



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 1950

DATE SCANNED 4-28-09

SCANNER NO. 2

SCAN OPERATOR JnU

29092624307



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 8, 2009

SENSITIVE

MEMORANDUM

TO: THE COMMISSION

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

JOHN D. GIBSON *JDG*
CHIEF COMPLIANCE OFFICER

FROM: PATRICIA CARMONA *PC*
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

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

SUBJECT: REASON TO BELIEVE RECOMMENDATION -
FAILURE TO FILE 48-HOUR NOTICES UNDER THE
ADMINISTRATIVE FINE PROGRAM

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RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

29092624308

Attached is the name of a principal campaign committee that has failed to file 48-hour notices with the Commission for contributions of \$1,000.00 or more received from the close of books for the Louisiana 12 Day Pre-Primary Election Report up to 48 hours before the October 4, 2008 Primary Election in accordance with 2 U.S.C. § 434(a)(6) and 11 C.F.R. § 104.5(f). The committee, Harlan for Congress, represents a candidate who won the Primary Election in the state of Louisiana. The committee is being referred for failing to file 48-hour notices for contributions totaling \$112,300.00¹.

A 48-hour notice is required to report all contributions of a \$1,000.00 or more, to any authorized committee of a candidate, including contributions from the candidate, loans from the candidate and other non-bank sources and endorsements or guarantees of loans from banks, as per, 11 C.F.R § 104.5(f).

¹ The committee's 48-hour notice period was 9/15/2008 - 10/1/2008. The contributions received during this time were reported on the October Quarterly Report (9/15/2008 - 9/30/2008) and 12 Day Pre-General Report (10/1/2008 - 10/15/2008).

We have attached an information sheet which includes the contributor name, date of receipt and amount of the contributions for which a 48-hour notice was not filed.

In accordance with the schedule of civil money penalties outlined within 11 C.F.R §111.44, this committee should be assessed the civil money penalty so indicated.

Recommendation

1. Find reason to believe that Harlan for Congress and Russell Butz, Treasurer, violated 2 U.S.C. § 434(a)(6) and make a preliminary determination that a civil money penalty of \$11,560.00 be assessed.
2. Send the appropriate letter.

Attachment

29092624309

Contributions for Which a 48-Hour Notice Was Not Received

AF 1950

Committee ID: C00451674

Committee Name: Harlan for Congress

Report Type: October Quarterly Report (9/15/2008 – 9/30/2008

12 Day Pre-General Report (10/1/2008 – 10/15/2008)

48-Hour Reporting Period: 9/15/2008 – 10/1/2008

| CONTRIBUTOR NAME | DATE | AMOUNT |
|------------------------------|--------------|---------------------|
| Bruno, Joseph M. | 9/25/2008 | \$2,300.00 |
| Plumbers & Steamfitters # 60 | 9/25/2008 | \$5,000.00 |
| Harlan, James K. | 9/25/2008 | \$25,000.00 |
| NCEC | 9/26/2008 | \$2,500.00 |
| Harlan, James K. | 9/26/2008 | \$75,000.00 |
| IBEW--Local 130 | 10/1/2008 | \$2,500.00 |
| | TOTAL | \$112,300.00 |

Proposed Civil Money Penalty: \$11,560.00 ((3 Notices Not Filed at \$110 each) + (10% of Overall Contributions Not Filed))

29092624310

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Reason To Believe Recommendation –) AF 1950
Failure to File 48-Hour Notices Under)
The Administrative Fine Program:)
Harlan for Congress and Russell Butz,)
Treasurer)

CERTIFICATION

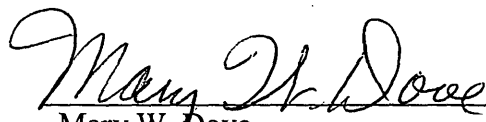
I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on January 13, 2009, the Commission decided by a vote of 6-0 to take the following actions in AF 1950:

1. Find reason to believe that Harlan for Congress and Russell Butz, Treasurer, violated 2 U.S.C. § 434(a)(6) and make a preliminary determination that a civil money penalty of \$11,560.00 be assessed.
2. Send the appropriate letter.

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

Attest:

January 14, 2009
Date


Mary W. Dove
Secretary of the Commission

29092624311



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 23, 2009

Russell Butz as Treasurer
Harlan for Congress
P.O. Box 1849
Lacombe, LA 70445

C00451674
AF#: 1950

Dear Mr. Butz:

The Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431, *et seq.* ("the Act"), requires principal campaign committees of candidates for federal office to notify in writing either the Secretary of the Senate or the Federal Election Commission ("FEC"), and the Secretary of State, as appropriate, of any contribution of \$1,000 or more, received by any authorized committee of the candidate after the 20th day, but more than 48 hours before, any election. 2 U.S.C. § 434(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. *Id.* The notification of these contributions shall be in addition to all other reporting requirements. 2 U.S.C. § 434(a). The Act was 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). Our records indicate that Harlan for Congress did not submit 48-Hour Notices for contributions of \$1,000 or more, received between 9/15/2008 and 10/1/2008, totaling \$112,300, as required by 2 U.S.C. § 434(a)(6)(A). *See* Attachment 1.

On January 13, 2009, the FEC found that there is Reason to Believe ("RTB") that Harlan for Congress and you as treasurer violated 2 U.S.C. § 434(a) by failing to file the 48-Hour Notices. Based on the FEC's schedule of civil money penalties at 11 C.F.R. § 111.44, the amount of your civil money penalty calculated at the RTB stage is \$11,560. Please see the attached copy of the Commission's administrative fine regulations at 11 C.F.R. §§ 111.30-11.46. Attachment 2. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. *See* <http://www.fec.gov/af/af.shtml>. 11 C.F.R. § 111.34. The amount of the civil money penalty is \$110 for each non-filed notice plus 10 percent of the dollar amount of the contributions not timely reported. The civil money penalty increases by 25 percent for each prior violation. Send your payment within forty (40) days of the finding, or by February 22, 2009.

29092624312

To Pay the Calculated Civil Money Penalty

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with 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

If you should decide 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 within forty (40) days of the Commission's RTB finding, or February 22, 2009.

11 C.F.R. § 111.35(a). 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. 11 C.F.R. § 111.35(b). 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. *Id.* 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. 11 C.F.R. § 111.35(c). **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.** 11 C.F.R. § 111.35(d). 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. § 111.36(c).

Pursuant to the Commission's regulations, the "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.

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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 Harlan for Congress and you as treasurer violated 2 U.S.C. § 434(a) and assess a civil money penalty.

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

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

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. 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.

On behalf of the Commission,



Steven T. Walther
Chairman

29092624314

ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 C.F.R. § 111.44, the amount of your civil money penalty calculated at RTB is \$11,560 for the 2008 Primary Election 48-Hour Notification 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 2/22/2009. 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: Harlan for Congress

FEC ID#: C00451674

AF#: 1950

PAYMENT DUE DATE: 2/22/2009

PAYMENT AMOUNT DUE: \$11,560

29092624315



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

FEDERAL ELECTION COMMISSION
SECRETARIAT

2009 FEB 27 P 4: 01

February 25, 2009

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

SUBJECT: FINAL DETERMINATION RECOMMENDATION –
FAILURE TO FILE 48-HOUR NOTICES UNDER THE
ADMINISTRATIVE FINE PROGRAM

Attached is a circulation report identifying a political committee and its treasurer against which the Commission has found reason to believe (RTB) and assessed a proposed civil money penalty calculated at RTB for failure to file the appropriate 48-Hour Notices for the 2008 Primary Election in Louisiana. The committee has paid the civil money penalty requested at RTB.

In accordance with 11 C.F.R. 111.34, the Commission shall send a final determination notice to the respondent that has paid the civil money penalty.

RAD Recommendation

- (1) Make final determination that the political committee and its treasurer on the attached report violated 2 U.S.C. 434(a) and assess the final civil money penalty so indicated.
- (2) Send the appropriate letter.

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| AF# | Committee Name | State | Candidate Name | Committee ID | Treasurer | Report Type | Receipt Date | Election | LOA | Prev. Violations | RTB Date | RTB Penalty | FD Penalty | Date Paid | Amount Paid |
|------|---------------------|-------|-----------------------------|--------------|--------------|-------------|--------------|-----------------|-----------|------------------|------------|-------------|------------|------------|-------------|
| 1950 | HARLAN FOR CONGRESS | LA | HARLAN, JAMES KENNETH | C00451674 | RUSSELL BUTZ | 48H | 10/15/2008 | 2008 Primary | \$112,300 | 0 | 01/13/2009 | \$11,560 | \$11,560 | 02/23/2009 | \$11,560 |

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Final Determination Recommendation:) AF 1950
Failure to File 48-Hour Notices under the)
Administrative Fine Program: Harlan for)
Congress and Russell Butz, as Treasurer)

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on March 04, 2009, the Commission decided by a vote of 6-0 to take the following actions in AF 1950:

1. Make a final determination that Harlan for Congress and Russell Butz, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$11,560.
2. Send the appropriate letter.

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

Attest:

March 5 2009
Date

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

29092624318



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 12, 2009

Russell Butz as Treasurer
Harlan for Congress
P.O. Box 1849
Lacombe, LA 70445

C00451674
AF#: 1950

Dear Mr. Butz:

On January 13, 2009, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Harlan for Congress and you as treasurer violated 2 U.S.C. § 434(a) for failing to file 48-Hour Notices for contributions of \$1,000 or more, received between September 15, 2008 and October 1, 2008, totaling \$112,300. By letter dated January 23, 2009, the Commission sent you notification of the RTB finding that included a civil money penalty calculated at the RTB stage of **\$11,560** in accordance with the schedule of penalties at 11 C.F.R. § 111.44.

On February 23, 2009, the FEC received payment of your civil money penalty calculated at the RTB stage. The FEC made a final determination on March 4, 2009 that you as treasurer and Harlan for Congress violated 2 U.S.C. § 434(a), assessed a civil money penalty in the amount of **\$11,560** in accordance with 11 C.F.R. § 111.44 and voted to close the file.

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

If you have any questions regarding this matter, please contact Rhiannon Magruder on our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130.

On behalf of the Commission,

A handwritten signature in cursive script, which appears to read "Steven T. Walther".

Steven T. Walther
Chairman

29092624319

PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Harlan for Congress

FEC ID#: C00451674

AF#: 1950

PAYMENT DUE DATE: 2/22/2009

PAYMENT AMOUNT DUE: \$11,560

QUALITY IS OUR PRIORITY FOR LOCKBOX 9058
SEQ# 001 \$ 0001156000 BA# 1 02-20-09 20 9



5618

JAMES K. HARLAN 7-89
OR MARY ELLEN M HARLAN

Date February 19, 2009 11/5/50

Pay to the Order of Federal Election Commission \$ 11,560.⁰⁰/₁₀₀

Eleven Thousand Five Hundred Sixty and ⁰⁰/₁₀₀ Dollars

Capital One
Capital One, N.A.
AF# 1950
For FEC ID# C00451674 James K. Harlan

29092624320



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 1957

DATE SCANNED 4-28-09

SCANNER NO. 2

SCAN OPERATOR JMP

29092624321