



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 1944

DATE SCANNED 8-10-89

SCANNER NO. 2

SCAN OPERATOR JMB

29092634836



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

FEDERAL ELECTION COMMISSION
SECRETARIAT

2008 DEC 23 P 12:24

December 23, 2008

SENSITIVE

MEMORANDUM

TO: THE COMMISSION

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

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

PATRICIA CARMONA *PC*
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

BY: *NJ* NATALIYA IOFFE/RHIANNON MAGRUDER/CHRIS RITCHEE *RM*
COMPLIANCE BRANCH *CR*

SUBJECT: REASON TO BELIEVE RECOMMENDATION – 2008 12 DAY PRE-
GENERAL REPORT (UNAUTHORIZED COMMITTEES – MONTHLY
FILERS) FOR THE ADMINISTRATIVE FINE PROGRAM

Attached is a list of political committees and their treasurers who failed to file or timely file the 2008 12 Day Pre-General Report in accordance with 2 U.S.C. 434(a). The list is comprised of unauthorized committees that file monthly.

The committees appearing on the list 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 November 4, 2008 General Election (considered a non-filed report). In accordance with the schedule of civil money penalties at 11 CFR 111.43, these committees should be assessed the civil money penalties outlined on the attached Reason to Believe (RTB) circulation list.

Recommendation

1. Find reason to believe that the political committees and their treasurers listed on the RTB Circulation Report violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalties would be the amounts indicated on the RTB Circulation Report.
2. Send the appropriate letters.

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Federal Election Commission
Reason to Believe Circulation Report
2008 PRE-GENERAL Election Sensitive 10/23/2008 UNAUTH_M

AF#	Committee ID	Committee Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
1934	C00005462	10TH DISTRICT REPUBLICAN CONGRESSIONAL COMMITTEE	MR. WALTER J. HELM	\$177,197	0	11/10/2008	Not Filed	\$17,940	\$900
1935	C00214304	DELHAIZE AMERICA POLITICAL ACTION COMMITTEE	TEROSS W. YOUNG	\$102,626	0	11/12/2008	Not Filed	\$441	\$441
1936	C00330647	ECHOSTAR CORPORATION AND DISH NETWORK CORPORATION PAC (ECHOSTAR DISH NETWORK PAC)	DAVID R. GOODFRIEND	\$792,293	0	10/29/2008	6	\$13,973	\$210
1937	C00370221	GREEN PARTY OF THE UNITED STATES	JODY T. GRAGE	\$1,470,195	0	10/31/2008	Not Filed	\$25,619	\$1,400
1938	C00200139	HERSHEY COMPANY POLITICAL ACTION COMMITTEE; THE	RICHARD G. RUSSELL	\$106,104	0	11/10/2008	Not Filed	\$3,104	\$500

1940	C00283135	NATIONAL ASSOCIATION OF HEALTH UNDERWRITERS PAC (HUPAC)	JENNIFER MURPHY	\$1,195,514	0	11/10/2008	Not Filed	\$10,913	\$900
1941	C00101204	NATIONAL FISHERIES INSTITUTE (FISHPAC)	JOHN P. CONNELLY	\$247,465	0	11/17/2008	Not Filed	\$45,750	\$1,400
1942	C00032797	NATIONAL GOOD GOVERNMENT FUND	MR. THOMAS P. MARINIS, JR.	\$125,462	0	11/10/2008	Not Filed	\$1,000	\$500
1943	C00370015	NELNET INC PAC (NELNET PAC)	BEN KISER	\$482,803	0	11/19/2008	Not Filed	\$7,345	\$600

AF#	Committee ID	Committee Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
1944	C00159954	O'MELVENY & MYERS POLITICAL ACTION COMMITTEE	K. LEE BLALACK	\$158,632	0	11/11/2008	Not Filed	\$1,027	\$500

1946	C00274423	SACRAMENTO COUNTY DEMOCRATIC CENTRAL COMMITTEE: UNITED CAMPAIGN COMMITTEE - FEDERAL	WILLIAM GUY CROUCH, CPA EA	\$426,999	0	11/20/2008	Not Filed	\$40,903	\$1,400
1947	C00039503	SHELL OIL COMPANY EMPLOYEES' POLITICAL AWARENESS COMMITTEE	KEN KASNEY	\$248,289	0	11/11/2008	Not Filed	\$2,042	\$500
1948	C00292318	THERMO FISHER SCIENTIFIC INC. PAC	STACY CORDIER	\$234,595	0	11/5/2008	Not Filed	\$1,466	\$500
1949	C00417352	TRONOX INC. PAC	MICHAEL FOSTER	\$175,015	0	11/7/2008	Not Filed	\$5,000	\$600

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Reason To Believe Recommendation - 2008)
12 Day Pre-General Report (Unauthorized)
Committees – Monthly Filers) for the)
Administrative Fine Program:)
EHOSTAR CORPORATION AND DISH) AF# 1936
NETWORK CORPORATION PAC)
(EHOSTAR DISH NETWORK PAC),)
and GOODFRIEND, DAVID R as)
treasurer;)
10TH DISTRICT REPUBLICAN) AF# 1934
CONGRESSIONAL COMMITTEE, and)
HELM, WALTER J. MR. as treasurer;)
DELHAIZE AMERICA, INC. POLITICAL) AF# 1935
ACTION COMMITTEE, and YOUNG,)
TEROSS W as treasurer;)
GREEN PARTY OF THE UNITED) AF# 1937
STATES, and GRAGE, JODY T as)
treasurer;)
HERSHEY COMPANY POLITICAL) AF# 1938
ACTION COMMITTEE; THE, and)
RICHARD G RUSSELL as treasurer;)

NATIONAL ASSOCIATION OF) AF# 1940
HEALTH UNDERWRITERS PAC)
(HUPAC), and MURPHY, JENNIFER as)
treasurer;)
NATIONAL FISHERIES INSTITUTE) AF# 1941
(FISHPAC), and CONNELLY, JOHN P. as)
treasurer;)
NATIONAL GOOD GOVERNMENT) AF# 1942
FUND, and MARINIS, THOMAS P. MR.)
JR. as treasurer;)
NELNET INC PAC (NELNET PAC), and) AF# 1943
KISER, BEN as treasurer;)

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O'MELVENY & MYERS POLITICAL) AF# 1944
ACTION COMMITTEE, and BLALACK,)
K. LEE as treasurer;)

SACRAMENTO COUNTY) AF# 1946
DEMOCRATIC CENTRAL)
COMMITTEE: UNITED CAMPAIGN)
COMMITTEE - FEDERAL, and)
WILLIAM GUY CROUCH CPA EA as)
treasurer;)
SHELL OIL COMPANY EMPLOYEES') AF# 1947
POLITICAL AWARENESS)
COMMITTEE, and KASNEY, KEN as)
treasurer;)
THERMO FISHER SCIENTIFIC INC.) AF# 1948
PAC, and CORDIER, STACY as treasurer;)
TRONOX INC. PAC, and FOSTER,) AF# 1949
MICHAEL as treasurer;)

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on December 24, 2008 the Commission took the following actions on the Reason To Believe Recommendation - 2008 12 Day Pre-General Report (Unauthorized Committees – Monthly Filers) for the Administrative Fine Program as recommended in the Reports Analysis Division's Memorandum dated December 23, 2008, on the following committees:

AF#1936 Decided by a vote of 6-0 to: (1) find reason to believe that ECHOSTAR CORPORATION AND DISH NETWORK CORPORATION PAC (ECHOSTAR DISH NETWORK PAC), and GOODFRIEND, DAVID R 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#1934 Decided by a vote of 6-0 to: (1) find reason to believe that 10TH DISTRICT REPUBLICAN CONGRESSIONAL COMMITTEE, and HELM, WALTER J. MR. as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1935 Decided by a vote of 6-0 to: (1) find reason to believe that DELHAIZE AMERICA, INC. POLITICAL ACTION COMMITTEE, and YOUNG, TEROSS W 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#1937 Decided by a vote of 6-0 to: (1) find reason to believe that GREEN PARTY OF THE UNITED STATES, and GRAGE, JODY T 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#1938 Decided by a vote of 6-0 to: (1) find reason to believe that HERSHEY COMPANY POLITICAL ACTION COMMITTEE; THE, and RICHARD G RUSSELL 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#1940 Decided by a vote of 6-0 to: (1) find reason to believe that NATIONAL ASSOCIATION OF HEALTH UNDERWRITERS PAC (HUPAC), and MURPHY, JENNIFER 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#1941 Decided by a vote of 6-0 to: (1) find reason to believe that NATIONAL FISHERIES INSTITUTE (FISHPAC), and CONNELLY, JOHN P. as treasurer violated

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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#1942 Decided by a vote of 6-0 to: (1) find reason to believe that NATIONAL GOOD GOVERNMENT FUND, and MARINIS, THOMAS P. MR. 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#1943 Decided by a vote of 6-0 to: (1) find reason to believe that NELNET INC PAC (NELNET PAC), and KISER, BEN 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#1944 Decided by a vote of 6-0 to: (1) find reason to believe that O'MELVENY & MYERS POLITICAL ACTION COMMITTEE, and BLALACK, K. LEE 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#1946 Decided by a vote of 6-0 to: (1) find reason to believe that SACRAMENTO COUNTY DEMOCRATIC CENTRAL COMMITTEE: UNITED CAMPAIGN COMMITTEE - FEDERAL, and WILLIAM GUY CROUCH CPA EA 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#1947 Decided by a vote of 6-0 to: (1) find reason to believe that SHELL OIL COMPANY EMPLOYEES' POLITICAL AWARENESS COMMITTEE, and KASNEY, KEN 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

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

AF#1948 Decided by a vote of 6-0 to: (1) find reason to believe that THERMO FISHER SCIENTIFIC INC. PAC, and CORDIER, STACY 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#1949 Decided by a vote of 6-0 to: (1) find reason to believe that TRONOX INC. PAC, and FOSTER, MICHAEL 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.

Attest:

December 24, 2008
Date

Darlene Harris
for Mary W. Dove
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 29, 2008

K. Lee Blalack
O'Melveny & Myers Political Action Committee
1625 Eye Street, N.W.
Washington, DC 20006

C00159954
AF#: 1944

Dear K. Lee Blalack:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a 12 Day Pre-General Report of Receipts and Disbursements in a calendar year during which there is a regularly scheduled election. This report, covering the period through October 15, 2008, shall be filed no later than October 23, 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 General Election held on November 4, 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 12/24/2008, the FEC found that there is reason to believe ("RTB") that O'Melveny & Myers Political Action Committee and you, as treasurer, violated 2 U.S.C. 434(a) by failing to file timely this report on or before October 23, 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 \$500. It is due by 2/2/2009 and is based on these factors:

Election Sensitivity of Report: Election Sensitive
Level of Activity: \$1,027
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

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Review, 999 E Street, NW, Washington, DC 20463. Your response must be received by 2/2/2009. 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 O'melveny & Myers Political Action Committee and you, as treasurer, violated 2 U.S.C. 434(a) and assess a civil money penalty.

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

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. 437g(a)(2). It will remain confidential in accordance with 2 U.S.C. 437g(a)(4)(B) and 437g(a)(12)(A) until it is placed on

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the public record in accordance with 11 C.F.R. 111.42, unless you notify the FEC in writing that you wish the matter to be made public.

Additional information on the FEC's administrative fine program, including the final regulations, is located at the FEC's website at www.FEC.gov. If you have questions regarding the payment of the calculated civil money penalty, please contact Rhiannon Magruder in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

Sincerely,

A handwritten signature in black ink, appearing to read "DFM II", with a stylized flourish at the end.

Donald F. McGahn II
Chairman

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ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 C.F.R. 111.43, the amount of your civil money penalty calculated at RTB is \$500 for the 2008 Pre-General 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 2/2/2009. 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: O'melveny & Myers Political Action Committee

FEC ID#: C00159954

AF#: 1944

PAYMENT DUE DATE: 2/2/2009

PAYMENT AMOUNT DUE: \$500

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O'MELVENY & MYERS LLP

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FEDERAL ELECTION COMMISSION CENTER

BEIJING
BRUSSELS
CENTURY CITY
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LONDON
LOS ANGELES
NEWPORT BEACH

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OUR FILE NUMBER
637386-0003

WRITER'S DIRECT DIAL
(202) 383-5374

WRITER'S E-MAIL ADDRESS
lblalack@omm.com

February 2, 2009

BY HAND DELIVERY

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

Re: **Written Challenge to Reason to Believe Finding (AF# 1944)**

Dear Sir:

This letter is in response to your correspondence of December 29, 2008, and is submitted pursuant to the administrative fine process established by 2 U.S.C. § 437g(a)(4). Your correspondence concerned a finding by the Federal Election Commission ("FEC") that there exists reason to believe ("RTB") that the O'Melveny & Myers Political Action Committee ("OMMPAC") (Identification Number C00159954) and I, in my capacity as treasurer of OMMPAC, violated 2 U.S.C. § 434(a) by failing to file the 12 Day Pre-General Report of Receipts and Disbursements ("the Pre-General Report") that was due on or before October 23, 2008. Based on this RTB finding, your letter assesses a civil money penalty of \$500.

For the reasons set forth below, I believe that the RTB finding is in error, and should be set aside. In particular, OMMPAC's failure to file the Pre-General Report was the product of reasonably unforeseen circumstances that were beyond the control of OMMPAC and me personally. In early 2008, the OMMPAC administrator obtained a document from the FEC titled "Reporting Schedule for 2008." (See Declaration of Mary Stevens at 1 ("Dec.")). This document, attached to this submission as Exhibit 1, plainly states that the deadline for filing the Pre-General Report is November 23, 2008, and not October 23, 2008. In the period of over nine months between the administrator's receipt of the Reporting Schedule and the Pre-General Report's deadline, the OMMPAC administrator did not receive any communications from the FEC alerting her to the error contained in the Reporting Schedule for 2008. (Dec. at 1). Acting in reliance on the Reporting Schedule, the OMMPAC administrator concluded that the Pre-General Report was due on November 23, 2008. (Dec. at 1). On November 11, 2008, the administrator received a letter from the FEC stating that the Pre-General Report had been due on October 23, 2008. Within 24 hours of receiving this letter, the administrator had confirmed the

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FEC OFFICE OF
ADMIN REVIEW

filing deadline, prepared a report, and submitted a filing to the FEC (Filing ID : FEC-383325). (Dec. at 1). With this single exception, OMMPAC has always been diligent in meeting the FEC filing requirements, and has never before missed a deadline.

Under 11 CFR § 111.35(b)(3), an RTB can be set aside when “[t]he respondent was prevented from filing in a timely manner by reasonably unforeseen circumstances that were beyond the control of the respondent.” In this case, OMMPAC’s failure to file was the product of the administrator’s reliance on the FEC’s own Reporting Schedule which contained an inaccurate reporting deadline – circumstances which clearly qualify as both “reasonably unforeseen” and “beyond the control” of the OMMPAC and the administrator. Accordingly, this instance fits squarely within the grounds for setting aside an initial RTB finding.

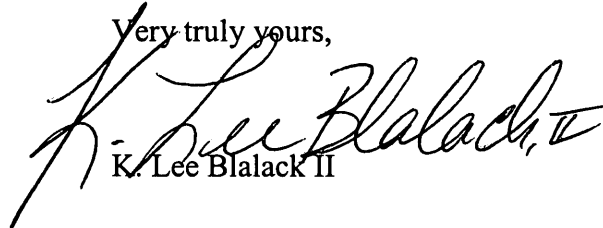
As an initial matter, the error contained in the report was “reasonably unforeseen” by the OMMPAC administrator. *Id.* In view of the FEC’s specialized expertise in the area of campaign finance reporting, it was reasonable for the administrator to assume that the “Reporting Schedule for 2008” would be accurate. This assumption was supported by the extended period of time (over nine months) that elapsed from the time that the administrator accessed the Reporting Schedule and the time the Pre-General Report was due. The agency thus had ample opportunity to notify the administrator that the Reporting Schedule for 2008 contained an error – because it did not do so, there simply was no reason for the administrator to suspect that the calendar provided by the FEC was in error.¹ In addition, the FEC’s inclusion of an incorrect date in the Reporting Schedule for 2008 was clearly “beyond the control” of OMMPAC and the administrator; neither the administrator nor any other person affiliated with OMMPAC has any influence or control over FEC publications or communications with the public. *Id.*

The applicability of § 111.35(b)(3) to this case further is supported by § 111.35(c), which sets out a non-exclusive list of circumstances that qualify as “reasonably unforeseen and beyond the control of the respondent.” Section 111.35(c), *inter alia*, indicates that failures to file attributable to the FEC itself, such as the “failure of Commission computers or Commission-provided software,” shall be considered reasonably unforeseen and beyond the control of the respondent. As set out above, OMMPAC’s failure to file the Pre-General Report in a timely fashion was the product of the FEC’s erroneous listing of the reporting deadline on its own Reporting Schedule; accordingly, the circumstances here are clearly analogous to certain of the examples provided in 11 CFR § 111.35(c).

¹ While a committee’s mere “failure to know filing dates” may not be considered reasonably unforeseen and beyond the control of a committee, 11 CFR § 111.35(d)(5), that is not the situation present in this case. Here, the FEC made an *affirmative statement* concerning a filing date, and the OMMPAC administrator relied on that statement in good faith. In other words, the OMMPAC’s failure to file was not the product of ignorance, but rather the product of erroneous representation by the FEC – a circumstance that the OMMPAC administrator neither could have reasonably foreseen nor controlled.

For each of the foregoing reasons, I request that the RTB be set aside, and that the Commission enter a finding that no violation of § 434(a) has occurred.

Very truly yours,



K. Lee Blalack II

Enclosures

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DECLARATION

1. I, Mary Stevens, declare that I am the administrator of the O'Melveny & Myers Political Action Committee.
2. The one-page document accompanying this declaration is a true copy of the "Reporting Schedule for 2008" document, which I obtained from the Federal Election Commission ("FEC") in early 2008.
3. From the time I obtained the Reporting Schedule for 2008 until November 11, 2008, when K. Lee Blalack II forwarded me a letter from Patricia Carmona, Assistant Staff Director of the Reports Analysis Division, I did not receive any correspondence from the FEC informing me that the Reporting Schedule for 2008 document contained an incorrect filing date for the 2008 12 Day Pre-General Report of Receipts and Disbursements.
4. Upon receipt of the November 11, 2008 letter from Patricia Carmona, I promptly prepared and filed the 12 Day Pre-General Report of Receipts and Disbursements (Filing ID : FEC-383325) that same day.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.


Signature


Date

29092634852

EXHIBIT 1

REPORTING SCHEDULE FOR 2008:

QUARTERLY FILERS

REPORT	REPORTING PERIOD¹	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
April Quarterly	01/01/08 - 03/31/08	04/15/08	04/15/08
July Quarterly	04/01/08 - 06/30/08	07/15/08	07/15/08
October Quarterly	07/01/08 - 09/30/08	10/15/08	10/15/08
Pre-General ²	10/01/08 - 10/15/08	10/20/08	10/23/08
Post-General	10/16/08 - 11/24/08	12/04/08	12/04/08
Year-End	11/25/08 - 12/31/08	01/31/09	01/31/09 ³

MONTHLY FILERS

REPORT	REPORTING PERIOD¹	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
February	01/01/08 - 01/31/08	02/20/08	02/20/08
March	02/01/08 - 02/29/08	03/20/08	03/20/08
April	03/01/08 - 03/31/08	04/20/08	04/20/08 ³
May	04/01/08 - 04/30/08	05/20/08	05/20/08
June	05/01/08 - 05/31/08	06/20/08	06/20/08
July	06/01/08 - 06/30/08	07/20/08	07/20/08 ³
August	07/01/08 - 07/31/08	08/20/08	08/20/08
September	08/01/08 - 08/31/08	09/20/08	09/20/08 ³
October	09/01/08 - 09/30/08	10/20/08	10/20/08
Pre-General	10/01/08 - 10/15/08	11/20/08	11/23/08
Post-General	10/16/08 - 11/24/08	12/04/08	12/04/08
Year-End	11/25/08 - 12/31/08	01/31/09	01/31/09 ³

¹These dates indicate the beginning and the end of the reporting period. A reporting period always begins the day after the closing date of the

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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.

²Required only if committee makes contributions or expenditures in connection with the election during the reporting period.

³Notice that this filing date falls on a weekend. Filing dates are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than Registered, Certified or Overnight Mail, or electronically, must be received before close of business on the last business day before the deadline.

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

29092634854



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Via First Class Mail

February 3, 2009

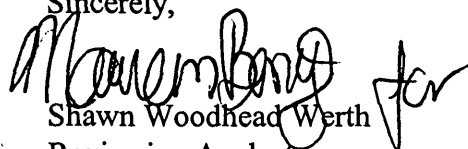
K. Lee Blalack, as Treasurer
O'Melveny & Myers Political Action Committee
1625 Eye Street, NW
Washington, DC 20006

C00159954
AF# 1944

Dear Mr. Blalack:

On February 2, 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 Analyst
Office of Administrative Review

29092634855

Date: February 10, 2009

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

AF#: 1944

Committee Name: O'Melveny & Myers Political Action Committee

Committee ID#: C00159954

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 23, 2008 and RTB Certification, dated December 24, 2008: Previously Forwarded

Attachment #: N/A

Certified Return Receipt (Y/N): Y

Attachment #: 1

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

-Prior Notice, dated August 27, 2008.

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

-RTB Letter, dated December 29, 2008.

Attachment #: 3

Other RAD Information (Y/N): N

Attachment#: N/A

29092634856

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:

K. Lee Blalack
 O'Melveny & Myers Political Action
 Committee
 1625 Eye Street, N.W.
 Washington, DC 20006

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 x *K Edwards* Agent
 Addressee

B. Received by (Printed Name) *K. Edwards* C. Date of Delivery *12/30/08*

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

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)

7008 1140 0000 9103 6907

PS Form 3811, February 2004

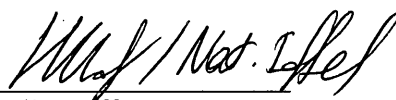
Domestic Return Receipt

102595-02-M-1540

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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 O'Melveny & Myers Political Action Committee:
 - A) Prior Notice, dated August 27, 2008, referencing the 2008 Pre-General Report (sent via electronic mail to: lblalack@omm.com);
 - B) Non-Filer Letter, dated November 7, 2008, referencing the 2008 Pre-General Report;
 - C) Reason-to-Believe Letter, dated December 29, 2008, referencing the 2008 Pre-General Report.
3. I hereby certify that I have searched the Commission's public records and find that O'Melveny & Myers Political Action Committee filed the 2008 Pre-General with the Commission on November 11, 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 10th day of February, 2009.


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

29092634858



**MONTHLY
REPORT NOTICE**

FEDERAL ELECTION COMMISSION

PARTIES AND PACS

August 27, 2008

**MONTHLY REPORTING SCHEDULE FOR
REMAINDER OF 2008**

REPORTING DATES

REPORT	REPORTING PERIOD ¹	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
September	08/01/08 - 08/31/08	09/20/08	09/20/08 ²
October	09/01/08 - 09/30/08	10/20/08	10/20/08
Pre-General	10/01/08 - 10/15/08	10/20/08	10/23/08
Post-General	10/16/08 - 11/24/08	12/04/08	12/04/08
Year-End	11/25/08 - 12/31/08	01/31/09	01/31/09 ²

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

¹These dates indicate the beginning and the end of the reporting period. A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered up through the close of books for the first report due.

²Notice that this filing deadline falls on a weekend. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than Registered, Certified or Overnight Mail, or electronically, must be received before the Commission's (or for committees supporting only Senate candidates, the Secretary of the Senate's) close of business on the last business day before the deadline.

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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

As a monthly filer, you must file monthly reports in 2008. 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 by 11:59 p.m. Eastern Time on the filing deadline. For additional information, call the Electronic Filing Office at (800) 424-9530 or (202) 694-1642 or visit our website at www.fec.gov/electfil/electron.shtml.

Under the Commission's mandatory electronic filing regulations, political committees that receive contributions or make expenditures, including independent expenditures, in excess of \$50,000 in a calendar year, or that have reason to expect to do so, must file all reports with the FEC electronically. Other 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.

Registered & Certified Mail

Monthly 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. Please 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.

Other Means of Filing

Monthly Reports filed by any other means—including first class mail and courier—must be received by the Commission (or for committees supporting only Senate candidates, the Secretary of the Senate) before the close of business on the last business day before the filing deadline.

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

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COMPLIANCE

Treasurer Responsibility. Treasurers of political committees are responsible for both the timeliness and the accuracy of all reports. They may be subject to monetary penalties if reports are inaccurate or are not filed on time. For additional information, see the Commission's *Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings* on the web site at www.fec.gov/law/policy/2004/notice2004-20.pdf.

Administrative Fine Program. Under the Administrative Fine Program, political committees and their treasurers who fail to file their reports on time may be subject to civil money penalties up to \$16,000 (or more for repeat late- and non-filers). For additional information, visit the FEC website at www.fec.gov/af/af.shtml.

Report Format. In addition, political committees that file illegible reports or use non-FEC forms (except for FEC-approved, computer-generated forms) will be required to refile their reports.

Electronic Filers Must File Electronically. Electronic filers who instead file on paper, or who submit an electronic report (either by direct transmission, 3.5" diskette or CD) that does not pass the validation program by 11:59 p.m. Eastern Time on the filing deadline, will be considered non-filers and may be subject to enforcement actions (including administrative fines).

48- AND 24-HOUR REPORTS OF INDEPENDENT EXPENDITURES

Any PAC or Party Committee that makes independent expenditures at any time during the calendar year—up to and including the 20th day before an election (including a special election)—are required to disclose this activity within 48 hours each time that the expenditures aggregate \$10,000 or more in connection with that election. This reporting requirement is in addition to the requirement to file 24-hour reports of independent expenditures each time disbursements for independent expenditures in connection with that election aggregate or exceed \$1,000 during the last 20 days—up to 24 hours—before an election. PACs and Party Committees must report independent expenditures that do not trigger the 48- or 24-hour reporting thresholds on their regularly-scheduled disclosure reports. See 11 CFR 104.4.

These reports are not required when a Party Committee or PAC makes a contribution directly to a candidate. For a chart of the 2008 48- and 24-hour reporting periods for independent expenditures, consult the FEC website at www.fec.gov/info/charts_ie_dates_prez.shtml.

CHANGE IN FILING FREQUENCY

Committees able to change their reporting schedule (for example, from monthly to quarterly) who wish to do so must notify the Commission in writing when filing a report under the committee's current schedule. All reports filed after providing such a notice of change in filing frequency must follow the new filing schedule. Electronic filers must file this request electronically. Committees may change their filing frequency no more than once per calendar year.

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



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 7, 2008

RQ-7

LEE BLALACK, TREASURER
O'MELVENY & MYERS POLITICAL ACTION COMMITTEE
1625 EYE STREET, NW
WASHINGTON, DC 20006-4001

IDENTIFICATION NUMBER: C00159954

REFERENCE: PRE-GENERAL REPORT 10/1/2008 - 10/15/2008

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 CHRISTOPHER RITCHIE AT OUR TOLL FREE NUMBER (800)424-9530. OUR DIRECT LOCAL NUMBER IS (202)694-1130.

SINCERELY,

A handwritten signature in cursive script that reads "Patricia Carmona".

PATRICIA CARMONA
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION (RAD)

28039914289292634862



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

2009 MAR 31 P 1:44

March 30, 2009

MEMORANDUM

SENSITIVE

To: The Commission

Through: Robert A. Hickey
Staff Director

From: John D. Gibson
Chief Compliance Officer

Shawn Woodhead Wert
Reviewing Officer
Office of Administrative Review

By: Maureen Benitz
Reviewing Analyst

Subject: AF# 1944 – O'Melveny & Myers Political Action Committee and K.
Lee Black, as Treasurer (C00159954)

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 30, 2009

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

AF# 1944 – O'Melveny & Myers Political Action Committee and K. Lee Blalack, as
Treasurer (C00159954)

On December 24, 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-General Report and made a preliminary determination that the civil money penalty was \$500 based on the schedule of penalties at 11 C.F.R. § 111.43. They were notified by the Reports Analysis Division ("RAD") on December 29, 2008 of the Commission's RTB finding and civil money penalty.

Respondents' Response

On February 2, 2009, the Commission received the written response and Mary Stevens' declaration ("challenge") from the Treasurer who asks that the RTB finding be set aside. He argues that they were prevented from filing in a timely manner by reasonably unforeseen circumstances that were beyond their control. Specifically, Ms. Stevens, the Committee administrator, obtained a notice from the Commission in early 2008 titled "Reporting Schedule for 2008," which listed the filing deadline for the 12 Day Pre-General Report as November 23, 2008. He states that the error in reporting deadlines was reasonably unforeseen by the administrator, especially since no correction was forthcoming from the Commission. While failure to know filing dates is listed in at 11 C.F.R. § 111.35(d)(5) as a reason that may not be considered reasonably unforeseen and beyond the control of the Committee, he contends that this situation falls outside that definition because the Commission itself provided the filing dates on which they relied in good faith. Lastly, within 24 hours of receiving the November 11 letter, the administrator filed the report and the Committee has never before missed a deadline. In addition to Ms. Stevens' declaration, the Treasurer includes (at Exhibit 1) 2 pages of the "Reporting Schedule for 2008."

Analysis

The 12 Day Pre-General Report was filed on November 11, 2008, 19 days late.

The Federal Election Campaign Act ("Act") states that, in lieu of filing the report due in November of any year in which a regularly scheduled general election is held, the treasurer of a political committee not authorized by a candidate shall file a 12 day pre-election report no later than the 12th day before the election. 2 U.S.C. § 434(a)(4)(B) and 11 C.F.R. § 104.5(c)(3)(ii). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

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The Treasurer states that they obtained a notice in early 2008 with the filing dates for the 2008 reports, which listed the due date for the 12 Day Pre-General Report as November 23, 2008. He provided the notice which does incorrectly indicate the filing deadline for monthly filers to be November 23, 2008. Subsequent prior notices had the correct due date (see for example the August 2008 notice included with RAD's declaration) but did not alert monthly filers to disregard the 12 Day Pre-General Report's due date in the original notice because it was wrong.

The Treasurer asserts that they used their best efforts to file the report on time. The best efforts defense is a two-part test: the respondents used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances that were beyond their control and they filed the report no later than 24 hours after the end of these circumstances. The regulations include examples of circumstances which are not reasonably unforeseen or beyond respondents' control, one of which is a Committee's failure to know filing dates. 11 C.F.R. § 111.35(b)(3) and (d).

While the failure to know filing dates is not considered a reasonably unforeseen circumstance, the Reviewing Officer recognizes that the Commission provided the incorrect due date on the original prior notice and did not advise committees in later prior notices that it was wrong.

The Reviewing Officer, therefore, recommends that the Commission take no further action and close the file.

OAR Recommendations

- (1) Adopt the Reviewing Officer recommendation for AF# 1944 involving the O'Melveny & Myers Political Action Committee and K. Lee Blalack, as Treasurer, in making the final determination;
- (2) Take no further action in AF# 1944 that the O'Melveny & Myers Political Action Committee and K. Lee Blalack, as Treasurer, violated 2 U.S.C. § 434(a) and close the file; and
- (3) Send the appropriate letter.

Reviewing Analyst: Maureen Benitz

Attachments

Attachment 1 – Challenge Received from Respondents

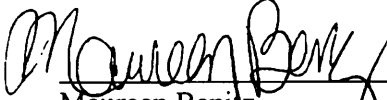
Attachment 2 – Declaration from RAD

Attachment 3 – Declaration from OAR

29092634865

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 12 Day Pre-General Report is due October 23, 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 October 23 to be timely filed.
- 3) I hereby certify that I have searched the Commission's public records and that the documents identified herein are the true and accurate copies of;
 - a) Page 1 of the Summary Page for the 2008 12 Day Pre-General Report electronically filed by O'Melveny & Myers Political Action Committee and K. Lee Blalack, as Treasurer. According to Commission records, the report was received on November 11, 2008; and
 - b) letter dated November 11, 2008, addressed to Patricia Carmona from the O'Melveny & Myers Political Action Committee and K. Lee Blalack, as Treasurer. According to Commission records, the letter was received November 25, 2008. It references the 12 Day Pre-General Report and says the Committee "was going by guidelines dated January 2, 2008 (copy enclosed) which notes '11/23/2008' as the filing deadline." Attached to the letter is a 2 page reporting schedule for 2008. The filing deadline is listed as November 23, 2008 for monthly filers.
- 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 30th of March 2009.



Maureen Benitz
Reviewing Analyst
Office of Administrative Review
Federal Election Commission

29092634866

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

O'MELVENY & MYERS POLITICAL ACTION COMMITTEE

ADDRESS (number and street)

1625 EYE STREET, NW

Check if different than previously reported. (ACC)

WASHINGTON

DC

20006

4001

2. FEC IDENTIFICATION NUMBER CITY STATE ZIPCODE

C00159954

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

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 Quarterly Report(YE)
July 31 Mid-Year Report(Non-election Year Only) (MY)
Termination Report (TER)

Table with columns for report due dates: Feb 20 (M2), May 20 (M5), Aug 20 (M8), Nov 20 (M11), Mar 20 (M3), Jun 20 (M6), Sep 20 (M9), Dec 20 (M12), 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 11 04 2008 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 10 01 2008 through 10 15 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 K. Lee Blalack

Signature of Treasurer Electronically Filed by K. Lee Blalack Date 11 11 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 grid

FEC FORM 3X (Rev. 12/2004)

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O
O'MELVENY & MYERS LLP RECEIVED
FEDERAL ELECTION
COMMISSION
REPORTS ANALYSIS
DIVISION

BEIJING
BRUSSELS
CENTURY CITY
HONG KONG
LONDON
LOS ANGELES
NEWPORT BEACH

1625 Eye Street, NW
Washington, D.C. 20006-4001
TELEPHONE (202) 383-5300
FACSIMILE (202) 383-5414
www.omm.com

2008 NOV 25 P 2: 18

NEW YORK
SAN FRANCISCO
SHANGHAI
SILICON VALLEY
SINGAPORE
TOKYO

November 11, 2008

Ms. Patricia Carmona
Assistant Staff Director
Reports Analysis Division
Federal Election Commission
999 E Street, NW
Washington, DC 20463

OUR FILE NUMBER
637,386-001

WRITER'S DIRECT DIAL
(202) 383-5374

WRITER'S E-MAIL ADDRESS
lblalack@omm.com

Re: **C00159954 - Pre-General Report - 10/1-15/2008**

Dear Ms. Carmona:

As Treasurer of the O'Melveny & Myers Political Action Committee, Identification Number C00159954, I am writing in response to your letter of November 7, 2008, regarding non-compliance of October 23, 2008 filing deadline for the Pre-General Report. The administrator who prepares O'Melveny & Myers PAC report, was going by guidelines dated January 2, 2008 (copy enclosed) which notes "11/23/2008" as the filing deadline. This individual was not aware that the filing deadline had been amended until today when reviewing the FEC website after receipt of your letter. Immediately after determining that O'Melveny was in non-compliance the report was prepared and electronically filed at 12:49 p.m. with the FEC (Filing ID : FEC-383325). O'Melveny & Myers has always been diligent in meeting the FEC filing requirements and therefore request you take this explanation into consideration. Thank you in advance.

Sincerely,



K. Lee Blalack II
Treasurer, O'Melveny & Myers Political Action
Committee

KLB:mfs

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REPORTING SCHEDULE FOR 2008:

QUARTERLY FILERS

REPORT	REPORTING PERIOD ¹	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
April Quarterly	01/01/08 - 03/31/08	04/15/08	04/15/08
July Quarterly	04/01/08 - 06/30/08	07/15/08	07/15/08
October Quarterly	07/01/08 - 09/30/08	10/15/08	10/15/08
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June	05/01/08 - 05/31/08	06/20/08	06/20/08
July	06/01/08 - 06/30/08	07/20/08	07/20/08 ¹
August	07/01/08 - 07/31/08	08/20/08	08/20/08
September	08/01/08 - 08/31/08	09/20/08	09/20/08 ¹
October	09/01/08 - 09/30/08	10/20/08	10/20/08
Pre-General	10/01/08 - 10/15/08	10/20/08	11/23/08
Post-General	10/16/08 - 11/24/08	12/04/08	12/04/08
Year-End	11/25/08 - 12/31/08	01/31/09	01/31/09 ³

¹ 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

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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.

²Required only if committee makes contributions or expenditures in connection with the election during the reporting period.

³Notice that this filing date falls on a weekend. Filing dates are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than Registered, Certified or Overnight Mail, or electronically, must be received before close of business on the last business day before the deadline.

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA OVERNIGHT DELIVERY

April 1, 2009

K. Lee Blalack, as Treasurer
O'Melveny & Myers Political Action Committee
1625 Eye Street, NW
Washington, DC 20006

C00159954
AF# 1944

Dear Mr. Blalack:

On December 24, 2008, the Federal Election Commission ("Commission") found reason to believe ("RTB") that O'Melveny & Myers Political Action Committee and you, as Treasurer ("respondents"), violated 2 U.S.C. § 434(a) for failing to file the 2008 12 Day Pre-General Report. The Commission also made a preliminary determination that the civil money penalty was \$500 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 cursive script that reads "Maureen Benitz".

Maureen Benitz
Reviewing Analyst
Office of Administrative Review

Attachment

29092634871



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

2009 APR 27 A 10:31

April 23, 2009

MEMORANDUM

SENSITIVE

To: The Commission

Through: Robert A. Hickey
Staff Director

From: John D. Gibson
Chief Compliance Officer

Shawn Woodhead Wert
Reviewing Officer
Office of Administrative Review

By: Maureen Benitz
Reviewing Analyst

Subject: Final Determination Recommendation in AF# 1944 - O'Melveny & Myers Political Action Committee and K. Lee Blalack, as Treasurer (C00159954)

On December 24, 2008, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to file the 12 Day Pre-General Report. The Commission also made a preliminary determination that the civil money penalty was \$500 based on the schedule of penalties at 11 C.F.R. § 111.43.

On February 2, 2009, the Commission received the respondents' written response ("challenge"). After reviewing the challenge, the Reviewing Officer's recommendation dated March 30, 2009 was forwarded to the Commission, a copy was sent to the respondents, and is hereby incorporated by reference. The Reviewing Officer recommended that the Commission take no further action and close the file as the Commission provided the incorrect due date for this report on the December 2007 prior notice sent to the Committee and did not advise committees in later prior notices that it was wrong.

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 raised in the respondents' challenge or not directly responsive to the Reviewing Officer's

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recommendation. 11 C.F.R. § 111.36(f). To date, no response has been received.

OAR Recommendations

- (1) Adopt the Reviewing Officer recommendation for AF# 1944 involving the O'Melveny & Myers Political Action Committee and K. Lee Blalack, as Treasurer, in making the final determination;
- (2) Take no further action in AF# 1944 that the O'Melveny & Myers Political Action Committee and K. Lee Blalack, as Treasurer, violated 2 U.S.C. § 434(a) and close the file; and
- (3) Send the appropriate letter.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
 Final Determination Recommendation:) AF 1944
 O'Melveny & Myers Political Action)
 Committee and K. Lee Blalack, as)
 Treasurer (C00159954))

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on May 07, 2009, the Commission decided by a vote of 5-0 to take the following actions in AF 1944:

1. Adopt the Reviewing Officer recommendation for AF 1944 involving the O'Melveny & Myers Political Action Committee and K. Lee Blalack, as Treasurer, in making the final determination.
2. Take no further action in AF 1944 that the O'Melveny & Myers Political Action Committee and K. Lee Blalack, as Treasurer, violated 2 U.S.C. § 434(a) and close the file.
3. Send the appropriate letter.

Commissioners Bauerly, Hunter, McGahn II, Petersen, and Weintraub voted affirmatively for the decision. Commissioner Walther did not vote.

Attest:

May 7, 2009
 Date

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

29092634874



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 26, 2009

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

K. Lee Blalack, as Treasurer
O'Melveny & Myers Political Action Committee
1625 Eye Street, NW
Washington, DC 20006

C00159954
AF# 1944

Dear Mr. Blalack:

On December 24, 2008, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that the O'Melveny & Myers Political Action Committee and you, as Treasurer, violated 2 U.S.C. § 434(a) for failing to file the 2008 12 Day Pre-General Report. By letter dated December 29, 2008, the Commission sent you notification of the RTB finding that included a civil money penalty calculated at RTB of \$500 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On February 2, 2009, the Office of Administrative Review received the written response and Mary Stevens' declaration, challenging the RTB finding.

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 take no further action because the Commission provided the incorrect due date for this report on the original prior notice sent to the Committee and did not advise committees in later prior notices that it was wrong. The basis for the Reviewing Officer's recommendation was included in the Final Determination Report, a copy of which was sent to you on April 1, 2009.

On May 7, 2009, the Commission adopted the Reviewing Officer's recommendation to take no further action against the respondents with respect to 2 U.S.C. § 434(a). 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, 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

29092634876



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 1944

DATE SCANNED 8-10-09

SCANNER NO. 2

SCAN OPERATOR JmJ

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