



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 1834

DATE SCANNED 3-2-09

SCANNER NO. 2

SCAN OPERATOR JmD

29092623599



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 7, 2008

MEMORANDUM

SENSITIVE

TO: THE COMMISSION

FROM: JOHN D. GIBSON *J.D.G.*
CHIEF COMPLIANCE OFFICER

PATRICIA CARMONA *PC*
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

BY: NATALIYA IOFFE/RHIANNON MAGRUDER *NM RM*
COMPLIANCE BRANCH

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

2008 AUG -7 P 12:50

CONFIDENTIAL
SECRETARIAT

Attached is a list of political committees and their treasurers who failed to file the 2008 12 Day Pre-Primary Report for Georgia in accordance with 2 U.S.C. 434(a). The 12 Day Pre-Primary Report was due on July 3, 2008.

The two committees appearing on the list failed to timely file the election sensitive report by the required due date. Both committees did, however, file the report more than four days before the July 15, 2008 Primary Election in Georgia, and thus the reports are considered late. In accordance with the schedule of civil money penalties for reports at 11 CFR 111.43, the 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
2008 PRE-PRIMARY Election Sensitive 07/03/2008 AUTH

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
1833	C00444208	CITIZENS FOR RAY MCKINNEY	MCKINNEY, RAYMOND LOUIS	LISA DARLENE MCKINNEY	\$151,251	0	7/10/2008	7	\$90,416	\$1,300
1834	C00261958	FRIENDS OF JACK KINGSTON	KINGSTON, JOHN HEDDENS	HARRY J. HASLAM, JR.	\$938,530	0	7/9/2008	6	\$81,806	\$1,200

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
 Reason To Believe Recommendation -) AF 1834
 2008 12 Day Pre-Primary Report)
 (Georgia) for the Administrative Fine)
 Program: Friends of Jack Kingston and)
 Harry J. Haslam, Jr., 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 1834:

1. Find reason to believe that Friends of Jack Kingston and Harry J. Haslam, Jr., 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 \$1,200.00.
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

29092623602



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 19, 2008

J. Harry Haslam, Jr.
Friends of Jack Kingston
P.O. Box 2133
Savannah, GA 31402

C00261958
AF#: 1834

Dear J. Harry Haslam, Jr.:

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 June 25, 2008 shall be filed no later than July 3, 2008. 2 U.S.C. 434(a). Records at the Federal Election Commission ("FEC") indicate that this report was filed on 7/9/2008, 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 9/18/2008, the FEC found that there is reason to believe ("RTB") that Friends of Jack Kingston and you, as treasurer, violated 2 U.S.C. 434(a) by failing to file timely this report on or before July 3, 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 \$1,200. It is due by 10/28/2008 and is based on these factors:

Election Sensitivity of Report: Election Sensitive
Level of Activity: \$81,806
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

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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 Jack Kingston 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", 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 \$1,200 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 Jack Kingston

FEC ID#: C00261958

AF#: 1834

PAYMENT DUE DATE: 10/28/2008

PAYMENT AMOUNT DUE: \$1,200

29092625606

Jack Kingston Congress

October 23, 2008

Office of Administrative Review
Mr. Donald F. McGahn II
999 E Street, NW
Washington DC 20463

C00261958
AF#1834

Dear Mr. McGahn, II:

I am writing this letter to appeal the RTB finding and subsequent penalty for filing the 12 Day Pre-Primary Report late. The report was originally due on 7/3/2008 and I filed it on 7/9/2008. I acknowledge it was late and solely my responsibility. This was an oversight on my part. I notified the FEC and filed the report immediately upon catching my error, prior to enforcement action by the FEC.

I am appealing the penalty based on two issues. First, I believe I am in accordance with Section 432(i) of Federal Election Campaign Laws which states that "when the treasurer of a political committee shows that best efforts have been used to...submit the information required...any report or any records...shall be considered in compliance with this Act." I have historically demonstrated best efforts as this is the first reporting deadline I have missed since 1993 when Mr. Kingston was first elected. I have done my best to comply with all reporting requirements. In this one instance, I did catch my own mistake and took corrective action immediately.

In addition, Section 437 (g)(5)(B) of Federal Election Campaign Laws states that "if the Commission believes that a knowing and willful violation...has been committed...may require that the person involved...pay a civil penalty." My failure to file on time was in no way knowing or willful.

I would respectfully request that you reconsider the enforcement of a civil penalty in this case, especially when considering my history of timely filings with the FEC.

Thank you in advance for your time and consideration in this matter.

Sincerely,



J. Harry Haslam, Jr.
Treasurer

2008 OCT 24 P 3: 21

FEC OFFICE OF
ADMIN REVIEW

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12P 4/4



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Via First Class Mail

October 24, 2008

J. Harry Haslam, Jr., as Treasurer
Friends of Jack Kingston
P.O. Box 2133
Savannah, GA 31402

C00261958
AF# 1834

Dear Mr. Haslam:

On October 24, 2008 the Commission received your written response ("challenge") which is being reviewed by the Office of Administrative Review. If you have any questions regarding your challenge, please contact this Office on our toll free number (800)424-9530 (press 0, then ext. 1660) or (202)694-1660.

Sincerely,

Jill Sugarman

Jill Sugarman
Reviewing Analyst
Office of Administrative Review

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2008 OCT 28 A 11: 31

Date: October 28, 2008

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

AF#: 1834

Committee Name: Friends of Jack Kingston

Committee ID#: C00261958

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 August 7, 2008 and RTB Certification, dated September 19, 2008: Y

Attachment #: 1

Certified Return Receipt (Y/N): Y

Attachment #: 2

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

Attachment #: 3

Other Relevant Telecoms (Y/N):

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

Attachment #: N/A

RAD Staff Declaration (Y/N): Y

-2008 Pre-Primary Prior Notice, dated June 9, 2008.

-Non-Filer Letter, dated July 7, 2008.

-RTB Letter, dated September 19, 2008.

Attachment #: 4

Other RAD Information: (Y/N): N

Attachment#: N/A

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SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:

J. Harry Haslam Jr.
 Friends of Jack Kingston
 P.O. Box 2133
 Savannah, GA 31402

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent Addressee
E. Hernandez

B. Received by (Printed Name) *E. Hernandez* C. Date of Delivery

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

SAVANNAH, GA 31402
 SEP 25 2008
 U.S. MAIL OFFICE

3. Service Type Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.


4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Transfer from service label) **7005 1820 0002 3463 1695**

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 Friends of Jack Kingston:
 - A) Prior Notice, dated June 9, 2008, referencing the 2008 Pre-Primary Report (sent via electronic mail to: hconnor@hancockaskew.com);
 - B) Non-Filer Letter, dated July 7, 2008, referencing the 2008 Pre-Primary Report;
 - C) Reason-to-Believe Letter, dated September 19, 2008, referencing the 2008 Pre-Primary Report.
3. I hereby certify that I have searched the Commission's public records and find that Friends of Jack Kingston electronically filed the 2008 Pre-Primary Report with the Commission on July 9, 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 telecoms for the matter have been provided.

This declaration was executed at Washington, D.C. on the 30th day of October, 2008.



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

29092623611



PRIMARY ELECTION REPORT NOTICE

FEDERAL ELECTION COMMISSION

GEORGIA
Congressional Committees

June 9, 2008

COMMITTEES INVOLVED IN THE PRIMARY (07/15/08) MUST FILE:

REPORT	REPORTING PERIOD ¹	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
Pre-Primary	04/01/08 - 06/25/08	06/30/08	07/03/08
48 Hour Notices	06/26/08 - 07/12/08	---see p. 3 of notice---	
July Quarterly	06/26/08 - 06/30/08	07/15/08	07/15/08

FOR COMMITTEES INVOLVED IN BOTH THE PRIMARY (07/15/08) AND RUNOFF (08/05/08), IF HELD:

REPORT	REPORTING PERIOD ¹	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
Pre-Primary	04/01/08 - 06/25/08	06/30/08	07/03/08
48 Hour Notices	06/26/08 - 07/12/08	---see p. 3 of notice---	
July Quarterly	---- WAIVED ----		
Pre-Runoff	06/26/08 - 07/16/08	07/21/08	07/24/08
48 Hour Notices	07/17/08 - 08/02/08	---see p. 3 of notice---	
October Quarterly	07/17/08 - 09/30/08	10/15/08	10/15/08

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

¹These 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 up through the close of books for the first report due.

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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 candidates² (including unopposed candidates and candidates whose names do not appear on the ballot) who seek nomination in the primary election must file the above reports and notices.³ 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 the Commission 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.

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.

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.

Forms are available for downloading and printing at the FEC website at www.fec.gov/info/forms.shtml.

²Generally, 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 11 CFR 100.3(a).

³If a candidate has more than one authorized committee, the principal campaign committee must also file a consolidated report on Form 3Z.

Other Means of Filing

Reports filed by any other means—including first class mail 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.

48 HOUR NOTICES ON CONTRIBUTIONS

Notices are required if the committee receives any contribution (**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 per source, during the period of:

Primary: 06/26/08 - 07/12/08
Runoff: 07/17/08 - 08/02/08

The notices, which may be filed using Form 6, or under limited circumstances Form 10, must reach the appropriate federal filing office within 48 hours of the committee's receipt of the contribution(s).

U.S. Senate candidates must transmit the notices to the Secretary of the Senate by fax at (202) 224-1851.

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. U.S. House candidates faxing 48-hour notices should transmit them to the FEC at (202) 219-0174. Paper forms are available at the website at 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. For additional information, see the Commission's *Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings* on the web site at www.fec.gov/law/policy/2004/notice2004-20.pdf

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).⁴ For additional information, visit the FEC website at 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).

IMPORTANT FILING INFORMATION - PAPER FILERS

In response to the anthrax threat, the U.S. Postal Service is irradiating mail directed to many federal agencies, including the FEC and the Secretary of the Senate.⁵ This process has not only delayed mail delivery, it has also damaged and in some cases destroyed pieces of mail. As a result, committees that file reports with the FEC may want to consider submitting their reports by some means other than U.S. mail. Alternative methods include electronic filing, overnight mail service, and hand delivery.

⁴Penalties 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.

⁵Senate committees should contact the Secretary of the Senate at (202) 224-0322 for more information on filing reports via US mail.

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 7, 2008

RQ-7

HARRY J. HASLAM JR, TREASURER
FRIENDS OF JACK KINGSTON
PO BOX 2133
SAVANNAH, GA 31402

IDENTIFICATION NUMBER: C00261958

REFERENCE: PRE-PRIMARY REPORT 4/1/2008 - 6/25/2008

DEAR TREASURER:

IT HAS COME TO THE ATTENTION OF THE FEDERAL ELECTION COMMISSION THAT YOU MAY HAVE FAILED TO FILE THE ABOVE REFERENCED REPORT OF RECEIPTS AND EXPENDITURES AS REQUIRED BY THE FEDERAL ELECTION CAMPAIGN ACT, AS AMENDED.

YOU WILL BE ALLOWED FOUR (4) BUSINESS DAYS FROM THE DATE OF THIS NOTICE TO FILE THIS REPORT TO AVOID PUBLICATION.

THE REPORT MUST BE FILED WITH THE FEDERAL ELECTION COMMISSION, 999 E STREET, N.W., WASHINGTON, D.C. 20463 FOR HOUSE CANDIDATES, OR THE SECRETARY OF THE SENATE, 232 HART SENATE OFFICE BUILDING, WASHINGTON, D.C. 20510, FOR SENATE CANDIDATES. PLEASE NOTE THAT ELECTRONIC FILERS MUST SUBMIT THEIR REPORTS ELECTRONICALLY, AS PER 11 CFR §104.18. A COPY OF THE REPORT MUST ALSO BE FILED WITH THE SECRETARY OF STATE OR EQUIVALENT STATE OFFICER UNLESS THE STATE IS EXEMPT FROM THE FEDERAL REQUIREMENT TO RECEIVE AND MAINTAIN PAPER COPIES. IF YOU HAVE FILED THE REPORT TIMELY BY EXPRESS, CERTIFIED OR REGISTERED MAIL, PLEASE NOTIFY US IMMEDIATELY OF THE CERTIFIED, REGISTERED OR TRACKING NUMBER AND THE DATE THAT THE REPORT WAS SENT.

IN ADDITION, THE FAILURE TO TIMELY FILE THIS REPORT MAY RESULT IN CIVIL MONEY PENALTIES, AN AUDIT OR OTHER LEGAL ENFORCEMENT ACTION. THE CIVIL MONEY PENALTY CALCULATION FOR LATE REPORTS DOES NOT INCLUDE A GRACE PERIOD AND BEGINS ON THE DAY FOLLOWING THE DUE DATE FOR THE REPORT.

IF YOU HAVE ANY QUESTIONS REGARDING THIS MATTER, PLEASE CONTACT CHRISTOPHER RITCHIE IN THE REPORTS ANALYSIS DIVISION ON OUR TOLL FREE NUMBER (800)424-9530. OUR LOCAL NUMBER IS (202)694-1130.

SINCERELY,

PATRICIA CARMONA
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION (RAD)

2803976228992623615



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT
NOV 19 2:43

November 19, 2008

MEMORANDUM

SENSITIVE

To: The Commission

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

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

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

By: Jill Sugarman *JS*
Reviewing Analyst

Subject: AF# 1834 – Friends of Jack Kingston and J. Harry Haslam, Jr., as
Treasurer (C00261958)

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

29092623616



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 19, 2008

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

AF# 1834 – Friends of Jack Kingston and J. Harry Haslam, Jr., as Treasurer (C00261958)

On September 18, 2008, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to timely file the 2008 12 Day Pre-Primary Report and made a preliminary determination that the civil money penalty was \$1,200 based on the schedule of penalties at 11 C.F.R. § 111.43. They were notified by the Reports Analysis Division on September 19, 2008 of the Commission's RTB finding and civil money penalty.

Respondents' Response

On October 24, 2008, the Commission received the written response ("challenge") from the Treasurer who acknowledges that the report was late and solely his responsibility. It was an oversight and he notified the Commission, and filed the report, immediately upon catching his error, prior to any enforcement action. He asks the Commission to reconsider the RTB finding and penalty because he has demonstrated best efforts with a history of timely filings and did his best to comply with all reporting requirements. He also notes that the failure to file on time was not knowing or willful. He cites two sections of the Federal Election Campaign Act ("Act"), section 432(i) and 437g(a)(5)(B), as the basis for his request.

Analysis

The 12 Day Pre-Primary Report was filed on July 9, 2008, 6 days late.

The Act requires that 12 day pre-election reports be filed by the treasurer of a principal campaign committee no later than the 12th day before any election in which the candidate is seeking election, or nomination for election. 2 U.S.C. § 434(a)(2)(A)(i) and 11 C.F.R. § 104.5(a)(2)(i). In the case of a violation of any requirement of 2 U.S.C. § 434(a), the Commission may find that a person committed the violation on the basis of information obtained pursuant to 2 U.S.C. § 437g(a)(2). Based on such a finding, the Commission may require the person to pay a civil money penalty in an amount determined under a schedule of penalties and may not make an adverse determination until the person has been given written notice and an opportunity to be heard. 2 U.S.C. § 437g(a)(4)(C). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

The Treasurer states that he "historically demonstrated best efforts" and cites section 432(i). In *Lovely v. FEC*, 307 F Supp. 2d 294 (D. Mass. 2004), the respondents challenged the Commission's assessment of a civil money penalty under the administrative fines regulations and the court concluded that the language at section 432(i) required the Commission to consider the "best efforts" defense under these regulations. The Commission adopted the *Lovely* court's interpretation and, in March 2007, promulgated new rules setting forth requirements for the "best efforts" defense in the Administrative Fine Program. 11 C.F.R. § 111.35(b)(3).

Under the new rules, the "best efforts" defense is a two-part test: the respondents used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances that were beyond their control and they filed the report no later than 24 hours after

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the end of these circumstances. 11 C.F.R. § 111.35(b)(3). A “best efforts” defense will not succeed if it is based on any circumstances listed at 11 C.F.R. § 111.35(d), and two of these circumstances are negligence and failure to know filing dates. In this case, the Treasurer acknowledges that the late filing was an oversight on his part and solely his responsibility. Therefore, the respondents do not meet the first part of the test and their “best efforts” defense does not succeed.

The Treasurer also believes that, because filing the report late was not a knowing and willful violation, the Commission should not assess a civil money penalty. The full reading of section 437g(a)(5)(B) makes it clear that it applies to conciliation agreements entered into by the Commission when it believes that there was a knowing and willful violation and provides for a higher tier of penalties for these violations. Conciliation agreements are part of the Commission’s traditional enforcement procedures.

The Commission is not handling this case under these procedures; instead, it is handling the case in accordance with the procedures found at 2 U.S.C. § 437g(a)(4)(C) for the Administrative Fine Program. Under this section, the Commission may assess a civil money penalty for a violation of the reporting requirements of 2 U.S.C. § 434(a) without using the traditional enforcement procedures. The amount of a civil money penalty is based on a published schedule of penalties and determined by four factors: the amount of the violation, existence of previous violations, if the report was filed late or not at all, and the report’s election sensitivity. 11 C.F.R. § 111.43. This is how the RTB civil money penalty was calculated in this case. Thus, the Treasurer’s argument that the violation was not knowing or willful does not affect the Commission’s ability to assess a civil money penalty under the Program.

The other issues raised in the challenge (he notified the Commission and filed the report immediately, and his history of timely filings) do not fall within the list of any of the three valid excuses at 11 C.F.R § 111.35(b). These are: (i) the RTB finding is based on factual errors; and/or (ii) the improper calculation of the civil money penalty; and/or (iii) they used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances that were beyond their control and they filed the report no later than 24 hours after the end of these circumstances.

Therefore, the Reviewing Officer recommends that the Commission make a final determination that the respondents violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$1,200.

OAR Recommendations

- (1) Adopt the Reviewing Officer recommendation for AF# 1834 involving the Friends of Jack Kingston and J. Harry Haslam, Jr., as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 1834 that the Friends of Jack Kingston and J. Harry Haslam, Jr., as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$1,200; and
- (3) Send the appropriate letter.

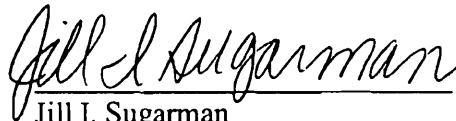
Reviewing Analyst: Jill I. Sugarman

Attachments

- Attachment 1 – Challenge Received from Respondents
- Attachment 2 – Declaration from RAD
- Attachment 3 – Declaration from OAR

DECLARATION OF JILL I. SUGARMAN

- 1) I am the Reviewing Analyst in the Office of Administrative Review for the Federal Election Commission ("Commission"). In my capacity as Reviewing Analyst, I conduct research with respect to all challenges submitted in accordance with the Administrative Fine program.
- 2) The 2008 12 Day Pre-Primary Report is due July 3, 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 July 3 to be timely filed.
- 3) I hereby certify that I have searched the Commission's public records and that the document identified herein is the true and accurate copy of Page 1 of the Summary Page for the 2008 12 Day Pre-Primary Report electronically filed by Friends of Jack Kingston and J. Harry Haslam, Jr., as Treasurer. According to the Commission's records, the report covers the period from April 1 through June 25, 2008, and was received on July 9, 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 19th of November, 2008.



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

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**FEC
FORM 3**

**REPORT OF RECEIPTS
AND DISBURSEMENTS**
For An Authorized Committee

Office Use Only

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

Friends of Jack Kingston

ADDRESS (number and street) PO Box 2133

Check if different than previously reported. (ACC)

Savannah, GA 31402

2. FEC IDENTIFICATION NUMBER C00261958 CITY STATE ZIP CODE STATE DISTRICT

3. IS THIS REPORT x NEW OR AMENDED (A)

GA 01

4. TYPE OF REPORT (Choose One)

(a) Quarterly Reports:

April 15 Quarterly Report (Q1)

July 15 Quarterly Report (Q2)

October 15 Quarterly Report (Q3)

January 31 Year-End Report (YE)

Termination Report (TER)

(b) 12-Day PRE-Election Report for the:

x Primary (12P) General (12G) Runoff (12R)
Convention (12C) Special (12S)

Election on 11 04 2008 in the State of GA

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

General (30G) Runoff (30R) Special (30S)

Election on in the State of

5. Covering Period 04 01 2008 through 06 25 2008

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 J. Harry Haslam, Jr.

Signature of Treasurer Electronically Filed by J. Harry Haslam, Jr. Date 07 09 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 table with 7 empty columns

FEC FORM 3
(Revised 02/2003)

29092623620



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA OVERNIGHT DELIVERY

November 20, 2008

J. Harry Haslam, Jr., as Treasurer
Friends of Jack Kingston
P.O. Box 2133
Savannah, GA 31402

C00261958
AF# 1834

Dear Mr. Haslam:

On September 18, 2008, the Federal Election Commission ("Commission") found reason to believe ("RTB") that the Friends of Jack Kingston and you, as Treasurer ("respondents"), violated 2 U.S.C. § 434(a) for failing to timely file the 2008 12 Day Pre-Primary Report. The Commission also made a preliminary determination that the civil money penalty was \$1,200 based on the schedule of penalties at 11 C.F.R. § 111.43.

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

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

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

Sincerely,

A handwritten signature in black ink that reads "Jill I. Sugarman". The signature is written in a cursive, flowing style.

Jill I. Sugarman
Reviewing Analyst
Office of Administrative Review

Attachment

20092623621



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
WASHINGTON, D.C.

2008 DEC -3 A 10:55

December 2, 2008

SENSITIVE

MEMORANDUM

To: The Commission

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

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

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

By: Jill Sugarman *JS*
Reviewing Analyst

Subject: Final Determination Recommendation in AF# 1834 – Friends of Jack
Kingston and J. Harry Haslam, Jr., as Treasurer (C00261958)

On September 18, 2008, the Commission found reason to believe (“RTB”) that the respondents violated 2 U.S.C. § 434(a) for failing to timely file the 2008 12 Day Pre-Primary Report and also made a preliminary determination that the civil money penalty was \$1,200 based on the schedule of penalties at 11 C.F.R. § 111.43.

On October 24, 2008, the Commission received their written response (“challenge”). After reviewing the challenge, the Reviewing Officer’s recommendation dated November 19, 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 \$1,200 civil money penalty because they submitted no evidence that a factual error was made in the RTB finding, that the penalty was miscalculated at RTB or that they used best efforts to file on time. 11 C.F.R. § 111.35(b).

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

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OAR Recommendations

- (1) Adopt the Reviewing Officer Recommendation in AF# 1834 involving the Friends of Jack Kingston and J. Harry Haslam, Jr., as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 1834 that the Friends of Jack Kingston and J. Harry Haslam, Jr., as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$1,200 and
- (3) Send the appropriate letter.

20092623623

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Final Determination Recommendation –) AF 1834
Friends of Jack Kingston and J. Harry)
Haslam, Jr. as treasurer)

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on December 18, 2008, the Commission decided by a vote of 6-0 to take the following actions in AF 1834:

1. Adopt the Reviewing Officer Recommendation in AF 1834 involving the Friends of Jack Kingston and J. Harry Haslam, Jr. as Treasurer, in making the final determination.
2. Make a final determination in AF 1834 that the Friends of Jack Kingston and J. Harry Haslam, Jr. as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$1,200.
3. Send the appropriate letter.

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

Attest:

December 19, 2008
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 19, 2008

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

J. Harry Haslam, Jr., as Treasurer
Friends of Jack Kingston
P.O. Box 2133
Savannah, GA 31402

C00261958
AF# 1834

Dear Mr. Haslam:

On September 18, 2008, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that the Friends of Jack Kingston and you, as Treasurer, violated 2 U.S.C. § 434(a) for failing to timely file the 2008 12 Day Pre-Primary Report. By letter dated September 19, 2008, the Commission sent you notification of the RTB finding that included a civil money penalty calculated at RTB of \$1,200 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On October 24, 2008, the Office of Administrative Review received the written response from you challenging the RTB civil money penalty.

The Reviewing Officer reviewed the Commission's RTB finding with its supporting documentation and the written response. Based on this review, the Reviewing Officer recommended that the Commission make a final determination that the Friends of Jack Kingston and you, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty in the amount of \$1,200 in accordance with 11 C.F.R. § 111.43. The basis for the Reviewing Officer's recommendation was included in the Final Determination Report, a copy of which was sent to you on November 20, 2008.

On December 18, 2008, the Commission adopted the Reviewing Officer's recommendation and made a final determination that the Friends of Jack Kingston and you, as Treasurer, violated 2 U.S.C. § 434(a) and assessed a civil money penalty of \$1,200. It is based on the same factors used to calculate the civil money penalty at RTB. A copy of the final determination recommendation is attached.

To Pay the Civil Money Penalty

To pay the civil money penalty, send the enclosed form and payment to the address on page 3 within 30 days of receipt of this letter.

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If You Do Not Pay the Civil Money Penalty

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA") as amended by the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. § 3701 et seq. If you do not pay this debt within 30 days (or file a written petition to a federal district court - see below), the Commission will transfer the debt to the U.S. Department of the Treasury ("Treasury") for collection. Within 5 days of the transfer to Treasury, Treasury will contact the debtor and request payment. Treasury currently charges a fee of 28% of the civil money penalty amount for its collection services. The fee will be added to the amount of the civil money penalty that you owe. Should Treasury's attempts fail, Treasury will refer the debt to a private collection agency ("PCA"). If the debt remains unpaid, Treasury may recommend that the Commission refer the matter to the Department of Justice for litigation.

If You Choose to Appeal the Final Determination and/or Civil Money Penalty

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

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. The file will be made a part of the public record pursuant to 11 C.F.R. § 111.42(b). Although the file must be placed on the public record within 30 days from the date of the Commission's notification, this could occur at any time following certification of the Commission's vote.

If you have any questions regarding the payment of the civil money penalty, please contact Jill Sugarman on our toll free number (800)424-9530 (press 0, then ext. 1660) or (202)694-1660.

Sincerely,



Donald F. McGahn II
Chairman

Attachment

29092623626

ADMINISTRATIVE FINE PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the civil money penalty is \$1,200 for the 2008 12 Day Pre-Primary Report.

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

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

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

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

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

PAYMENTS BY PERSONAL CHECK

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

PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Friends of Jack Kingston

FEC ID#: C00261958

AF#: 1834

PAYMENT AMOUNT DUE: \$1,200

29092623627

FOR: Friends of Jack Kirton

FEC ID#: C00261958

AF#: 1834

PAYMENT AMOUNT DUE: \$1,200

1-6

1200 \$ &

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QUALITY IS OUR PRIORITY FOR LOCKBOX 9058
SEQ# 001 \$ 0000120000 BA# 1 01-22-09 20 4



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J HARRY HASLAM JR		3265
[Redacted]		64-10/510 BRANCH SA
Date: 1/6/09		
Pay to the order of	Federal Election Commission	\$ 1,200.00
One Thousand Two Hundred 00/100		Dollars
SUNTRUST ACH RT 061000104		
For	[Signature]	
[Redacted]		



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 1834

DATE SCANNED 3-2-09

SCANNER NO. 2

SCAN OPERATOR JMP

29092623629