



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 1830

DATE SCANNED 12-23-08

SCANNER NO. 2

SCAN OPERATOR JmH

28092621449



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

July 23, 2008

MEMORANDUM

TO: THE COMMISSION

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

PATRICIA CARMONA *PC*
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

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

SUBJECT: REASON TO BELIEVE RECOMMENDATION - 2008 12 DAY
PRE-PRIMARY REPORT (SOUTH CAROLINA) FOR THE
ADMINISTRATIVE FINE PROGRAM

Attached is the name of a political committee and its treasurer who failed to timely file the 2008 12 Day Pre-Primary Report for South Carolina in accordance with 2 U.S.C. 434(a). The 12 Day Pre-Primary Report was due on May 29, 2008.

The committee appearing on the list failed to timely file the election sensitive report by the required due date. They did, however, file the report more than four days before the June 10, 2008 Primary Election, and thus the report is considered late. In accordance with the schedule of civil money penalties for reports at 11 CFR 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 its 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.

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT
JUL 23 P 1:11

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Federal Election Commission
Reason to Believe Circulation Report
2008 PRE-PRIMARY Election Sensitive 05/29/2008 AUTH

| AF# | Committee ID | Committee Name | Candidate Name | Treasurer | Threshold | PV | Receipt Date | Days Late | LOA | RTB Penalty |
|------|--------------|------------------------|-------------------|---------------|-------------|----|--------------|-----------|-----------|-------------|
| 1830 | C00255562 | FRIENDS OF JIM CLYBURN | CLYBURN, JAMES E. | JAMES BENNETT | \$3,707,122 | 0 | 6/5/2008 | 7 | \$322,658 | \$3,650 |

BEFORE THE FEDERAL ELECTION COMMISSION

| | | |
|--------------------------------------|---|---------|
| In the Matter of |) | |
| |) | |
| Reason To Believe Recommendation - |) | AF 1830 |
| 2008 12 Day Pre-Primary Report (SC) |) | |
| for the Administrative Fine Program: |) | |
| Friends of Jim Clyburn and James |) | |
| Bennett, as treasurer |) | |

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on September 18, 2008, the Commission decided by a vote of 6-0 to take the following actions in AF 1830:

1. Find reason to believe that Friends of Jim Clyburn and James Bennett, as treasurer, violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be in the amount of \$3,650.
2. Send the appropriate letter.

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

Attest:

September 19, 2008
Date

Darlene Harris
for Mary W. Dove
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 19, 2008

James Bennett
Friends of Jim Clyburn
P.O. Box 12567
Columbia, SC 29211

C00255562
AF#: 1830

Dear James Bennett:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a 12 Day Pre-Primary Report of Receipts and Disbursements in a calendar year during which there is a regularly scheduled election for which the candidate is seeking election, or nomination for election. This report, covering the period through May 21, 2008, shall be filed no later than May 29, 2008. 2 U.S.C. 434(a). Records at the Federal Election Commission ("FEC") indicate that this report was filed on 6/5/2008, 7 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 9/18/2008, the FEC found that there is reason to believe ("RTB") that Friends of Jim Clyburn and you, as treasurer, violated 2 U.S.C. 434(a) by failing to file timely this report on or before May 29, 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 \$3,650. It is due by 10/28/2008 and is based on these factors:

Election Sensitivity of Report: Election Sensitive
Level of Activity: \$322,658
Number of Days Late: 7
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

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10/28/2008. 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 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 Friends of Jim Clyburn 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

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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. 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", with a stylized flourish at the end.

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 \$3,650 for the 2008 12 Day Pre-Primary 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 10/28/2008. 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

FOR: Friends of Jim Clyburn

FEC ID#: C00255562

AF#: 1830

PAYMENT DUE DATE: 10/28/2008

PAYMENT AMOUNT DUE: \$3,650

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

2008 11 13 A 8:57

November 10, 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: ^{*ms*} NATALIYA IOFFE/RHIANNON MAGRUDER *RM*
COMPLIANCE BRANCH

SUBJECT: ADMINISTRATIVE FINE PROGRAM –
FINAL DETERMINATION RECOMMENDATION FOR THE
2008 12 DAY PRE-PRIMARY REPORT (SC)

Attached is the name of a political committee and its treasurer against which the Commission has found reason to believe (RTB) and assessed a proposed civil money penalty calculated at RTB for failure to timely file the 2008 12 Day Pre-Primary Report for South Carolina. The committee has paid the civil money penalty.

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

RAD Recommendation

- (1) Make final determination that the political committee and its treasurer on the attached report violated 2 U.S.C. 434(a) and assess the final civil money penalty so indicated.
- (2) Send the appropriate letter.

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| AF# | Committee Name | Candidate Name | Committee ID | Treasurer | Receipt Date | Days Late | LOA | PV | RTB Date | RTB Penalty | Final Money Penalty | Date Paid | Amount Paid |
|------|------------------------|------------------|--------------|---------------|--------------|-----------|-----------|----|------------|-------------|---------------------|------------|-------------|
| 1830 | FRIENDS OF JIM CLYBURN | CLYBURN, JAMES E | C00255562 | JAMES BENNETT | 06/05/2008 | 7 | \$322,658 | 0 | 09/18/2008 | \$3,650 | \$3,650 | 10/29/2008 | \$3,650 |

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Administrative Fine Program - Final) AF 1830
Determination Recommendation for the)
2008 12 Day Pre-Primary Report (SC):)
Friends of Jim Clyburn and James)
Bennett, as treasurer)

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on November 17, 2008, the Commission decided by a vote of 6-0 to take the following actions in AF 1830:

1. Make a final determination that the Friends of Jim Clyburn and James Bennett, as treasurer, violated 2 U.S.C. 434(a) and assess the final civil money penalty in the amount of \$3,650.
2. Send the appropriate letter.

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

Attest:

November 17, 2008
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 19, 2008

James Bennett, Treasurer
Friends of Jim Clyburn
P.O. Box 12567
Columbia, SC 29211

C00255562
AF#: 1830

Dear James Bennett,

On 9/18/2008, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Friends of Jim Clyburn and you, as treasurer, violated 2 U.S.C. 434(a) for filing late or failing to file the 2008 Pre-Primary Report. By letter dated 9/19/2008, the Commission sent you notification of the RTB finding that included a civil money penalty calculated at the RTB stage of \$3,650 in accordance with the schedule of penalties at 11 C.F.R. 111.43.

On 10/29/2008, the FEC received payment of your civil money penalty calculated at the RTB stage. The FEC made a final determination on 11/17/2008 that you, as treasurer, and Friends of Jim Clyburn violated 2 U.S.C. 434(a), assessed a civil money penalty in the amount of \$3,650 in accordance with 11 C.F.R. 111.43, and voted to close the file.

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 thirty (30) days from the date of the Commission's notification, this could occur at anytime following certification of the Commission's vote.

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

Sincerely,

A handwritten signature in black ink, appearing to read "DFM II".

Donald F. McGahn II
Chairman

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FOR: Friends of Jim Clyburn

FEC ID#: C00255562

AF#: 1830

PAYMENT DUE DATE: 10/28/2008

PAYMENT AMOUNT DUE: \$3,650

200812P L

TOTAL P.05

QUALITY IS OUR PRIORITY FOR LOCKBOX 9058
SEQ# 002 \$ 0000365000 BA# 1 10-28-08 20 3



| | | | |
|---|--|---------------------------------|--------------------|
| NAME <u>Friends of Jim Clyburn</u> | | DATE <u>10/03/08</u> | |
| ACCOUNT NO. _____ | | 67-119/338 | |
| PAY TO THE ORDER OF | <u>Federal Election Commission</u> | | \$ <u>3,650.00</u> |
| | <u>Thirty six hundred fifty and 00/100</u> | | |
| NBSC | | DOLLARS | |
| THE NATIONAL BANK OF SOUTH CAROLINA COLUMBIA, SOUTH CAROLINA A Member of Sunbelt Financial Services | | Signature: <u>James Clyburn</u> | |
| FOR <u>FEC# C00255562</u> | | [Redacted] | |

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FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 1830

DATE SCANNED 12-23-18

SCANNER NO. 2

SCAN OPERATOR JMA

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