland, WA 99354

C00431866  
AF#: 1774

Dear Douglas McKinley:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a Year End Report of Receipts and Disbursements every calendar year. This report, covering the period through December 31st, 2007 shall be filed no later than January 31<sup>st</sup>, 2008. 2 U.S.C. 434(a). Records at the Federal Election Commission ("FEC") indicate that this report was filed on 2/6/2008, 6 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 9/19/2008, the FEC found that there is reason to believe ("RTB") that George Fearing for Congress and you, as treasurer, violated 2 U.S.C. 434(a) by failing to file timely this report on or before January 31<sup>st</sup>, 2008. 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 \$750. It is due by 10/29/2008 and is based on these factors:

Election Sensitivity of Report: Not Election Sensitive  
Level of Activity: \$50,666  
Number of Days Late: 6  
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 10/29/2008. Your written response must include the reason(s) why you are challenging the RTB

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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 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 George Fearing for Congress 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.

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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 Magruder in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

Sincerely,

A handwritten signature in black ink, appearing to read "DFM II", written in a cursive style.

Donald F. McGahn II  
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 \$750 for the 2007 Year-End Report.

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

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

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

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

The remittance and your payment are due by 10/29/2008. 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: George Fearing for Congress

FEC ID#: C00431866

AF#: 1774

PAYMENT DUE DATE: 10/29/2008

PAYMENT AMOUNT DUE: \$750

29092641712

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

VIA FACSIMILE and REGULAR MAIL

Re: AF# 1774  
George Fearing for Congress; C00431866

October 27, 2008

Sworn Declaration of Doug McKinley

I, June Ollero, am over the age of 18 and am otherwise competent to testify.

This declaration is submitted to challenge the RTB taken against the George Fearing for Congress campaign (C00431866) (the "campaign") by the Federal Election Commission (FEC) as set forth in the correspondence from Mr. Donald F. McGahn II, Chairman of the FEC, dated September 22, 2008.

The alleged infraction was a failure to file the Year End Report due January 31<sup>st</sup>, 2008. At the time of the alleged infraction, and at all times prior thereto, I was the Treasurer of the Fearing campaign.

The failure to file the Year End Report due January 31<sup>st</sup>, 2008 was caused by unforeseen circumstances that were beyond the control of myself and the campaign. Specifically, the failure to file was caused by a failure of Commission computers and/or Commission provided software to accept the report. I attempted to file the report prior to the deadline. When the Commission computers and/or Commission provided software

FEC OFFICE OF  
ADMIN REVIEW

2008 NOV - 3 A 11: 59

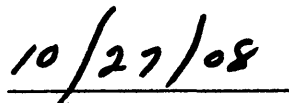
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failed to accept my attempted filing, I immediately contacted the FEC's contact person for the campaign, Jennifer Pitman. Over the course of the next several days, Ms. Pitman worked diligently with me to solve the problem, however, unfortunately, she and I were unable to ascertain the reasons that the Commission computers and/or Commission provided software would not accept the report. Ms. Pitman then put me in contact with the FEC's technical personnel. Working with this person, we were finally able to get the report filed, albeit several days after the deadline. Accordingly, from the moment that my attempt to timely file the report failed as a result of a failure of Commission computers and/or commission provided software, I worked diligently and continuously with FEC staff to get the report filed, and filed the report the instant the failure of Commission computers and/or commission provided software was rectified.

It is therefore my position that it would therefore not be proper to assess any monetary penalties against the campaign related to the Year End Report due January 31<sup>st</sup>, 2008.

  
June Ollero

  
Date

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

VIA FACSIMILE and REGULAR MAIL

Re: AF# 1774  
George Fearing for Congress; C00431866

October 27, 2008

Sworn Declaration of Doug McKinley

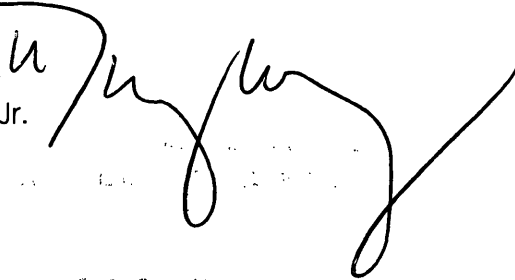
I, Douglas E. McKinley Jr., am over the age of 18 and am otherwise competent to testify.

This declaration is submitted to challenge the RTB taken against myself personally and the George Fearing for Congress campaign (C00431866) by the Federal Election Commission (FEC) as set forth in the correspondence from Mr. Donald F. McGahn II, Chairman of the FEC, dated September 22, 2008.

The alleged infraction was a failure to file the Year End Report due January 31<sup>st</sup>, 2008. At the time of the alleged infraction, and at all times prior thereto, I was not the Treasurer of the Fearing campaign. I only became Treasurer months later, long after all events relevant to the Year End Report due January 31<sup>st</sup>, 2008 had taken place.

It is therefore my position that it would therefore not be proper to assess any monetary penalties against me personally for any acts or omissions taken by the campaign or the prior campaign Treasurer related to the Year End Report due January 31<sup>st</sup>, 2008.

Douglas E. McKinley, Jr.



FEC OFFICE OF  
ADMIN REVIEW

2008 NOV - 3 A 11: 58

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Via First Class Mail

October 31, 2008

Douglas E. McKinley, Jr., as Treasurer  
George Fearing for Congress  
1815 George Washington Way  
Richland, WA 99354

C00431866  
AF# 1774

Dear Mr. McKinley:

On October 27 and 28, 2008 the Commission received your written response ("challenge"), and a response from June Ollero, which are being reviewed by the Office of Administrative Review. Please send an original (paper copy) document to this office at 999 E St., NW, Washington, DC 20463. 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, appearing to read "Shawn Woodhead Werth".

Shawn Woodhead Werth  
Reviewing Officer  
Office of Administrative Review

cc: Dante Le Montoya, CPA

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2008 OCT 29 P 2: 58

**Date:** October 29, 2008

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

**AF#:** 1774

**Committee Name:** George Fearing for Congress

**Committee ID#:** C00431866

**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 18, 2008 and RTB  
Certification, dated October 27, 2008: Previously Forwarded**

**Attachment #:** N/A

**Certified Return Receipt (Y/N):** N

**Attachment #:** N/A

**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

**-2007 Year-End Report Prior Notice, dated December 27, 2007.**

**-RTB Letter, dated September 22, 2008.**

**Attachment #:** 2

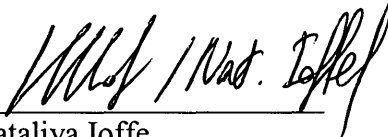
**Other RAD Information: (Y/N):** Y – Returned RTB Letter, Fax Transmittal,  
Re-mail Information

**Attachment#:** 3

29092641717

**DECLARATION OF NATALIYA IOFFE**

1. I am the Chief of the Compliance Branch for the Reports Analysis Division of the Federal Election Commission ("Commission"). In my capacity as Chief of the Compliance Branch, I oversee the initial processing of the Administrative Fine Program. I make this declaration based on my personal knowledge and, if called upon as a witness, could and would testify competently to the following matters.
2. I hereby certify that documents identified herein are true and accurate copies of the following sent by the Commission to George Fearing for Congress:
- A) Prior Notice, dated December 27, 2007, referencing the 2007 Year-End Report (sent via electronic mail to: [gfearing@tricitylaw.com](mailto:gfearing@tricitylaw.com));
  - B) Reason-to-Believe Letter, dated September 22, 2008, referencing the 2007 Year-End Report.
3. I hereby certify that I have searched the Commission's public records and find that George Fearing for Congress electronically filed the 2007 Year-End Report with the Commission on February 6, 2008.
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 telecons for the matter have been provided.
- This declaration was executed at Washington, D.C. on the 29<sup>th</sup> day of October, 2008.

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

29092641719



**YEAR-END  
REPORT NOTICE**

FEDERAL ELECTION COMMISSION

**CONGRESSIONAL COMMITTEES**

December 27, 2007

**CURRENT REPORT DUE:**

<b>REPORT</b>	<b>REPORTING PERIOD <sup>1</sup></b>	<b>REG./CERT. &amp; OVERNIGHT MAILING DEADLINE</b>	<b>FILING DEADLINE</b>
Year-End	10/01/07 - 12/31/07	01/31/08	01/31/08

**REPORTING SCHEDULE FOR 2008:**

<b>REPORT</b>	<b>REPORTING PERIOD <sup>1</sup></b>	<b>REG./CERT. &amp; OVERNIGHT MAILING DEADLINE</b>	<b>FILING DEADLINE</b>
April Quarterly	01/01/08 - 03/31/08	04/15/08	04/15/08
July Quarterly	04/01/08 - 06/30/08	07/15/08	07/15/08
October Quarterly	07/01/08 - 09/30/08	10/15/08	10/15/08
Pre-General	10/01/08 - 10/15/08	10/20/08	10/23/08
48-Hour Notices	10/16/08 - 11/01/08	---- see info on p. 4 ----	
Post-General	10/16/08 - 11/24/08	12/04/08	12/04/08
Year-End	11/25/08 - 12/31/08	01/31/09	01/31/09 <sup>2</sup>

Supplemental Filing Information is available on pages 2, 3 and 4 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 dates 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 close of business on the last business day before the deadline.

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## 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>

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<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).

## LOOKING AHEAD TO 2008

### PRE- AND POST-ELECTION REPORTS

A committee whose candidate participates in a 2008 state primary, nominating convention or runoff election – even if unopposed – must also file a pre-election report 12 days prior to the primary, nominating convention or runoff. The campaign committee of a candidate who participates in the general election must file pre- and post-general election reports. Separate notices will be sent to explain these additional reporting obligations. More information will be available in the January 2008 issue of the *Record*.

### 48 HOUR NOTICES ON CONTRIBUTIONS

Notices are required if the committee receives contributions (**including in-kind gifts or advances of goods or services; Loans from the candidate or other non-bank sources; and guarantees or endorsements of bank loans to the candidate or committee**) of \$1,000 or more, during the period less than 20 days but more than 48 hours before any election in which the candidate is running.

The notices, which may be filed using Form 6, or under limited circumstances Form 10, must reach the appropriate federal and/or state filing office(s) within 48 hours of the committee's receipt of the contribution(s). **Campaign committees that file electronically MUST submit their 48-hour notices electronically.** For more information, visit the FEC web site at [www.fec.gov/electfil/online.shtml](http://www.fec.gov/electfil/online.shtml). U.S. House candidates faxing 48-hour notices should transmit them to the FEC at (202) 219-0174. U.S. Senate candidates must transmit them to the Secretary of the Senate at (202) 224-1851. Paper forms are available at the website at [www.fec.gov/info/forms.shtml](http://www.fec.gov/info/forms.shtml).

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



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

12-5-08 A 8:34

December 5, 2008

MEMORANDUM

**SENSITIVE**

To: The Commission

Through: Joseph F. Stoltz *JFS*  
Acting Staff Director

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

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

By: Maureen Benitz *MB*  
Reviewing Analyst

Subject: AF# 1774 – George Fearing for Congress and Douglas E. McKinley, Jr.,  
as Treasurer (C00431866)

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

29092641723



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 5, 2008

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

AF# 1774 – George Fearing for Congress and Douglas E. McKinley, Jr., as Treasurer  
(C00431866)

On September 19, 2008, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to timely file the 2007 Year-End Report and made a preliminary determination that the civil money penalty was \$750 based on the schedule of penalties at 11 C.F.R. § 111.43. They were notified by the Reports Analysis Division ("RAD") on September 22, 2008 of the Commission's RTB finding and civil money penalty. The RTB letter, sent to their address of record, was returned; a copy was faxed to the Treasurer and sent to him at his home address.

**Respondents' Response**

On October 27 and 28, 2008, the Commission received, via facsimile, the written responses ("challenge") from June Ollero, the Treasurer at the time of the Year-End filing, and Mr. McKinley, the Treasurer at the time of the RTB finding. Ms. Ollero requests that the Commission not assess any monetary penalties against the campaign as they experienced unforeseen circumstances involving technical difficulties with the Commission's software and computers, before and after the report's due date, and sought Commission help. Mr. McKinley asserts he should not be assessed any penalties, as he was not the Treasurer at the time that the Year-End Report was due.

**Analysis**

The 2007 Year-End Report was filed on February 6, 2008, 6 days late.

The Federal Election Campaign Act ("Act") states that the treasurer of an authorized committee of a candidate shall file a report for the period ending December 31 no later than January 31. 2 U.S.C. § 434(a)(4)(A)(i) and 11 C.F.R. § 104.5(a)(1)(i). Reports electronically filed must be received and validated at or before 11:59 p.m., Eastern Standard/Daylight Time on the prescribed filing date to be timely filed. 11 C.F.R. § 104.5(e). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

From the time of the Year-End Report due date, there have been three Treasurers of the committee. Ms. June Ollero was Treasurer from April 21, 2007 – June 2, 2008; Mr. Douglas E. McKinley, Jr was Treasurer from June 3, 2008 – October 9, 2008; and Mr. Dante Le Montoya became Treasurer on October 10, 2008. Mr. McKinley correctly asserts that he was not the Treasurer at the time the report was due. He was the Assistant Treasurer of the committee until June 3, 2008, when he became Treasurer. At the time of

29092641724

the RTB finding he was Treasurer; therefore, he was correctly named in his capacity as the Treasurer.

Ms. Ollero asserts that she experienced technical difficulties with the FECFile software, as well as Commission computers, when trying to file the 2007 Year-End Report. Furthermore, she indicates that the Committee had been in constant contact with their RAD Analyst and Electronic Filing Office ("EFO") staff to try to solve this problem.

Based on the EFO and RAD telephone records, it appears that Ms. Ollero experienced many difficulties using the software. Prior to the filing of the 2007 July Quarterly Report, Ms. Ollero spoke to her RAD Analyst on several occasions about the FECFile software and her difficulties using it. The RAD Analyst assisted her and suggested that she obtain a copy of the User's Manual, which would help her to use the software. Ms. Ollero told the RAD Analyst that the manual was not helpful for new users, like herself.

On December 17, 2007, Ms. Ollero called the EFO for assistance with the Amended 2007 July Quarterly Report, which was filed on this day. On January 14, 2008, Ms. Ollero again called the EFO for software assistance. The EFO staff helped her resolve validation errors related to the Amended 2007 October Quarterly Report. This report was uploaded on the same day and a confirmation receipt for the Amended 2007 October Quarterly Report, not the 2007 Year-End Report, was faxed to them. On January 29, 2008, Ms. Ollero called her RAD Analyst for help in locating her .dcf file, as she could not find it on her computer. The RAD Analyst tried to help Ms. Ollero but transferred the call to the EFO for additional assistance.

On February 1, 2008, a 12-hour non-filer email notification was sent to juneollero@charter.net alerting her that the 2007 Year-End Report had not been filed. Ms. Ollero did not contact the EFO or RAD until February 6, 6 days after the Report was due. Ms. Ollero thought that she had filed the 2007 Year-End Report. The EFO staff told her it was never uploaded, the amended report filed on January 14 was the last report filed, and a confirmation receipt would have been sent. The EFO staff also assisted her with the successful upload of the Year-End Report.

The administrative fine regulations specifically state that inexperience of the treasurer and failure to use filing software properly are not reasonably unforeseen circumstances. 11 C.F.R § 111.35(d). Their challenge fails to address 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 they violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$750.

52719926062

**OAR Recommendations**

- (1) Adopt the Reviewing Officer recommendation for AF# 1774 involving George Fearing for Congress and Douglas E. McKinley, Jr., as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 1774 that George Fearing for Congress and Douglas E. McKinley, Jr., as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$750; and
- (3) Send the appropriate letter.

Reviewing Analyst: Maureen Benitz

Attachments

Attachment 1 – Challenge Received from Respondents

Attachment 2 – \_\_\_\_\_

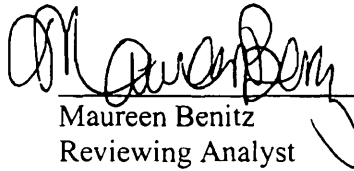
Attachment 3 – Declaration from RAD, \_\_\_\_\_

Attachment 4 – Declaration from OAR

29092641726

**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 Year-End Report is due January 31, 2008. If electronically filed, it must be received and validated by the Commission at or before 11:59 p.m., Eastern Standard/Daylight Time on January 31 to be timely filed.
3. I hereby certify that I have searched the Commission's public records and that the document identified herein are true and accurate copies of:
  - (a) Pages 1 and 3 of the amended Statement of Organization filed by Campaign for our Children George Fearing for Congress '08 and June Ollero, as Treasurer. According to Commission records, the Statement was received on April 27, 2007. Line 8 lists June Ollero as Treasurer and Doug McKinley as Assistant Treasurer;
  - (b) Pages 1 and 3 of the amended Statement of Organization filed by Campaign for our Children Committee and Doug McKinley, as Treasurer. According to Commission records, the Statement was received on June 3, 2008. Line 8 lists Doug McKinley as Treasurer;
  - (c) Pages 1 and 3 of the amended Statement of Organization filed by George Fearing for Congress and CPA Dante Le Montoya, as Treasurer. According to Commission records, the Statement was received on October 10, 2008. Line 8 lists CPA Dante Le Montoya as Treasurer; and
  - (d) Page 1 of the Summary Page for the 2007 Year-End Report filed electronically by Campaign for our Children Committee and June Ollero, as Treasurer. According to Commission records, the Report was received on February 6, 2008.
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 5<sup>th</sup> of December, 2008.

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

29092641727

FEC  
FORM 1

STATEMENT OF  
ORGANIZATION

RECEIVED  
FEC MAIL CENTER

2007 APR 27 AM 8:27

Office Use Only

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

CAMPAIGN FOR OUR CHILDREN GEORGE FEARING FOR CONGRESS '08

ADDRESS (number and street) 2415 W FALLS AVENUE

(Check if address is changed)

KENNEWICK WA 99336

CITY ▲

STATE ▲

ZIP CODE ▲

COMMITTEE'S E-MAIL ADDRESS

gfearingelectricitylaw.com

COMMITTEE'S WEB PAGE ADDRESS (URL)

COMMITTEE'S FAX NUMBER

509-736-1580

2. DATE 04 20 2007

3. FEC IDENTIFICATION NUMBER ▶ C00431866

4. IS THIS STATEMENT NEW (N) OR A 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 JUNE OLLERO

Signature of Treasurer

*Jane Ollero*

Date 04 20 2007

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

ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

Office Use Only						For further information contact: Federal Election Commission Toll Free 800-424-9530 Local 202-694-1100	FEC FORM 1 (Revised 02/2003)
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FE3AN042.PDF

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27039432519

Write or Type Committee Name

- 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 JUNE OLLERO

Mailing Address 714 NO SHEPPARD PLACE  
KENNEWICK WA 99334

Title or Position TREASURER CITY STATE ZIP CODE  
509-308-7129

Telephone number

- 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 JUNE OLLERO

Mailing Address SAME AS ABOVE

Title or Position TREASURER CITY STATE ZIP CODE  
 Telephone number

Full Name of Designated Agent DOUG MCKINLEY

Mailing Address PO BOX 202  
RICHLAND WA 99352

Title or Position ASSISTANT TREASURER CITY STATE ZIP CODE  
 Telephone number 509-628-0809

29092641729  
27029432520

**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

Campaign for our Children Committee

ADDRESS (number and street) 2415 W. Falls Avenue

Check if different than previously reported. (ACC)

Kennewick WA 99336

2. FEC IDENTIFICATION NUMBER C00431866  
3. IS THIS REPORT X NEW (N) OR AMENDED (A)  
CITY STATE ZIP CODE STATE DISTRICT  
WA 04

4. TYPE OF REPORT (Choose One)

(a) Quarterly Reports:

- April 15 Quarterly Report (Q1)
- July 15 Quarterly Report (Q2)
- October 15 Quarterly Report (Q3)
- X January 31 Year-End Report (YE)

(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 10 01 2007 through 12 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 June Ollero

Signature of Treasurer Electronically Filed by June Ollero Date 01 13 2008

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)

29092641730

**FEC  
FORM 1**

**STATEMENT OF  
ORGANIZATION**

(See instructions)

Office use only

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

Campaign for our Children Committee

ADDRESS (number and street) 1315 Gearoge Washington Way

X (Check if address is changed) Richland WA 99352

CITY STATE ZIP CODE

COMMITTEE'S E-MAIL ADDRESS  
doug@mckinleylaw.com

COMMITTEE'S WEB PAGE ADDRESS (URL)

COMMITTEE'S FAX NUMBER

2. DATE 06 / 03 / 2008

3. FEC IDENTIFICATION NUMBER C C00431866

4. IS THIS STATEMENT X 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 Doug McKinley

Signature of Treasurer Electronically Filed by Doug McKinley Date 06 / 03 / 2008

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. S437g.

ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS

Office Use Only For further information contact: Federal Election Commission Toll Free 800-424-9530 Local 202-694-1100

**FEC FORM 1**  
(Revised 02/2003)

29092641731

Write or Type Committee Name

**Campaign for our Children Committee**

- 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 Doug McKinley

Mailing Address P.O. Box 202

Richland WA 99352

Title or Position ▼ CITY ▲ STATE ▲ ZIP CODE ▲

treasurer Telephone number 509 - 628 - 0809

- 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 Doug McKinley

Mailing Address P.O. Box 202

Richland WA 99352

Title or Position ▼ CITY ▲ STATE ▲ ZIP CODE ▲

treasurer Telephone number 509 - 628 - 0809

Full Name of Designated Agent \_\_\_\_\_

Mailing Address \_\_\_\_\_

\_\_\_\_\_

Title or Position ▼ CITY ▲ STATE ▲ ZIP CODE ▲

\_\_\_\_\_ Telephone number \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

29092641732

**FEC  
FORM 1**

**STATEMENT OF  
ORGANIZATION**

(See instructions)

Office use only

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

George Fearing For Congress

ADDRESS (number and street) 1815 George Washington Way

(Check if address is changed) Richland WA 99354 - 2305

CITY STATE ZIP CODE

COMMITTEE'S E-MAIL ADDRESS

COMMITTEE'S WEB PAGE ADDRESS (URL)

COMMITTEE'S FAX NUMBER

2. DATE 10 / 10 / 2008

3. FEC IDENTIFICATION NUMBER C C00431866

4. IS THIS STATEMENT NEW (N) OR X 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 CPA Dante Le Montoya

Signature of Treasurer Electronically Filed by CPA Dante Le Montoya Date 10 / 10 / 2008

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. S437g.

ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS

Office Use Only For further information contact: Federal Election Commission Toll Free 800-424-9530 Local 202-694-1100 FEC FORM 1 (Revised 12/2007)

29092941733

Write or Type Committee Name

**George Fearing For Congress**

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

NONE

Mailing Address

		ZZ
		00000

CITY ▲

STATE ▲

ZIP CODE ▲

Relationship:

Connected Organization

Affiliated Committee

Leadership PAC Sponsor

Joint Fundraising Representative

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

**CPA Dante Le Montoya**

Mailing Address

**1420 Canyon Avenue**

**Richland**

**WA**

**99352 - 7613**

Title or Position ▼

CITY ▲

STATE ▲

ZIP CODE ▲

**Custodian of Records**

Telephone number

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

**CPA Dante Le Montoya**

Mailing Address

**1420 Canyon Avenue**

**Richland**

**WA**

**99352 - 7613**

Title or Position ▼

CITY ▲

STATE ▲

ZIP CODE ▲

**Treasurer**

Telephone number

29092641734



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

VIA OVERNIGHT DELIVERY

December 8, 2008

Douglas E. McKinley, Jr., as Treasurer  
George Fearing for Congress  
1815 George Washington Way  
Richland, Washington 99354-2305

C00431866  
AF# 1774

Dear Mr. McKinley:

On September 19, 2008, the Federal Election Commission ("Commission") found reason to believe ("RTB") that George Fearing for Congress and you, as Treasurer ("respondents"), violated 2 U.S.C. § 434(a) for failing to timely file the 2007 Year-End Report. The Commission also made a preliminary determination that the civil money penalty was \$750 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,

*Maureen Benitz*  
Maureen Benitz  
Reviewing Analyst  
Office of Administrative Review

Attachment

29092641735

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

RECEIVED  
FEC MAIL CENTER  
2008 DEC 19 AM 7:47

VIA FACSIMILE (202-208-3333)

Re: AF# 1774  
George Fearing for Congress; C00431866

December 12, 2008

To the Commission:

Responsive to the Reviewing Officer Recommendation dated December 5, 2008, the undersigned would make the following comments.

The alleged infraction was a failure to file a timely report. The person responsible for filing reports under the law in the Treasurer. The Reviewing Officer admits that Doug McKinley was not the Treasurer at the time that the alleged infraction took place, and that Doug McKinley did not commit the alleged infraction. However, the Reviewing Officer states that Doug McKinley is nevertheless personally liable for the alleged infraction because:

At the time of the RTB findings he was Treasurer; therefore, he was correctly named in his capacity as Treasurer.

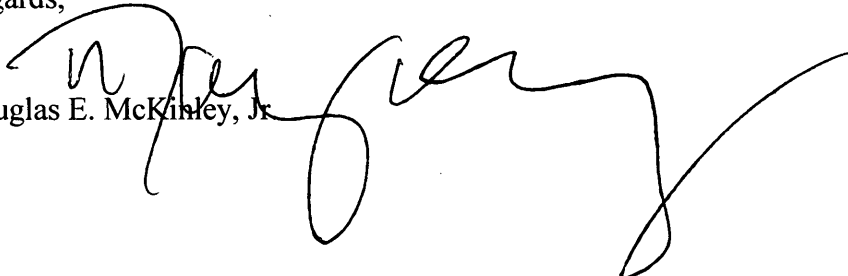
The Reviewing Officer's analysis is flawed, and is not supported by the law. 2 USC § 437(g) provides that the Commission can only take action against

“a person (who) has committed, or is about to commit, a violation of this Act or chapter 95 or chapter 96 of title 26” 2 USC § 437(g)(a)(2)

The Reviewing Officer has already admitted that Doug McKinley was not the “person” who committed the alleged violation of the Act because the Reviewing Officer has conceded that Doug McKinley was not the Treasurer at the time the alleged violation of the Act took place. The fact that Doug McKinley later became the Treasurer, at the time of the RTB findings, is irrelevant. The Commission only has authority to investigate and/or assess fines against a “person” who “committed an infraction.” The Reviewing Officer has admitted that Doug McKinley was not that “person.”

Regards,

Douglas E. McKinley, Jr.



2008 DEC 22 A 11:47

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SECRETARIAT

RAF# 1774  
George Fearing for Congress; C00431866  
Response Dated December 17, 2008

2008 DEC 18 A 8:39

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

VIA FACSIMILE (202-208-3333) AND REGULAR MAIL

Re: AF# 1774  
George Fearing for Congress; C00431866

December 17, 2008

To the Commission:

Responsive to the Reviewing Officer Recommendation dated December 8, 2008, the George Fearing for Congress campaign (the campaign) would make the following comments.

The campaign has not contested that the Year End Report due January 31<sup>st</sup>, 2008 (the report) was filed a few days late by Ms. June Ollero, who was the campaign's Treasurer at that time. However, the campaign has maintained that the failure to timely file the report was due to unforeseen circumstances that excuse the late filing under 11 CFR 111.35(c)(1). Mr. McKinley has further contested his personal liability, because he was not the Treasurer at the time of the alleged infraction.

Ms. Maureen Benitz, the Reviewing Analyst (hereafter "RA") has agreed that Mr. McKinley was not the Treasurer at the time of the alleged infraction, but has nevertheless made a recommendation that the Commission make a final determination that "they" (presumably both Mr. McKinley and the campaign) violated 2 USC § 434(a) and assess a civil money penalty of \$750.

However, the RA's report that shows that any failure to file the report was caused by a failure of Commission computers and/or Commission provided software to accept the report. This failure was an unforeseen circumstance that was beyond the control of the Treasurer at the time, Ms. June Ollero. The evidence in the RA's report shows that Ms. Ollero attempted to file the report in a timely manner, and then did everything within her power to remedy the situation, and the required report was filed immediately upon solving the technical problems. Accordingly, the campaign and Ms. Ollero as Treasurer should be excused from filing a late report pursuant to 11 CFR 111.35(c)(1). Mr. McKinley should be excused from filing a late report because he was not the Treasurer at the time the report was due, and therefore did not violate 2 USC § 434(a) under any circumstances.

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RAF# 1774  
George Fearing for Congress; C00431866  
Response Dated December 17, 2008

The only evidence related to the events surrounding the report that has been presented to the Commission by the RA are:

- 1) the telephone records of the FEC's analysts, including those of Ms. Jennifer E. Pittman,
- 2) a memorandum prepared by Mr. Jeff Chumley relating to contacts between Ms. Ollero and the Electronic Filing Office (EFO), and
- 3) the sworn statement of Ms. Ollero.

A review of these records shows that Ms. Pittman's telephone records both corroborate and are entirely consistent with Ms. Ollero's version of events. These records also indicate that the memorandum of Mr. Chumley does not contradict either Ms. Pittman or Ms. Ollero. To the extent that it does, it is either incomplete, and/or is inconsistent with Ms. Pittman's records.

In her sworn statement, in pertinent part, Ms. Ollero states that:

The failure to file the Year End Report due January 31<sup>st</sup>, 2008 was caused by unforeseen circumstances that were beyond the control of myself and the campaign. Specifically, the failure to file was caused by a failure of Commission computers and/or Commission provided software to accept the report. I attempted to file the report prior to the deadline. When the Commission computers and/or Commission provided software failed to accept my attempted filing, I immediately contacted the FEC's contact person for the campaign, Jennifer Pitman.

Ms. Pitman then put me in contact with the FEC's technical personnel. Working with this person, we were finally able to get the report filed, albeit several days after the deadline. Accordingly, from the moment that my attempt to timely file the report failed as a result of a failure of Commission computers and/or commission provided software, I worked diligently and continuously with FEC staff to get the report filed, and filed the report the instant the failure of Commission computers and/or commission provided software was rectified.

The telephone records of Ms. Pittman recite that on January 29, 2008 (just a few days before the report was due), Ms. Ollero contacted Ms. Pittman to seek assistance in locating the FEC file on her computer. This is entirely consistent with Ms. Ollero's sworn statement that she contacted the FEC because she was having trouble filing the report. Ms. Pittman's records further state that because Ms. Pittman was unable to help Ms. Ollero solve her problem, she then transferred the call to the Electronic Filing Office (EFO). (See Jennifer Pittman contact summary for 01/29/2008 "Call was transferred").

RAF# 1774

George Fearing for Congress; C00431866

Response Dated December 17, 2008

Accordingly, Ms. Pittman's written records are entirely consistent with, and in fact corroborate, Ms. Ollero's sworn statement that "Ms. Pitman then put me in contact with the FEC's technical personnel. Working with this person, we were finally able to get the report filed, albeit several days after the deadline."

Mr. Chumley's memorandum makes no mention of this transferred call. However, Mr. Chumley's memorandum does not claim that it contains a comprehensive list of all contacts between the EFO and Ms. Ollero. Accordingly, Mr. Chumley's memorandum does not contradict either Ms. Ollero's version of events or Ms. Pittman's corroboration of Ms. Ollero's version of these same events.

Accordingly, the undisputed evidence before the commission indicates that Ms. Ollero contacted the FEC just before the report was due because there was a problem with the FEC's software, that she was put in touch with technical personnel who helped her solve the problem, and that she filed the report as soon as the problem was solved. This evidence is contained within Ms. Ollero's sworn declaration, and it is corroborated by the FEC's own analyst, Ms. Pittman, in her written records of January 29, 2008. While it is not corroborated by the memorandum of Mr. Chumley, neither is it contradicted by the memorandum of Mr. Chumley. Thus, the Commission has every reason to believe Ms. Ollero's version of events, as they are corroborated by the FEC's own analyst, Ms. Pittman, and no reason to doubt Ms. Ollero's version of events, as nothing in the FEC's records contradicts them. The clear preponderance of the evidence before the Commission indicates that Ms. Ollero's version of events is true and accurate. Finally, it is undisputed that Mr. McKinley did not violate 2 USC § 434(a) under any circumstances, as Mr. McKinley was not the Treasurer at the time the report was due, and the FEC has admitted as much.

Therefore, any fair weighing of the evidence by the Commission must conclude that neither the campaign nor Mr. McKinley violated 2 USC § 434(a), and the Commission should decline the RA's recommendation that it assess a civil money penalty of \$750 against either the campaign or Mr. McKinley.

Regards,

Douglas E. McKinley, Jr.



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

FEDERAL ELECTION COMMISSION  
OFFICE OF THE SECRETARY

2009 JUN -8 P 3: 19

June 8, 2009

**MEMORANDUM**

To: The Commission

Through: Robert A. Hickey  
Staff Director

From: John D. Gibson  
Chief Compliance Officer

Shawn Woodhead Werth  
Reviewing Officer  
Office of Administrative Review

By: Maureen Benitz  
Reviewing Analyst

Subject: Final Determination Recommendation in AF# 1774 – George Fearing  
for Congress and Douglas E. McKinley, Jr., as Treasurer (C00431866)

**SENSITIVE**

On September 19, 2008, the Commission found reason to believe (“RTB”) that the respondents violated 2 U.S.C. § 434(a) for failing to timely file the 2007 Year-End Report. As a result, the Commission also made a preliminary determination that the civil money penalty was \$750 based on the schedule of penalties at 11 C.F.R. § 111.43.

On October 27 and 28, 2008, the Commission received, via facsimile, their written response (“challenge”), from June Ollero, the Treasurer at the time of the Year-End filing, and Mr. McKinley, the Treasurer at the time of the RTB finding. After reviewing the challenge, the Reviewing Officer’s recommendation (“ROR”) dated December 5, 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 \$750 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).

On December 18, 2008, the Commission received, via facsimile, their first response to the ROR. This was submitted by Mr. McKinley. This response presents no new information about one of the two defenses raised in the challenge and addressed in the ROR: Mr. McKinley was not the Treasurer at the time of the Year-End Report. It raises new facts about the other defense: Ms. Ollero’s technical difficulties with the

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software was an unforeseen circumstance that was beyond the control of the Committee and the possibility that the Electronic Filing Office's ("EFO") earlier response did not include a comprehensive list of contacts with Ms. Ollero. The Reviewing Analyst asked the EFO for any information about the new facts. In the response, the Information Technology Division ("ITD") Manager says that the November 12, 2008 response contains a comprehensive list of contacts with the respondents relevant to the filing of the report. He explains the EFO's procedures for handling calls and says that had the January 29 call been successfully transferred by the Analyst and Ms. Ollero had left a voice message, the EFO staff would have returned the call.

On December 22, 2008, the Commission received from Mr. McKinley a different second response to the ROR. Mr. McKinley reiterates that he was not the Treasurer at the time of the late filing of the Year-End Report and therefore, should not be held liable. He contends that the legal analysis is flawed and not supported by 2 U.S.C § 437(g) which provides that the Commission can only take action against a person who committed or is about to commit a violation. Because of the legal issues raised, the Office of General Counsel ("OGC") was consulted for guidance. While the legal issue was being reviewing by OGC, Mr. Dante Montoya, the current Treasurer, contacted the Reviewing Analyst about the status of the case as he wanted to terminate the Committee. The Reviewing Analyst explained that the legal issue raised by Mr. McKinley was being reviewed by OGC. Mr. Montoya said he may pay the fine so he can terminate the Committee. On April 9, 2009, the candidate paid the \$750 fine. In the accompanying letter, Mr. Montoya says that the Commission's acceptance and deposit of the payment is "full acceptance of [the] fine and any further consideration" of the challenge. OGC concludes in its response that the legal issue is now moot because the candidate paid the fine.

The Reviewing Officer recommends that the Commission make a final determination and assess a \$750 civil money penalty because the December 18 response contains no new information about their electronic filing difficulties that indicate a failure of Commission computers or Commission provided software and the respondent Treasurer's legal issue is now moot.

#### **OAR Recommendations**

- (1) Adopt the Reviewing Officer recommendation for AF# 1774 involving George Fearing for Congress and Douglas E. McKinley, Jr., as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 1774 that George Fearing for Congress and Douglas E. McKinley, Jr., as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$750; and
- (3) Send the appropriate letter.

Attachment 1 – Responses Received from Mr. McKinley

Attachment 2 – \_\_\_\_\_

Attachment 3 – \_\_\_\_\_

Attachment 4 – Response Received from Mr. Montoya

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Final Determination Recommendation: ) AF 1774  
George Fearing for Congress and )  
Douglas E. McKinley, Jr., as Treasurer )  
(C00431866) )

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on June 22, 2009, the Commission decided by a vote of 6-0 to take the following actions in AF 1774:

1. Adopt the Reviewing Officer recommendation for AF 1774 involving George Fearing for Congress and Douglas E. McKinley, Jr., as Treasurer, in making the final determination.
2. Make a final determination in AF 1774 that George Fearing for Congress and Douglas E. McKinley, Jr., as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$750.
3. Send the appropriate letter.

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

Attest:

June 22, 2009  
Date

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

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 16, 2009

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Douglas E. McKinley, Jr., as Treasurer  
George Fearing for Congress  
1815 George Washington Way  
Richland, Washington 99354-2305

C00431866  
AF# 1774

Dear Mr. McKinley:

On September 19, 2008, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that George Fearing for Congress and you, as Treasurer, violated 2 U.S.C. § 434(a) for failing to timely file the 2007 Year-End Report. By letter dated September 22, 2008, the Commission sent you notification of the RTB finding that included a civil money penalty calculated at RTB of \$750 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On October 27 and 28, 2008 the Office of Administrative Review received the written response from June Ollero and you, 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 make a final determination that George Fearing for Congress and you, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty in the amount of \$750 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 December 8, 2008.

On December 18 and 22, 2008, the Commission received your written responses. On April 10, 2009, the Commission received the \$750 civil money penalty payment from the candidate.

On June 22, 2009, the Commission adopted the Reviewing Officer's recommendation and made a final determination that George Fearing for Congress and you, as Treasurer, violated 2 U.S.C. § 434(a) and assessed a civil money penalty of \$750. A copy of the final determination recommendation is attached.

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

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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.

On behalf of the Commission,



Steven T. Walther  
Chairman

cc: Dante Le Montoya, as Treasurer

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QUALITY IS OUR PRIORITY FOR LOCKBOX 9058  
SEQ# 001 \$ 000075000 BA# 1 04-09-09 20 3



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**GEORGE FEARING** 339  
[Redacted]  
Date April 2, 2009 19-21250 WA 33302

Pay to the Order of FEC \$ 750.<sup>00</sup>  
Seven hundred and fifty Dollars

**Bank of America** First Choice™ Gold

Kennewick 033902 M  
Washington

For FEC - C00431866, AF #1774 George Fearing

[Redacted]



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 1774

DATE SCANNED 9/15/09

SCANNER NO. 2

SCAN OPERATOR SES

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