



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 2090

DATE SCANNED 8-10-09

SCANNER NO. 2

SCAN OPERATOR JMB

29092640670



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 20, 2009

SENSITIVE

MEMORANDUM

TO: THE COMMISSION

THROUGH: ROBERT A. HICKEY
STAFF DIRECTOR

FROM: JOHN D. GIBSON
CHIEF COMPLIANCE OFFICER

PATRICIA CARMONA
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

BY: ^{NLS} NATALIYA IOFFE/RHIANNON MAGRUDER
COMPLIANCE BRANCH

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

2009 APR 21 A 9:23

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

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 Texas 12 Day Pre-General Election Report up to 48 hours before the November 4, 2008 General Election in accordance with 2 U.S.C. § 434(a)(6) and 11 CFR. § 104.5(f). The committee, Rick Noriega for Texas, represents a candidate who lost the General Election. The committee is being referred for failing to file 48-hour notices for contributions totaling \$25,233.00.

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 CFR § 104.5(f).

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.

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

Recommendation

1. Find reason to believe that Rick Noriega for Texas and Bette John, Treasurer, violated 2 U.S.C. § 434(a)(6) and make a preliminary determination that a civil money penalty of \$3,073.00 be assessed.
2. Send the appropriate letter.

Attachment

29092640872

Contributions for Which a 48-Hour Notice Was Not Received

AF 2090

Committee ID: C00436659

Committee Name: Rick Noriega for Texas

Report Type: 30 Day Post-General Report (10/16/2008 – 11/24/2008)

48-Hour Reporting Period: 10/16/2008 – 11/1/2008

CONTRIBUTOR NAME	DATE	AMOUNT
MULLEN, MARK	10/16/2008	\$1,000.00
GLASSER, JAMES J.	10/17/2008	\$2,300.00
HARKINSON, WILLIAM	10/17/2008	\$1,000.00
WILSON, WILLIAM	10/19/2008	\$2,300.00
COGBURN, EDMUND	10/21/2008	\$1,000.00
GARCIA, AGUSTIN JR.	10/21/2008	\$1,000.00
ORTIZ, ROBERT	10/21/2008	\$1,000.00
SANDOVAL, KAROLINA	10/21/2008	\$1,200.00
WINKELMAN, SUZANNE	10/21/2008	\$1,000.00
ZICKLER, JUDITH	10/21/2008	\$2,300.00
ZICKLER, LEO E.	10/21/2008	\$2,300.00
TEXAS DEMOCRATIC PARTY	10/22/2008	\$5,000.00
THE LAW OFFICE OF JIM SOLIS	10/22/2008	\$2,333.00
THE NEA FUND FOR CHILDREN & PUBLIC EDUCATION PAC	10/22/2008	\$1,500.00
	TOTAL	\$25,233.00

Proposed Civil Money Penalty: \$3,073.00 ((5 Notices Not Filed at \$110 each) + (10% of Overall Contributions Not Filed))

29092640873

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Reason To Believe Recommendation –) AF 2090
Failure to File 48-Hour Notices Under)
the Administrative Fine Program: Rick)
Noriega for Texas)
)

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on April 22, 2009, the Commission decided by a vote of 6-0 to take the following actions in AF 2090:

1. Find reason to believe that Rick Noriega for Texas and Bette John, Treasurer, violated 2 U.S.C. § 434(a)(6) and make a preliminary determination that a civil money penalty of \$3073.00 be assessed.
2. Send the appropriate letter.

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

Attest:

April 22, 2009
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 28, 2009

Bette John as Treasurer
Rick Noriega for Texas
P.O. Box 231163
Houston, TX 77223

C00436659
AF#: 2090

Dear Ms. John:

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 Rick Noriega for Texas did not submit 48-Hour Notices for contributions of \$1,000 or more, received between October 16, 2008 and November 1, 2008, totaling \$25,233, as required by 2 U.S.C. § 434(a)(6)(A). *See* Attachment 1.

On April 22, 2009, the FEC found that there is Reason to Believe ("RTB") that Rick Noriega for Texas 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 \$3,073. 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 June 1, 2009.

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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 June 1, 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.

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

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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

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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 \$3,073 for the 2008 General 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 June 1, 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: Rick Noriega for Texas

FEC ID#: C00436659

AF#: 2090

PAYMENT DUE DATE: June 1, 2009

PAYMENT AMOUNT DUE: \$3,073

29092640878

Contributions for Which a 48-Hour Notice Was Not Received

AF 2090

Committee ID: C00436659

Committee Name: Rick Noriega for Texas

Report Type: 30 Day Post-General Report (10/16/2008 – 11/24/2008)

48-Hour Reporting Period: 10/16/2008 – 11/1/2008

CONTRIBUTOR NAME	DATE	AMOUNT
MULLEN, MARK	10/16/2008	\$1,000.00
GLASSER, JAMES J.	10/17/2008	\$2,300.00
HARKINSON, WILLIAM	10/17/2008	\$1,000.00
WILSON, WILLIAM	10/19/2008	\$2,300.00
COGBURN, EDMUND	10/21/2008	\$1,000.00
GARCIA, AGUSTIN JR.	10/21/2008	\$1,000.00
ORTIZ, ROBERT	10/21/2008	\$1,000.00
SANDOVAL, KAROLINA	10/21/2008	\$1,200.00
WINKELMAN, SUZANNE	10/21/2008	\$1,000.00
ZICKLER, JUDITH	10/21/2008	\$2,300.00
ZICKLER, LEO E.	10/21/2008	\$2,300.00
TEXAS DEMOCRATIC PARTY	10/22/2008	\$5,000.00
THE LAW OFFICE OF JIM SOLIS	10/22/2008	\$2,333.00
THE NEA FUND FOR CHILDREN & PUBLIC EDUCATION PAC	10/22/2008	\$1,500.00
TOTAL		\$25,233.00

Proposed Civil Money Penalty: \$3,073.00 ((5 Notices Not Filed at \$110 each) + (10% of Overall Contributions Not Filed))

29092640879



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

2009 JUN 24 A 10: 52

June 23, 2009

MEMORANDUM

SENSITIVE

TO: THE COMMISSION

THROUGH: ROBERT A. HICKEY
STAFF DIRECTOR *10. 24 June 09*

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

PATRICIA CARMONA *PC*
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

BY: NATALIYA IOFFE/RHIANNON MAGRUDER *NIO*
COMPLIANCE BRANCH *RML*

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 General Election. 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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Federal Election Commission
 Final Determination Circulation Report
 48-Hour Notification Report

AF#	Committee ID	Committee Name	State	Election	Candidate Name	Treasurer	Prev. Violations	Notices Not Filed	LOA	RTB Date	RTB Penalty	FD Penalty	Date Paid	Amount Paid
2090	C00436659	RICK NORIEGA FOR TEXAS	TX	2008 GENERAL	NORIEGA, RICHARD JOEL	BETTE JOHN	0	5	\$25,233	04/22/2009	\$3,073	\$3,073	06/09/2009	\$3,073

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Final Determination Recommendation -) AF 2090
Failure to File 48-Hour Notices under the)
Administrative Fine Program: Rick)
Noriega for Texas and Bette John, as)
treasurer)

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on June 25, 2009, the Commission decided by a vote of 6-0 to take the following actions in AF 2090:

1. Make a final determination that Rick Noriega for Texas and Bette John, as treasurer, violated 2 U.S.C. 434(a) and assess the final civil money penalty in the amount of \$3,073.
2. Send the appropriate letter.

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

Attest:

June 25, 2009
Date

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

29092640882



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 30, 2009

Bette John as Treasurer
Rick Noriega for Texas
P.O. Box 231163
Houston, TX 77223

C00436659
AF#: 2090

Dear Ms. John:

On April 22, 2009, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Rick Noriega for Texas and its treasurer violated 2 U.S.C. § 434(a) for failing to file 48-Hour Notices for contributions of \$1,000 or more, received between October 16, 2008 and November 1, 2008, totaling \$25,233. By letter dated April 28, 2009, the Commission sent notification of the RTB finding that included a civil money penalty calculated at the RTB stage of \$3,073 in accordance with the schedule of penalties at 11 C.F.R. § 111.44.

On June 9, 2009, the FEC received payment of the civil money penalty calculated at the RTB stage. The FEC made a final determination on June 25, 2009 that you as treasurer and Rick Noriega for Texas violated 2 U.S.C. § 434(a), assessed a civil money penalty in the amount of \$3,073 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, appearing to read "Steven T. Walther".

Steven T. Walther
Chairman

29092640883

FOR: Rick Noriega for Texas

FEC ID#: C00436659

AF#: 2090



PAYMENT DUE DATE: June 1, 2009

PAYMENT AMOUNT DUE: \$3,073

29092640884

QUALITY IS OUR PRIORITY FOR LOCKBOX 9058
SEQ# 001 \$ 0000307300 BA# 1 06-08-09 20 9



PATTON TECHNOLOGIES, LLC 2333 ALEXANDRIA DRIVE LEXINGTON, KY 40504		NATIONAL CITY 21-5-830	3380
PAY TO THE ORDER OF	Federal Election Commissoin ✓	6/1/2009 ✓	
	Three Thousand Seventy-Three and 00/100 ✓	\$ **3,073.00 ✓	DOLLARS
	Federal Election Commission ✓ PO Box 979058 St. Louis, MO 63197-9000		
MEMO			
			



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 2090

DATE SCANNED 8-10-09

SCANNER NO. 2

SCAN OPERATOR Jm13

29092640885