



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 1908

DATE SCANNED 6/15/07

SCANNER NO. 1

SCAN OPERATOR Jud

29092630575



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DEC 8 11:59

December 8, 2008

MEMORANDUM

SENSITIVE

TO: THE COMMISSION

THROUGH: JOSEPH F. STOLTZ *[Signature]*
ACTING STAFF DIRECTOR

FROM: JOHN D. GIBSON *[Signature]*
CHIEF COMPLIANCE OFFICER

PATRICIA CARMONA *[Signature]*
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

BY: NATALIYA IOFFE/^{nr}RILANNON MAGRUDER/^{RM}CHRIS RITCHIE *[Signature]*
COMPLIANCE BRANCH

SUBJECT: REASON TO BELIEVE RECOMMENDATION - 2008 OCTOBER
QUARTERLY REPORT (ELECTION SENSITIVE) FOR THE
ADMINISTRATIVE FINE PROGRAM

Attached is a list of political committees and their treasurers who failed to file the 2008 October Quarterly Report in accordance with 2 U.S.C. 434(a). The October Quarterly Report was due on October 15, 2008.

Under the Administrative Fine Program, the October Quarterly Report is considered an election-sensitive filing for authorized committees supporting candidates involved in the general election as well as all unauthorized committees. For the committees listed on the attached RTB Circulation Report, the October Quarterly Report was an election-sensitive filing. The committees either filed the report more than five (5) days after the due date, failed to file the report or failed to file the report prior to four (4) days before the general election (considered a non-filed report). In accordance with the schedule of civil money penalties for reports at 11 C.F.R. 111.43, these committees should be assessed the civil money penalties included on the attached report.

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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 OCTOBER QUARTERLY Election Sensitive 10/15/2008 H_S_P_UNAUTH

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
1887	C00135525	AMERICAN NATIONAL INSURANCE COMPANY EMPLOYEE POLITICAL ACTION COMMITTEE		JOHN MARK FLIPPIN	\$179,504	0	11/10/2008	Not Filed	\$58,118	\$3,000
1888	C00034645	AMERICAN SOCIETY FOR CLINICAL LABORATORY SCIENCE POLITICAL ACTION COMMITTEE (FKA ASMT/PAC)		LINDA HICKOK	\$109,237	0	11/6/2008	Not Filed	\$18,167	\$900
1889	C00439042	AMERICANS UNITED FOR FREEDOM (AUF) PAC	PAUL, RON	BRANDON S. LLOYD	\$164,826	0		Not Filed	\$54,942 (est)	\$3,000
1890	C00395988	ARGON ST PAC		GABRIELLE CARRUTH	\$109,550	0	11/12/2008	Not Filed	\$11,600	\$900

1892	C00030593	CONSUMER DATA INDUSTRY ASSOCIATION INC POLITICAL ACTION COMMITTEE OR COIA PAC		JOSEPH RUBIN	\$130,781	0	11/6/2008	Not Filed	\$9,165	\$600
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1894	C00448241	DOUG TUDOR FOR CONGRESS	TUDOR, DOUGLAS DAVID	JON P. TUDOR	\$175,068	0	10/29/2008	14	\$49,075	\$650
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1897	C00421008	METAL LATHERS LOCAL 46 PAC		ROBERT LEDWITH	\$256,590	0	10/23/2008	8	\$35,396	\$500
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AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
1899	C00363812	RECREATIONAL FISHING ALLIANCE, PAC		TONI STEFANO	\$104,392	1		Not Filed	\$26,098 (est)	\$1,750
1900	C00437871	SALAZAR COMISIONADO 2008	SALAZAR, ALFREDO	LUIS SALAZAR	\$710,846	1	10/26/2008	11	\$353,807	\$6,500
1901	C00189266	SHEET METAL WORKERS LOCAL 100 POLITICAL ACTION COMMITTEE (100 PAC)		JOHN R. SHIELDS, JR.	\$120,048	0	11/17/2008	Not Filed	\$10,976	\$900
1902	C00153379	SIERRA PACIFIC EMPLOYEES POLITICAL ACTION COMMITTEE		JOHN VINSKI	\$127,020	0	10/21/2008	6	\$31,925	\$450
1903	C00421982	SOLAR ENERGY INDUSTRIES ASSOCIATION PAC		RHONE RESCH	\$135,255	0	10/27/2008	12	\$23,382	\$270
1904	C00148155	ST LOUISIANS FOR BETTER GOVERNMENT		BERNARD PASTERNAK	\$112,276	0	10/26/2008	11	\$3,752	\$160
1905	C00139867	UGI CORPORATION POLITICAL ACTION COMMITTEE (UGI/PAC)		GREGORY MICHAEL BUCKS	\$206,865	0	12/4/2008	Not Filed	\$30,127	\$1,400
1906	C00377549	USAFARMWORKERPAC		STUART J. MITCHELL	\$103,719	0	11/19/2008	Not Filed	\$34,398	\$1,400

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Reason To Believe Recommendation - 2008)
October Quarterly Report (Election)
Sensitive) for the Administrative Fine)
Program:)
AMERICAN NATIONAL INSURANCE) AF# 1887
COMPANY EMPLOYEE POLITICAL)
ACTION COMMITTEE, and JOHN)
MARK FLIPPIN as treasurer;)
AMERICAN SOCIETY FOR CLINICAL) AF# 1888
LABORATORY SCIENCE POLITICAL)
ACTION COMMITTEE (FKA)
ASMT/PAC), and LINDA HICKOK as)
treasurer;)
AMERICANS UNITED FOR FREEDOM) AF# 1889
(AUF) PAC, and BRANDON S LLOYD as)
treasurer;)
ARGON ST PAC, and GABRIELLE) AF# 1890
CARRUTH as treasurer;)

CONSUMER DATA INDUSTRY) AF# 1892
ASSOCIATION INC POLITICAL)
ACTION COMMITTEE OR CDIA PAC,)
and JOSEPH RUBIN as treasurer;)

DOUG TUDOR FOR CONGRESS, and) AF# 1894
JON P TUDOR as treasurer;)

METAL LATHERS LOCAL 46 PAC, and) AF# 1897
ROBERT LEDWITH as treasurer;)

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RECREATIONAL FISHING ALLIANCE,) AF# 1899
PAC, and TONI STEFANO as treasurer;)
SALAZAR COMISIONADO 2008, and) AF# 1900
LUIS SALAZAR as treasurer;)
SHEET METAL WORKERS LOCAL 100) AF# 1901
POLITICAL ACTION COMMITTEE (100)
PAC), and JOHN R SHIELDS JR as)
treasurer;)
SIERRA PACIFIC EMPLOYEES) AF# 1902
POLITICAL ACTION COMMITTEE, and)
VINSKI, JOHN as treasurer;)
SOLAR ENERGY INDUSTRIES) AF# 1903
ASSOCIATION PAC, and RHONE)
RESCII as treasurer;)
ST LOUISIANS FOR BETTER) AF# 1904
GOVERNMENT, and BERNARD)
PASTERNAK as treasurer;)
UGI CORPORATION POLITICAL) AF# 1905
ACTION COMMITTEE (UGI/PAC), and)
GREGORY MICHAEL BUCKS as)
treasurer;)
USAFARMWORKERPAC, and STUART J) AF# 1906
MITCHELL as treasurer;)

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on December 10, 2008 the Commission took the following actions on the Reason To Believe Recommendation - 2008 October Quarterly Report (Election Sensitive) for the Administrative Fine Program as recommended in the Reports Analysis Division's Memorandum dated December 08, 2008, on the following committees:

AF#1887 Decided by a vote of 6-0 to: (1) find reason to believe that AMERICAN NATIONAL INSURANCE COMPANY EMPLOYEE POLITICAL ACTION

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COMMITTEE, and JOHN MARK FLIPPIN 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#1888 Decided by a vote of 6-0 to: (1) find reason to believe that AMERICAN SOCIETY FOR CLINICAL LABORATORY SCIENCE POLITICAL ACTION COMMITTEE (FKA ASMT/PAC), and LINDA HICKOK 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#1889 Decided by a vote of 6-0 to: (1) find reason to believe that AMERICANS UNITED FOR FREEDOM (AUF) PAC, and BRANDON S LLOYD 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#1890 Decided by a vote of 6-0 to: (1) find reason to believe that ARGON ST PAC, and GABRIELLE CARRUTH 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#1892 Decided by a vote of 6-0 to: (1) find reason to believe that CONSUMER DATA INDUSTRY ASSOCIATION INC POLITICAL ACTION COMMITTEE OR CDIA PAC, and JOSEPH RUBIN as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

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AF#1894 Decided by a vote of 6-0 to: (1) find reason to believe that DOUG TUDOR FOR CONGRESS, and JON P TUDOR 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#1897 Decided by a vote of 6-0 to: (1) find reason to believe that METAL LATHERS LOCAL 46 PAC, and ROBERT LEDWITH 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#1899 Decided by a vote of 6-0 to: (1) find reason to believe that RECREATIONAL FISHING ALLIANCE, PAC, and TONI STEFANO 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#1900 Decided by a vote of 6-0 to: (1) find reason to believe that SALAZAR COMISIONADO 2008, and LUIS SALAZAR as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount

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

AF#1901 Decided by a vote of 6-0 to: (1) find reason to believe that SHEET METAL WORKERS LOCAL 100 POLITICAL ACTION COMMITTEE (100 PAC), and JOHN R SHIELDS JR 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#1902 Decided by a vote of 6-0 to: (1) find reason to believe that SIERRA PACIFIC EMPLOYEES POLITICAL ACTION COMMITTEE, and VINSKI, JOHN 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#1903 Decided by a vote of 6-0 to: (1) find reason to believe that SOLAR ENERGY INDUSTRIES ASSOCIATION PAC, and RHONE RESCH 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#1904 Decided by a vote of 6-0 to: (1) find reason to believe that ST LOUISIANS FOR BETTER GOVERNMENT, and BERNARD PASTERNAK 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#1905 Decided by a vote of 6-0 to: (1) find reason to believe that UGI CORPORATION POLITICAL ACTION COMMITTEE (UGI/PAC), and GREGORY MICHAEL BUCKS 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#1906 Decided by a vote of 6-0 to: (1) find reason to believe that USAFARMWORKERPAC, and STUART J MITCHELL as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

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Federal Election Commission
Certification for Administrative Fines
December 10, 2008

Attest:

December 10, 2008
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 11, 2008

Stuart J. Mitchell
USAFarmworkerPAC
8 Reginald Circle
Rochester, NY 14625

C00377549
AF#: 1906

Dear Stuart J. Mitchell:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file an October Quarterly Report of Receipts and Disbursements in a calendar year during which there is a regularly scheduled election. This report, covering the period through September 30th, shall be filed no later than October 15th. 2 U.S.C. 434(a). Records at the Federal Election Commission ("FEC") indicate that this report was not filed within (30) days of the due date. You should file the October Quarterly 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 12/10/2008, the FEC found that there is reason to believe ("RTB") that USAFarmworkerPAC and you, as treasurer, violated 2 U.S.C. 434(a) by failing to file timely this report on or before October 15th. 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 \$1,400. It is due by 1/19/2009 and is based on these factors:

Election Sensitivity of Report: Election Sensitive
Level of Activity: \$34,398
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

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1/19/2009. 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 USAFarmworkerPAC 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 \$1,400 for the 2008 October Quarterly 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 1/19/2009. 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: USAFarmworkerPAC

FEC ID#: C00377549

AF#: 1906

PAYMENT DUE DATE: 1/19/2009

PAYMENT AMOUNT DUE: \$1,400

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USA Farmworker PAC

www.usafarmworker.org

*The USA Farmworker
Political Action
Committee will support
candidates for U.S.
Congress who are
committed to the
preservation and
expansion of programs
that improve the
working & living
conditions of migrant
& seasonal
farmworkers.*

Federal Election Commission
Washington, D.C. 20463
Attn: Donald M. McGahn II, Chairman
Office of Administrative Review

C00377549
AF#: 1906

In reference to the letter USA Farmworker PAC received dated December 11, 2008 regarding an administrative fine of \$1,400.00 we would like to request a waiver or a reduction in the administrative fee. As per our records we have never been fined before. The report was late report by four days and so we are asking for leniency at this time.

USA Farmworker PAC is a grassroots organization who supports those members of the U.S. Senate and House of Representatives who, in turn, support farmworkers and their interests throughout the country. A fine of this amount would hurt the funds that we have worked so hard to raise in an effort to provide campaign funds to those who support the farmworkers that work so hard to provide Americans with the food on our tables.

Thank you in advance for your consideration in this matter.

Sincerely,


Stuart J. Mitchell
President & Treasurer

Cc: Jessica Garcia, Assistant Treasurer

Stuart J. Mitchell, President & Treasurer
8 Reginald Circle, Rochester, NY 14625
E-mail: support@usafarmworker.org
Jessica Garcia, PAC Executive Assistant
E-mail: [jharcia@frontiernet.net](mailto:jhgarcia@frontiernet.net)



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Via First Class Mail


January 13, 2009

Stuart J. Mitchell, as Treasurer
USAFarmworkerPAC
8 Reginald Circle
Rochester, NY 14625

C00377549
AF# 1906

Dear Mr. Mitchell:

On January 13, 2009, 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,

Shawn Woodhead Werth
Reviewing Officer
Office of Administrative Review

29092630591

Date: January 16, 2009

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

AF#: 1906

Committee Name: USAFarmworkerPAC

Committee ID#: C00377549

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 December 8, 2008 and RTB
Certification, dated December 10, 2008: Previously Forwarded**

Attachment #: N/A

Certified Return Receipt (Y/N): N (to be forwarded at a later date once received)

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

-Non-Filer Letter, dated November 3, 2008.

-RTB Letter, dated December 11, 2008.

Attachment #: 2

Other RAD Information: (Y/N): N

Attachment#: N/A

29092630592

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 USAFarmworkerPAC:
- A) Non-Filer Letter, dated November 3, 2008, referencing the 2008 October Quarterly Report;
 - B) Reason-to-Believe Letter, dated December 11, 2008, referencing the 2008 October Quarterly Report.
3. I hereby certify that I have searched the Commission's public records and find that USAFarmworkerPAC filed the 2008 October Quarterly Report with the Commission on November 19, 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 16th day of January, 2009.



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

20092630593



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 3, 2008

RQ-7

STUART J MITCHELL, TREASURER
USAFARMWORKERPAC
8 REGINALD CIRCLE
ROCHESTER, NY 14625

IDENTIFICATION NUMBER: C00377549

REFERENCE: OCTOBER QUARTERLY REPORT 7/1/2008 - 9/30/2008

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.

IT IS IMPORTANT THAT YOU FILE THIS REPORT IMMEDIATELY WITH THE FEDERAL ELECTION COMMISSION, 999 E STREET, N.W., WASHINGTON, D.C., 20463. PLEASE NOTE THAT ELECTRONIC FILERS MUST SUBMIT THEIR REPORTS ELECTRONICALLY, AS PER 11 CFR §104.18. A COPY OF THE REPORT OR RELEVANT PORTIONS MUST ALSO BE FILED WITH THE SECRETARY OF THE STATE OR EQUIVALENT STATE OFFICER UNLESS THE STATE IS EXEMPT FROM THE FEDERAL REQUIREMENT TO RECEIVE AND MAINTAIN PAPER COPIES. YOU CAN VERIFY THE COMMISSION'S RECEIPT OF ANY DOCUMENTS SUBMITTED BY YOUR COMMITTEE ON THE FEC WEBSITE AT WWW.FEC.GOV.

THE FAILURE TO TIMELY FILE THIS REPORT MAY RESULT IN CIVIL MONEY PENALTIES, AN AUDIT OR 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. DUE TO HEIGHTENED SECURITY SCREENING MEASURES, DELIVERY OF MAIL BY THE US POSTAL SERVICE MAY BE DELAYED. THE COMMISSION RECOMMENDS THAT YOU SUBMIT YOUR REPORT VIA OVERNIGHT DELIVERY OR COURIER SERVICE.

IF YOU HAVE ANY QUESTIONS REGARDING THIS MATTER, PLEASE CONTACT SARI PICKERALL AT OUR TOLL FREE NUMBER (800)424-9530. OUR DIRECT LOCAL NUMBER IS (202)694-1130.

SINCERELY,

PATRICIA CARMONA
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION (RAD)

20080929 09:29:52



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

2009 FEB 26 A 8:46

SENSITIVE

February 23, 2009

MEMORANDUM

To: The Commission

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

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

Shawn Woodhead Wert *SW*
Reviewing Officer
Office of Administrative Review

By: Maureen Benitz *MB*
Reviewing Analyst

Subject: AF# 1906 – USAFarmerworkerPAC and Stuart J. Mitchell, as Treasurer
(C00377549)

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

29092630595



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 23, 2009

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

AF# 1906 – USA FarmworkerPAC and Stuart J. Mitchell, as Treasurer (C00377549)

On December 10, 2008, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to file the 2008 October Quarterly Report, an election sensitive report, and made a preliminary determination that the civil money penalty was \$1,400 based on the schedule of penalties at 11 C.F.R. § 111.43. They were notified by the Reports Analysis Division ("RAD") on December 11, 2008 of the Commission's RTB finding and civil money penalty.

Respondents' Response

On January 13, 2009, the Commission received the written response ("challenge") from the Treasurer requesting that the Commission waive or reduce the fee as they have never been fined before and the report was filed four days late. Furthermore, this fine amount would impact the mission of the Committee, which is to support members of Congress who support farm workers.

Analysis

The 2008 October Quarterly Report was filed on November 19, 2008, 35 days late.

The Federal Election Campaign Act ("Act") states that the treasurer of committee not authorized by a candidate shall file, in an election year, a report for the period ending September 30 no later than October 15. 2 U.S.C. § 434(a)(4)(A)(i) and 11 C.F.R. § 104.5(c)(1)(i). Reports filed electronically must be received and validated at or before 11:59 pm Eastern Standard/Daylight Time on October 15 to be timely filed. 11 C.F.R. §§ 100.19(c) and 104.5(e). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

The respondents ask the Commission for leniency, as they believe the report was filed only 4 days late. The October Quarterly Report was due on October 15, 2008. On October 16, a 12-hour non-filer email notification was sent to [jharcia@frontiernet.net](mailto:jhgarcia@frontiernet.net) alerting the Committee that the report had not been filed. The Non-Filer Notice was sent to the Committee on November 3 explaining that the report had not been filed. They filed it on November 19.

The October Quarterly 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

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before the election (in this case, November 4) is considered not filed for the purpose of the civil money penalty calculation. 11 C.F.R. § 111.43(e)(2). It appears that their belief that the report is only four days late is based on the language in the RTB letter. That letter includes the definition for a not-filed, non-election sensitive report (the report was not filed within 30 days of the due date) instead of the correct definition for a not-filed, election sensitive report (the report was not filed prior to 4 days before the general election). While the wrong definition was included in the RTB letter, the four factors used to calculate the fine amount are also listed in the RTB letter and they are correct: the October Quarterly Report is an election sensitive report that is considered not filed with a level of activity of \$34,398 for respondents with no previous violations.

The other issue raised in the challenge (that the fine assessed will hurt their ability to support those who support farm workers) does 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 \$1,400.

OAR Recommendations

- (1) Adopt the Reviewing Officer recommendation for AF# 1906 involving USAFarmworkerPAC and Stuart J. Mitchell, as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 1906 that USAFarmworkerPAC and Stuart J. Mitchell, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$1,400; and
- (3) Send the appropriate letter.

Reviewing Analyst: Maureen Benitz

Attachments

Attachment 1 – Challenge Received from Respondents

Attachment 2 – _____

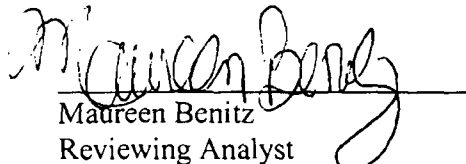
Attachment 3 – Declaration from RAD _____

Attachment 4 – Declaration from OAR _____

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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 October Quarterly Report is due October 15, 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 April 15 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 October Quarterly Report electronically filed by USAFarmerworkerPAC and Mr. Stuart J. Mitchell, as Treasurer. According to the Commission's records, the report covers the period from July 1 through September 30, 2008, and was received on November 19, 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 23rd of February, 2009.


Maureen Benitz
Reviewing Analyst
Office of Administrative Review
Federal Election Commission

29092630598

**FEC
FORM 3X**

**REPORT OF RECEIPTS
AND DISBURSEMENTS**
For Other Than 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

USA Farmworker PAC

ADDRESS (number and street)

8 Reginald Circle

Check if different than previously reported. (ACC)

Rochester

NY

14625

2. **FEC IDENTIFICATION NUMBER** CITY STATE ZIP CODE

C00377549

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

4. **TYPE OF REPORT**
(Choose One)

(a) Quarterly Reports:

April 15 Quarterly Report(Q1)

July 15 Quarterly Report(Q2)

X October 15 Quarterly Report(Q3)

January 31 Quarterly Report(YE)

July 31 Mid-Year Report(Non-election Year Only) (MY)

Termination Report (TER)

(b) Monthly Report
Feb 20 (M2) May 20 (M5) Aug 20 (M8) Nov 20 (M11) (Non-Election Year Only)
Due On: Mar 20 (M3) Jun 20 (M6) Sep 20 (M9) Dec 20 (M12) (Non-Election Year Only)
Apr 20 (M4) Jul 20 (M7) Oct 20 (M10) Jan 31 (YE)

(c) 12-Day PRE-Election Report for the: Primary (12P) General (12G) Runoff (12R)
Convention (12C) Special (12G)
Election on in the State of

(d) 30-Day Post -Election Report for the: General (30G) Runoff (30R) Special (30S)
Election on in the State of

5. Covering Period 07 01 2008 through 09 30 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 Mr. Stuart J. Mitchell

Signature of Treasurer Electronically Filed by Mr. Stuart J. Mitchell Date 11 19 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 3X
(Rev. 12/2004)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA OVERNIGHT DELIVERY

February 26, 2009

Stuart J. Mitchell, as Treasurer
USAFarmworkerPAC
8 Reginald Circle
Rochester, NY 14625

C00377549
AF# 1906

Dear Mr. Mitchell:

On December 10, 2008, the Federal Election Commission ("Commission") found reason to believe ("RTB") that USAFarmworkerPAC and you, as Treasurer ("respondents"), violated 2 U.S.C. § 434(a) for failing to file the 2008 October Quarterly Report. The Commission also made a preliminary determination that the civil money penalty was \$1,400 based on the schedule of penalties at 11 C.F.R. § 111.43.

After reviewing the written response submitted by you and any supplemental information submitted 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, appearing to read "Maureen Benitz".

Maureen Benitz
Reviewing Analyst
Office of Administrative Review

Attachment

29092630600



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463


March 16, 2009


MEMORANDUM

To: The Commission

Through: Robert A. Hickey
Staff Director

From: John D. Gibson
Chief Compliance Officer

Shawn Woodhead Werth 
Reviewing Officer
Office of Administrative Review

By: Maureen Benitz 
Reviewing Analyst

Subject: Final Determination Recommendation in AF# 1906 -
USAFarmworkerPAC and Stuart J. Mitchell, as Treasurer (C00377549)

On December 10, 2008, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failure to file the 2008 October Quarterly Report, an election sensitive report. The Report was filed on November 19, 2008, and is considered not filed for purposes of the civil money penalty. As a result, on December 10, 2008, the Commission also made a preliminary determination that the civil money penalty was \$1,400 based on the schedule of penalties at 11 C.F.R. § 111.43.

On January 13, 2009, the Commission received their written response ("challenge"). After reviewing the challenge, the Reviewing Officer's recommendation dated February 23, 2009 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 \$1,400 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, the respondents may file a written response with the Commission Secretary which may not raise any arguments not

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raised in the respondents' 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# 1906 involving USAFarmworkerPAC and Stuart J. Mitchell, as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 1906 that USAFarmworkerPAC and Stuart J. Mitchell, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$1,400; and
- (3) Send the appropriate letter.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Final Determination Recommendation:) AF 1906
USAFarmworkerPAC and Stuart J.)
Mitchell, as Treasurer (C00377549))

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on April 20, 2009, the Commission decided by a vote of 6-0 to take the following actions in AF 1906:


1. Adopt the Reviewing Officer recommendation for AF 1906 involving USAFarmworkerPAC and Stuart J. Mitchell, as Treasurer, in making the final determination.
2. Make a final determination in AF 1906 that USAFarmworkerPAC and Stuart J. Mitchell, as Treasurer violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$1,400.
3. Send the appropriate letter.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and

Weintraub voted affirmatively for the decision.

Attest:

April 21, 2009
Date


Mary W. Dove
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 7, 2009

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Stuart J. Mitchell, as Treasurer
USAFarmworkerPAC
8 Reginald Circle
Rochester, NY 14625

C00377549
AF# 1906

Dear Mr. Mitchell:

On December 10, 2008, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that USAFarmworkerPAC and you, as Treasurer, violated 2 U.S.C. § 434(a) for failing to file the 2008 October Quarterly Report, an election sensitive report. By letter dated December 11, 2008, the Commission sent you notification of the RTB finding that included a civil money penalty calculated at RTB of \$1,400 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On January 13, 2009, 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 USAFarmworkerPAC and you, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty in the amount of \$1,400 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 February 26, 2009.

On March 17, 2009, the Commission received the \$1,400 civil money penalty payment.

On April 20, 2009, the Commission adopted the Reviewing Officer's recommendation and made a final determination that USAFarmworkerPAC and you, as Treasurer, violated 2 U.S.C. § 434(a) and assessed a civil money penalty of \$1,400. A copy of the final determination recommendation is attached.

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

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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

29092630605

QUALITY IS OUR PRIORITY FOR LOCKBOX 9058
SEQ# 002 \$ 00014000 BA# 1 03-16-09 20 3



USAFARMWORKERPAC
ATTN: STUART MITCHELL
8 REGINALD CIRCLE
ROCHESTER, NY 14625-1036

citigroup 1119
SMITHBARNEY

March 4, 2009 Date 55-7265/212

Pay to the Federal Election Commission \$ 1400.00
Order of *Donations* 20/100 Dollars

FINANCIAL MANAGEMENT ACCOUNT
800-433-7248
Citibank, N.A. Englewood Cliffs, N.J.

Stuart Mitchell



FOR: USAFarmworkerPAC

FEC ID#: C00377549

AF#: 1906

PAYMENT DUE DATE: 1/19/2009

PAYMENT AMOUNT DUE: \$1,400

25-10



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 1906

DATE SCANNED 6/15/09

SCANNER NO. 1

SCAN OPERATOR Jmp

29092630607