



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 1874

DATE SCANNED 12-23-08

SCANNER NO. 2

SCAN OPERATOR JmH

28092621491



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: *Nur* NATALIYA IOFFE/RHIANNON MAGRUDER/CHRIS RITCHIE *RM*
COMPLIANCE BRANCH

SUBJECT: REASON TO BELIEVE RECOMMENDATION – 2008 JULY
MONTHLY REPORT FOR THE ADMINISTRATIVE FINE
PROGRAM

2008 SEP 18 P 1:10
 RECEIVED
 COMPLIANCE BRANCH
 FEDERAL ELECTION COMMISSION

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Attached is a list of political committees and their treasurers who failed to file the 2008 July Monthly Report in accordance with 2 U.S.C. 434(a). The July Monthly Report was due on July 20, 2008.

The committees listed in the attached RTB Circulation Report filed the report more than five (5) days after the due date. 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
2008 JULY MONTHLY Not Election Sensitive 07/20/2008 P_UNAUTH

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
1874	C00038604	AMERICAN FINANCIAL SERVICES ASSOCIATION PAC		MR. BILL HIMPLER	\$405,313	1	8/11/2008	22	\$22,425	\$262
1875	C00241851	BRINKER INTERNATIONAL INC POLITICAL ACTION COMMITTEE		MARIE PERRY	\$235,597	0	8/4/2008	15	\$5,090	\$125

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Reason To Believe Recommendation - 2008)
July Monthly Report for the Administrative)
Fine Program:)
AMERICAN FINANCIAL SERVICES) AF# 1874
ASSOCIATION PAC, and BILL)
HIMPLER MR. as treasurer;)
BRINKER INTERNATIONAL INC) AF# 1875
POLITICAL ACTION COMMITTEE, and)
PERRY, MARIE 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 Reason To Believe Recommendation - 2008 July Monthly Report for the Administrative Fine Program as recommended in the Reports Analysis Division's Memorandum dated September 18, 2008, on the following committees:

AF#1874 Decided by a vote of 6-0 to: (1) find reason to believe that AMERICAN FINANCIAL SERVICES ASSOCIATION PAC, and BILL HIMPLER 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#1875 Decided by a vote of 6-0 to: (1) find reason to believe that BRINKER INTERNATIONAL INC POLITICAL ACTION COMMITTEE, and PERRY, MARIE as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil

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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:

September 23, 2008
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 22, 2008

Mr. Bill Himpler
American Financial Services Association PAC
919 18th Street, N.W.
Washington, DC 20006

C00038604
AF#: 1874

Dear Mr. Bill Himpler:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a July Monthly Report of Receipts and Disbursements covering the period through June 30th, 2008. This report shall be filed no later than July 20th, 2008. 2 U.S.C. 434(a). Records at the Federal Election Commission ("FEC") indicate that this report was filed on 8/11/2008, 22 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 American Financial Services Association PAC and you, as treasurer, violated 2 U.S.C. 434(a) by failing to file timely this report on or before July 20th, 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 \$262. It is due by 10/29/2008 and is based on these factors:

Election Sensitivity of Report: Not Election Sensitive
Level of Activity: \$22,425
Number of Days Late: 22
Number of Previous Civil Money Penalties Assessed: 1

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 American Financial Services Association PAC and you, as treasurer, violated 2 U.S.C. 434(a) and assess a civil money penalty.

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

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

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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. 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,



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 \$262 for the 2008 July Monthly 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

FOR: American Financial Services Association PAC

FEC ID#: C00038604

AF#: 1874

PAYMENT DUE DATE: 10/29/2008

PAYMENT AMOUNT DUE: \$262

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

2008 NOV 13 A 8:56
November 10, 2008

MEMORANDUM

SENSITIVE

TO: THE COMMISSION

THROUGH: JOSEPH F. STOLTZ *JFS*
ACTING STAFF DIRECTOR

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

PATRICIA CARMONA *PC*
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

BY: ^{*NMG*} NATALIYA IOFFE/RHIANNON MAGRUDER *RM*
COMPLIANCE BRANCH

SUBJECT: ADMINISTRATIVE FINE PROGRAM –
FINAL DETERMINATION RECOMMENDATION FOR THE
2008 JULY MONTHLY REPORT

Attached is a list of political committees and their treasurers against which the Commission has found reason to believe (RTB) and assessed proposed civil money penalties calculated at RTB for failure to timely file the 2008 July Monthly Report. All of the committees have 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 committees and their treasurers on the attached report violated 2 U.S.C. 434(a) and assess the final civil money penalties so indicated.
- (2) Send the appropriate letters.

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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
1874	AMERICAN FINANCIAL SERVICES ASSOCIATION PAC		C00038604	MR. BILL HIMPLER	08/11/2008	22	\$22,425	1	09/19/2008	\$262	\$262	10/27/2008	\$262
1875	BRINKER INTERNATIONAL INC POLITICAL ACTION COMMITTEE		C00241851	MARIE PERRY	08/04/2008	15	\$5,090	0	09/19/2008	\$125	\$125	10/16/2008	\$125

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Administrative Fines Final Determination)
Recommendation for the 2008 July Monthly)
Report:)
AMERICAN FINANCIAL SERVICES) AF# 1874
ASSOCIATION PAC, and BILL)
HIMPLER MR. as treasurer;)
BRINKER INTERNATIONAL INC) AF# 1875
POLITICAL ACTION COMMITTEE, and)
PERRY, MARIE as treasurer;)

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on November 17, 2008 the Commission took the following actions on the Administrative Fines Final Determination Recommendation for the 2008 July Monthly Report as recommended in the Reports Analysis Division's Memorandum dated November 10, 2008, on the following committees:

AF#1874 Decided by a vote of 6-0 to: (1) make a final determination that AMERICAN FINANCIAL SERVICES ASSOCIATION PAC, and BILL HIMPLER MR. as treasurer, violated 2 U.S.C. 434(a) and assess the civil money penalty so indicated; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1875 Decided by a vote of 6-0 to: (1) make a final determination that BRINKER INTERNATIONAL INC POLITICAL ACTION COMMITTEE, and PERRY, MARIE as treasurer, violated 2 U.S.C. 434(a) and assess the civil money penalty so indicated; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

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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

Mr. Bill Himpler, Treasurer
American Financial Services Association PAC
919 18th Street, NW
Washington, DC 20006

C00038604
AF#: 1874

Dear Mr. Bill Himpler,

On 9/19/2008, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that American Financial Services Association PAC and you, as treasurer, violated 2 U.S.C. 434(a) for filing late or failing to file the 2008 July Monthly Report. By letter dated 9/22/2008, the Commission sent you notification of the RTB finding that included a civil money penalty calculated at the RTB stage of \$262 in accordance with the schedule of penalties at 11 C.F.R. 111.43.

On 10/27/2008, 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 American Financial Services Association PAC violated 2 U.S.C. 434(a), assessed a civil money penalty in the amount of \$262 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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AMERICAN FINANCIAL SERVICES ASSOCIATION

052321

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10/21/2008

REFERENCE	INVOICE NUMBER	INV DATE	AMOUNT PAID	GL ACCOUNT	ACCOUNT DESCRIPTION	GL AMOUNT
002795	AF1824	10/21/2008	\$800.00	7040-01-12-1012	Bank & Fin Svc Chgs-PAC Underwriting	\$800.00
002796	AF1766	10/21/2008	\$100.00	7040-01-12-1012	Bank & Fin Svc Chgs-PAC Underwriting	\$100.00
002797	AF1831	10/21/2008	\$1,218.00	7040-01-12-1012	Bank & Fin Svc Chgs-PAC Underwriting	\$1,218.00
002798	AF1874	10/21/2008	\$262.00	7040-01-12-1012	Bank & Fin Svc Chgs-PAC Underwriting	\$262.00
			\$2,380.00			\$2,380.00

**QUALITY IS OUR PRIORITY FOR LOCKBOX 9058
SEQ# 002 \$ 0000238000 BA# 1 10-24-08 20 4**



usbancorp. The Star Service Company

THIS CHECK IS VOID WITHOUT THE BLUE & RED BACKGROUND AND A TRUE WATERMARK HOLD UP TO THE LIGHT TO VERIFY.

AFSA AMERICAN FINANCIAL SERVICES ASSOCIATION
 919 EIGHTEENTH STREET, N.W.
 SUITE 300
 WASHINGTON, DC 20006-5503
 (202)296-5544

SUNTRUST 052321
 65-270-550

DATE 10/21/2008
 AMOUNT \$2,380.00
 VOID AFTER 90 DAYS

PAY **2380.00**
 ONLY

PAY Two Thousand Three Hundred Eighty Dollars and 00 Cents

TO THE ORDER OF FEDERAL ELECTION COMMISSION
 PO BOX 979058
 ST LOUIS MO 63197-9000

CHECK IS PRINTED ON SECURITY PAPER WHICH INCLUDES A MICROPRINT BORDER & FLUORESCENT FIBERS

FOR: American Financial Services Association PAC

FEC ID#: C00038604

AF#: 1874

PAYMENT DUE DATE: 10/29/2008

PAYMENT AMOUNT DUE: \$262

M 7 2008
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FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 1874

DATE SCANNED 12-23-88

SCANNER NO. 2

SCAN OPERATOR Jmk

28092621506