



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 1877

DATE SCANNED 8-10-09

SCANNER NO. 2

SCAN OPERATOR JMB

29092634702



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

September 25, 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/RHIANNON MAGRUDER/CHRIS RITCHIE *RM*  
COMPLIANCE BRANCH

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

2008 SEP 25 P 2:47  
FEDERAL ELECTION COMMISSION  
SECRETARIAT

29092634703

Attached is the name of a political committee and its treasurer who failed to file the 2008 12 Day Pre-Primary Report for the Wyoming Primary Election in accordance with 2 U.S.C. 434(a). The 12 Day Pre-Primary Report was due on August 7, 2008, and the Primary Election was held on August 19, 2008.

The committee listed on the attached RTB Circulation Report failed to file the election sensitive report. Election sensitive reports filed more than four days prior to the election are considered late, and reports not filed more than four days prior to the election are considered not filed. 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.

Federal Election Commission  
Reason to Believe Circulation Report  
2008 PRE-PRIMARY Election Sensitive 08/07/2008 AUTH

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
1877	C00446765	COMMITTEE TO ELECT NICK CARTER FOR UNITED STATES SENATE	CARTER, NICHOLAS H.	JOHN E. HENRY, CPA	\$252,925	0	8/15/2008	Not Filed	\$112,334	\$5,000

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Reason To Believe Recommendation - ) AF 1877  
2008 12 Day Pre-Primary Report (WY) )  
for the Administrative Fine Program: )  
Committee to Elect Nick Carter for )  
United States Senate and John E. Henry, )  
CPA, as treasurer )

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on September 26, 2008, the Commission decided by a vote of 6-0 to take the following actions in AF 1877:

1. Find reason to believe that Committee to Elect Nick Carter for United States Senate and John E. Henry, CPA, 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 \$5,000.
2. Send the appropriate letter.

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

Attest:

September 26, 2008  
Date

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

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

September 30, 2008

John E. Henry, CPA  
Committee to Elect Nick Carter for United States Senate  
206 Ross Avenue  
Gillette, WY 82716

C00446765  
AF#: 1877

Dear John E. Henry, CPA:

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 July 30, 2008, shall be filed no later than August 7, 2008. 2 U.S.C. 434(a). Records at the Federal Election Commission ("FEC") indicate that this report was not filed prior to four (4) days before the Primary Election held on August 19, 2008. You should file the report if you have not already done so.

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 9/26/2008, the FEC found that there is reason to believe ("RTB") that Committee to Elect Nick Carter for United States Senate and you, as treasurer, violated 2 U.S.C. 434(a) by failing to file timely this report on or before August 7, 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 \$5,000. It is due by 11/5/2008 and is based on these factors:

Election Sensitivity of Report: Election Sensitive  
Level of Activity: \$112,334  
Number of Days Late: Not Filed  
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 11/5/2008. 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

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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 Committee to Elect Nick Carter for United States Senate and you, as treasurer, violated 2 U.S.C. 434(a) and assess a civil money penalty.

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


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

Additional information on the FEC's administrative fine program, including the final regulations, is located at the FEC's website at [www.FEC.gov](http://www.FEC.gov). If you have questions regarding

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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 \$5,000 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 11/5/2008. 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: Committee to Elect Nick Carter for United States Senate

FEC ID#: C00446765

AF#: 1877

PAYMENT DUE DATE: 11/5/2008

PAYMENT AMOUNT DUE: \$5,000

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David A. Pope, CPA PC  
Accounting Services YOU Can Count On

FEC OFFICE OF  
ADMIN REVIEW

2008 OCT 29 A 11: 53

October 22, 2008

Federal Election Commission  
Office of Administrative Review  
999 E Street, NW  
Washington, D.C. 20463

Re: AF#1877

To Whom It May Concern:

We received a notice claiming that the 12 day Pre-Primary Report of Receipts and Disbursements was not filed. We filed the report on August 19, 2008. Please reference the FedEx overnight receipt attached to this letter. We have since re-filed the 12 day Pre-Primary Report of Receipts and Disbursements and we have attached a copy to this letter.

Please remove the fine levied by not filing the report. Thank you for your assistance. If you have any questions feel free to call me at (307) 638-3170.

Sincerely,  
David A. Pope, CPA PC



By: Jonath Jackson  
Treasurer

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Español | Customer Support | FedEx Locations Search Go

Package/Envelope Freight Expedited Office/Print Services \*  
Ship > Track > Manage > Business Solutions >

FedEx Ship Manager®

Logout Help

Prepare Shipment	Ship History	My Lists	Reports	My Profile
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Your Shipment Details

<b>From:</b>	Melissa Pope DAVID A. POPE, CPA PC 1712 Carey Avenue SUITE 100 CHEYENNE, WY 82001 US 3076383170	<b>Package type:</b>	FedEx Envelope
		<b>Pickup/Drop Off:</b>	give to scheduled courier at my location
		<b>Weight:</b>	1 LBS
		<b>Dimensions:</b>	0 x 0 x 0 in
		<b>Declared value:</b>	0.00 USD
		<b>Shipper account number:</b>	197610158
<b>To:</b>	Office of Public Records Secretary of Senate 232 Hart Senate Office Building Washington, DC 205107116 US 3076383170	<b>Bill transportation to:</b>	197610158
		<b>Courtesy rate quote:*</b>	31.67
		<b>List rates:</b>	0.00
		<b>Effective net discount:</b>	
		<b>Discounted variable %</b>	
		<b>Cod amount</b>	
		<b>Special services:</b>	
<b>Tracking no:</b>	799894222662	<b>Shipment Purpose:</b>	
<b>Your reference:</b>	Committee to Elect Nick Carter	<b>Shipment type:</b>	Express
<b>Ship date:</b>	Aug 15 2008	<b>Commercial/Residential Status:</b>	Commercial
<b>Service type:</b>	Priority Overnight		

Please note :

\* The courtesy rate shown here may be different than the actual charges for your shipment. Differences may occur based on actual weight, dimensions, and other factors. Consult the applicable [FedEx Service Guide](#) or the FedEx Rate Sheets for details on how shipping charges are calculated.

FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$500, e.g., jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits; Consult the applicable FedEx Service Guide for details.

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Via First Class Mail

October 29, 2008

John E. Henry, CPA, as Treasurer  
Committee to Elect Nick Carter for United States Senate  
206 Ross Ave.  
Gillette, WY 82716

C00446765  
AF# 1877

Dear Mr. Henry:

On October 29, 2008 the Commission received from Jonath Jackson (who signed as Treasurer) a 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,

A handwritten signature in cursive script that reads "Shawn Woodhead Werth".

Shawn Woodhead Werth  
Reviewing Officer  
Office of Administrative Review

29092634712

2008 NOV -4 A 11: 26

Date: November 4, 2008

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

AF#: 1877

Committee Name: Committee to Elect Nick Carter for United States Senate

Committee ID#: C00446765

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

Treasurer Name (if different than in RTB finding): Jonath Jackson

**Attachments:**

Copy of RTB Circulation Report, dated September 25, 2008 and RTB  
Certification, dated September 26, 2008: Y

Attachment #: 1

Certified Return Receipt (Y/N): Y

Attachment #: 2

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

-2008 Pre-Primary Report Prior Notice, dated July 14, 2008.

-Non-Filer Letter, dated August 8, 2008.

-RTB Letter, dated September 30, 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:  
 John E. Henry, CPA  
 Inte to Elect Nick Cantu for  
 US Senate  
 206 Ross Ave  
 Gillette, WY 82716

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 Addressee  
*[Handwritten Signature]*

B. Received by (Printed Name)  Agent  
 Addressee  
*Eric Steland*

C. Date of Delivery  
*10/3/8*

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

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) 71005118201000213466 5219

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**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 Committee to Elect Nick Carter for United States Senate:
- A) Prior Notice, dated July 14, 2008, referencing the 2008 Pre-Primary Report (sent via electronic mail to: [nickforsenate@yahoo.com](mailto:nickforsenate@yahoo.com));
  - B) Non-Filer Letter, dated August 8, 2008, referencing the 2008 Pre-Primary Report;
  - C) Reason-to-Believe Letter, dated September 30, 2008, referencing the 2008 Pre-Primary Report.
3. I hereby certify that I have searched the Commission's public records and find that Committee to Elect Nick Carter for United States Senate filed the 2008 Pre-Primary Report with the Secretary of the Senate on August 15, 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 4<sup>th</sup> day of November, 2008.



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

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# PRIMARY ELECTION REPORT NOTICE

FEDERAL ELECTION COMMISSION

WYOMING  
Congressional Committees

July 14, 2008

**COMMITTEES INVOLVED IN THE PRIMARY (08/19/08) MUST FILE:**

REPORT	REPORTING PERIOD <sup>1</sup>	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
Pre-Primary	07/01/08 - 07/30/08	08/04/08	08/07/08
48 Hour Notices	07/31/08 - 08/16/08	---see p. 3 of notice---	
October Quarterly	07/31/08 - 09/30/08	10/15/08	10/15/08

Supplemental Filing Information is available on pages 2 and 3 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 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 candidates<sup>2</sup> (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.<sup>3</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 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](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.

#### 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](http://www.fec.gov/info/forms.shtml).

<sup>2</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 11 CFR 100.3(a).

<sup>3</sup>If 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 July 31 through August 16, 2008.

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](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. Paper forms are available at the 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. 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](http://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).<sup>4</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).

### 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.<sup>5</sup> 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.

<sup>4</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>5</sup>Senate committees should contact the Secretary of the Senate at (202) 224-0322 for more information on filing reports via US mail.

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

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 8, 2008

RQ-7

JOHN E HENRY CPA, TREASURER  
COMMITTEE TO ELECT NICK CARTER FOR UNITED STATES SENATE  
206 ROSS AVENUE  
GILLETTE, WY 82716

IDENTIFICATION NUMBER: C00446765

REFERENCE: PRE-PRIMARY REPORT 7/1/2008 - 7/30/2008

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 RHIANNON MAGRUDER 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)

2803981162092634719



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2008 DEC 23 P 12: 24

December 22, 2008

**MEMORANDUM**

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# 1877 – Committee to Elect Nick Carter for United States Senate and  
John E. Henry CPA, as Treasurer (C00446765)

**SENSITIVE**

The attached Reviewing Officer Recommendation is being circulated on an informational basis. A copy was also sent to the respondents in accordance with 11 C.F.R. § 111.36(f). The respondents may file with the Commission Secretary a written response within 10 days of transmittal of the recommendation.

After the 10 day period, the Reviewing Officer Recommendation and the respondents' written response, if any, will be circulated to the Commission to make a final determination.

Attachment

20092634720



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 22, 2008

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

AF# 1877 – Committee to Elect Nick Carter for United States Senate and John E.  
Henry CPA, as Treasurer (C00446765)

On September 26, 2008, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to file the 2008 12 Day Pre-Primary Report, an election sensitive report, and made a preliminary determination that the civil money penalty was \$5,000 based on the schedule of penalties at 11 C.F.R. § 111.43. They were notified by the Reports Analysis Division ("RAD") on September 30, 2008 of the Commission's RTB finding and civil money penalty.

**Respondents' Response**

On October 29, 2008, the Commission received the written response ("challenge") from David A. Pope, CPA PC, by Jonath Jackson, Treasurer.<sup>1</sup> Mr. Pope requests that the Commission remove the fine because the 12 Day Pre-Primary Report was filed on August 19, 2008. The response includes FedEx Ship Manager (Shipment Details) which shows that the report was sent priority overnight on August 15, 2008.

**Analysis**

The 12 Day Pre-Primary Report was filed, via overnight delivery, on August 15, 2008, 8 days late.

The Federal Election Campaign Act ("Act") states that the treasurer of a principal campaign committee shall file a report no later than the 12th day before (or sent by an overnight delivery service with an online tracking system and scheduled for next business day delivery no later than the 15th 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)(A). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

They assert that the 12 Day Pre-Primary Report was filed on August 19, 2008; however, the respondents should have deposited the report with the delivery service no later than August 4 for it to be filed on time. They deposited and sent it, via overnight delivery, on August 15, 11 days later. The 12 Day Pre-Primary Report is an election sensitive report. 11 C.F.R. § 111.43(d). An election sensitive report that is not filed prior to four days before the election (in this case, August 19) is considered not filed for

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<sup>1</sup> They filed an Amended Statement of Organization on November 14 which designates Mr. Jackson as Treasurer.

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the purpose of the civil money penalty calculation. 11 C.F.R. § 111.43(e)(2). The RTB civil money penalty for the 12 Day Pre-Primary Report was correctly calculated (\$5,000) as the report was filed on August 15, which is not prior to four days before the election.

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. The Administrative Fine regulations specifically state that delays caused by the failure to know filing due dates do not constitute reasonably unforeseen circumstances. 11 C.F.R. § 111.35(d).

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 \$5,000.

#### **OAR Recommendations**

- (1) Adopt the Reviewing Officer recommendation for AF# 1877 involving the Committee to Elect Nick Carter for United States Senate and John E. Henry CPA, as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 1877 that the Committee to Elect Nick Carter for United States Senate and John E. Henry CPA, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$5,000; and
- (3) Send the appropriate letter.

Reviewing Analyst: Maureen Benitz

#### Attachments

Attachment 1 – Challenge Received from Respondents

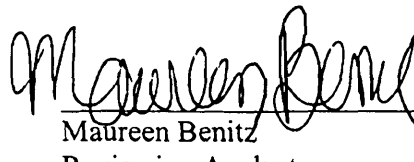
Attachment 2 – Declaration from RAD

Attachment 3 – Declaration from OAR

29092634722

### 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 2008 12 Day Pre-Primary Report for the Wyoming Primary is due August 7, 2008. If the report is sent by an overnight delivery service with an on-line tracking system and scheduled for next day delivery, it must be deposited with the delivery service by August 4 to be timely filed.
3. It is the practice of the Office of Public Records, Secretary of the Senate to date stamp each report as it is received and complete an envelope processing page disclosing the method used to file the report as well as either the date of receipt or postmark.
4. I hereby certify that I have searched the Commission's public records and that the documents identified herein are true and accurate copies of:
  - (a) Page 1 of the Summary Page, envelope, and Senate Office of Public Records postmark sheet for the 2008 12 Day Pre-Primary Report filed by the Committee to Elect Nick Carter for United States Senate and John E. Henry CPA, as Treasurer. According to Commission records, the report was sent on August 15, 2008 via Federal Express for next business day delivery and received on August 26, 2008; and
  - (b) Pages 1 and 3 of the amended Statement of Organization filed by the Committee to Elect Nick Carter for United States Senate and Jonath A. Jackson, as Treasurer. According to Commission records, the Statement was received on November 14, 2008. Line 8 lists "Jonath A. Jackson" as Treasurer.
5. 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 22<sup>nd</sup> of December, 2008.



Maureen Benitz  
Reviewing Analyst  
Office of Administrative Review  
Federal Election Commission

29092634723

FEC FORM 3

REPORT OF RECEIPTS AND DISBURSEMENTS For An Authorized Committee

SECRETARY OF THE SENATE 08 AUG 26 PM 1:42

Office Use Only

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

12FE4M5

THE COMMITTEE FOR NICK CARTER FOR US SENATE

ADDRESS (number and street)

206 ROSS AVENUE

Check if different than previously reported. (ACC)

GILLETTE WY 82716

2. FEC IDENTIFICATION NUMBER

00446765

3. IS THIS REPORT [X] NEW (N) OR [ ] AMENDED (A)

CITY

STATE

ZIP CODE STATE DISTRICT

WY

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 MM/DD/YYYY in the State of WY

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

- [ ] General (30G) [ ] Runoff (30R) [ ] Special (30S)

Election on MM/DD/YYYY in the State of

5. Covering Period

07/01/2008 through 07/31/2008

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 Jonath Jackson

Signature of Treasurer

[Handwritten Signature]

Date

08/15/2008

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)

FE5AN018

29092634724

28020450765

29092634725

FOR INSPECTION



United States Senate Post Office

INSPECTION

Post Office



Page 1 of 1

From: Origin ID: CYSA (307)638-3170  
Melissa Pope  
DAVID A. POPE, CPA PC  
1712 Carey Avenue  
SUITE 100  
CHYENNE, WY 82001



SHIP TO: 3076383170  
BILL SENDER  
Office of Public Records  
Secretary of Senate  
232 Hart Senate Office Building  
Washington, DC 205107116

Ship Date: 15AUG08  
ActWgt: 1 LB  
System#: 1468161/NET8061  
Account#: S\*\*\*\*\*

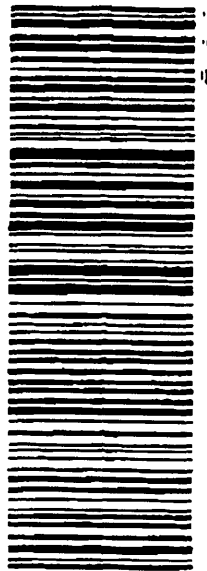
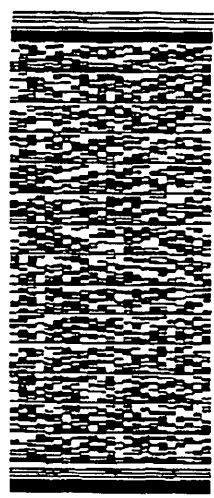
Delivery Address Bar Code



Ref # Committee to Elect Nick Carner  
Invoice #  
PO #  
Dept #

TRK# 7998 9422 2662 MON - 18AUG A2  
0201 PRIORITY OVERNIGHT

**XC YKNA**  
20510  
DC-US  
DCA



4747

28020050779

NANCY ERICKSON  
SECRETARY

PAMELA B. GAVIN  
SUPERINTENDENT

HART SENATE OFFICE BUILDING  
SUITE 232  
WASHINGTON, DC 20510-7118  
PHONE: (202) 224-0322

# United States Senate

OFFICE OF THE SECRETARY

OFFICE OF PUBLIC RECORDS

THE PRECEDING DOCUMENT WAS:

HAND DELIVERED \_\_\_\_\_  
Date of Receipt

USPS FIRST CLASS MAIL \_\_\_\_\_  
Postmark

USPS REGISTERED/CERTIFIED \_\_\_\_\_  
Postmark

USPS PRIORITY MAIL \_\_\_\_\_  
Postmark  
DELIVERY CONFIRMATION OR SIGNATURE CONFIRMATION LABEL

USPS EXPRESS MAIL \_\_\_\_\_  
Postmark

OVERNIGHT DELIVERY SERVICE:

	SHIPPING DATE	NEXT BUSINESS DAY DELIVERY
FEDERAL EXPRESS	<u>08-15-08</u>	<input checked="" type="checkbox"/>
UPS	_____	<input type="checkbox"/>
DHL	_____	<input type="checkbox"/>
AIRBORNE EXPRESS	_____	<input type="checkbox"/>

RECEIVED FROM FEDERAL ELECTION COMMISSION \_\_\_\_\_  
Date of Receipt

POSTMARK ILLEGIBLE  NO POSTMARK

FAX \_\_\_\_\_  
Date of Receipt

OTHER \_\_\_\_\_  
Date of Receipt or Postmark

PREPARER RD DATE PREPARED 08-26-08

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28020450780

FEC  
FORM 1

STATEMENT OF  
ORGANIZATION

SECRETARY OF THE SENATE

08 NOV 14 AM 10:45

Office Use Only

1. NAME OF  
COMMITTEE (in full)

(Check if name  
is changed)

Example: If typing, type  
over the lines.

12FE4M5

THE COMMITTEE TO ELECT NICK CARTER FOR  
UNITED STATES SENATE

ADDRESS (number and street)

206 BOISS AVENUE

(Check if address  
is changed)

GILLETTE

WY

82716

CITY

STATE

ZIP CODE

COMMITTEE'S E-MAIL ADDRESS

Nickforsenate@YAHOO.COM

COMMITTEE'S WEB PAGE ADDRESS (URL)

COMMITTEE'S FAX NUMBER

307-687-7690

2. DATE

02 / 26 / 2008

3. FEC IDENTIFICATION NUMBER

C00446765

4. IS THIS STATEMENT

NEW (N)

OR

AMENDED (A)

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer

Jonath A Jackson CPA

Signature of Treasurer

Date

11 / 05 / 2008

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 12/2007)

FE3AN042.PDF

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28020712575

Write or Type Committee Name

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

[Empty grid line]

[Empty grid line]

Mailing Address

[Empty grid line]

[Empty grid line]

[Empty grid line]

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

JONATHAN A JACKSON

Mailing Address

1512 CAREY AVENUE SUITE 100

CHEYENNE

WY

82001

CITY

STATE

ZIP CODE

Title or Position

TREASURER

Telephone number

307-638-3170

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

JONATHAN A JACKSON

Mailing Address

1512 CAREY AVENUE SUITE 100

CHEYENNE

WY

82001

CITY

STATE

ZIP CODE

Title or Position

TREASURER

Telephone number

307-638-3170

29092634728

28020712577



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

VIA OVERNIGHT DELIVERY

December 29, 2008

John Henry CPA, as Treasurer  
Committee to Elect Nick Carter for United State Senate  
206 Ross Ave.  
Gillette, WY 82716

C00446765  
AF# 1877

Dear Mr. Henry:

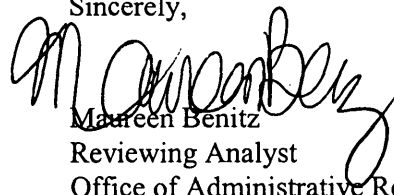
On September 26, 2008, the Federal Election Commission ("Commission") found reason to believe ("RTB") that Committee to Elect Nick Carter for United States Senate and you, as Treasurer ("respondents"), violated 2 U.S.C. § 434(a) for failing to file the 2008 12 Day Pre-Primary Report. The Commission also made a preliminary determination that the civil money penalty was \$5,000 based on the schedule of penalties at 11 C.F.R. § 111.43.

After reviewing the written response and any supplemental information submitted by the respondents 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  
Reviewing Analyst  
Office of Administrative Review

Attachment

cc: Jonath Jackson, as Treasurer

29092634729



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2009 FEB -6 A 10: 19

February 5, 2009

**SENSITIVE**

MEMORANDUM

To: The Commission

Through: Joseph F. Stoltz *[Signature]*  
Acting Staff Director

From: John D. Gibson *[Signature]*  
Chief Compliance Officer

Shawn Woodhead Werth *[Signature]*  
Reviewing Officer  
Office of Administrative Review

By: Maureen Benitz *[Signature]*  
Reviewing Analyst

Subject: Final Determination Recommendation in AF# 1877 – Committee to  
Elect Nick Carter for United States Senate and John E. Henry CPA, as  
Treasurer (C00446765)

On September 26, 2008, the Commission found reason to believe (“RTB”) that the respondents violated 2 U.S.C. § 434(a) for failing to file the 2008 12 Day Pre-Primary Report, an election sensitive report. The Report was filed on August 15, 2008 and is considered not filed for purposes of the civil money penalty calculation. As a result, the Commission also made a preliminary determination that the civil money penalty was \$5,000 based on the schedule of penalties at 11 C.F.R. § 111.43.

On October 29, 2008, the Commission received their written response (“challenge”). After reviewing the challenge, the Reviewing Officer’s recommendation dated December 22, 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 \$5,000 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

29092634730

their challenge or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). As of this date, a written response has not been received.

**OAR Recommendations**

- (1) Adopt the Reviewing Officer recommendation for AF# 1877 involving the Committee to Elect Nick Carter for United States Senate and John E. Henry CPA, as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 1877 that the Committee to Elect Nick Carter for United States Senate and John E. Henry CPA, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$5,000; and
- (3) Send the appropriate letter.

29092634731

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Final Determination Recommendation: ) AF 1877  
Committee to Elect Nick Carter for )  
United States Senate and John E. Henry )  
CPA, as Treasurer (C00446765) )

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on March 10, 2009, the Commission decided by a vote of 6-0 to take the following actions in AF 1877:

1. Adopt the Reviewing Officer's recommendation for AF 1877 involving the Committee to Elect Nick Carter for United States Senate and John E. Henry CPA, as Treasurer, in making the final determination.
2. Make a final determination in AF 1877 that the Committee to Elect Nick Carter for United States Senate and John E. Henry CPA, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$5,000.
3. Send the appropriate letter.

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

Attest:

March 10, 2009  
Date

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

29092634732



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

March 12, 2009

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

John E. Henry CPA, as Treasurer  
Committee to Elect Nick Carter for United States Senate  
206 Ross Ave.  
Gillette, WY 82716

C00446765  
AF# 1877

Dear Mr. Henry:

On September 26, 2008, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that the Committee to Elect Nick Carter for United States Senate and you, as Treasurer, violated 2 U.S.C. § 434(a) for failing to file the 2008 12 Day Pre-Primary Report, an election sensitive report. By letter dated September 30, 2008, the Commission sent you notification of the RTB finding that included a civil money penalty calculated at RTB of \$5,000 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On October 29, 2008, the Office of Administrative Review received the written response from David A. Pope, CPA PC, by Jonath Jackson, 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 Committee to Elect Nick Carter for United States Senate and you, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty in the amount of \$5,000 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 29, 2008.

On March 10, 2009, the Commission adopted the Reviewing Officer's recommendation and made a final determination that the Committee to Elect Nick Carter for United States Senate and you, as Treasurer, violated 2 U.S.C. § 434(a) and assessed a civil money penalty of \$5,000. 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**

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

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

29092634733

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

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

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

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

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

On behalf of the Commission,



Steven T. Walther  
Chairman

Attachment

29092634734

-----  
**ADMINISTRATIVE FINE PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the civil money penalty is \$5,000 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: Committee to Elect Nick Carter for United States Senate

FEC ID#: C00446765

AF#: 1877

PAYMENT AMOUNT DUE: \$5,000

29092634735

NICHOLAS H. CARTER 11/05

99-105/1023

1501

ATTORNEY AT LAW

P.O. BOX 909

GILLETTE, WY 82717-0909

387169

DATE

May 15 '09

PAY TO THE ORDER OF

Federal Election Commission \$5000.00  
Five thousand and 00/100

DOLLARS

Hometown Account



Box 3002  
Gillette, WY 82717-3002

MEMO

FEC ID# C03446765

Nichelle Stewart

29092634736



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 1877

DATE SCANNED 8-10-09

SCANNER NO. 2

SCAN OPERATOR Jm11

29092634737