



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 2626

DATE SCANNED 5/15/13

SCANNER NO. 2

SCAN OPERATOR EES

13092683650



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2013 JAN 18 PM 4:17

January 18, 2013

MEMORANDUM

**SENSITIVE**

TO: The Commission

THROUGH: Alec Palmer *AP*  
Staff Director

FROM: Patricia C. Orrock *PCO*  
Chief Compliance Officer

Debbie Chacona *DC*  
Assistant Staff Director  
Reports Analysis Division

BY: Jodi Winship/Sari Pickerall *JW*  
Compliance Branch

SUBJECT: Reason To Believe Recommendation – 2012 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 2012 12 Day Pre-General Report in accordance with 2 U.S.C. 434(a). The 12 Day Pre-General Report was due on October 25, 2012 and the General Election was held on November 6, 2012. The list is comprised of unauthorized committees that file monthly.

The committees listed on the attached RTB Circulation Report either filed the election sensitive report more than five (5) days after the due date or failed to file the report prior to four (4) days before the General Election (considered a non-filed report). In accordance with the schedule of civil money penalties at 11 CFR 111.43, these committees should be assessed the civil money penalties highlighted on the attached circulation report.

**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  
2012 PRE-GENERAL Election Sensitive 10/25/2012 UNAUTH\_MONTHLY

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
2626	C00212787	DEMOCRATIC PARTY OF HAWAII		YURIKO J. SUGIMURA	\$1,759,439	0	11/6/2012	Not Filed	\$128,399	\$5,500

2628	C00233353	PROFESSIONALS IN ADVERTISING POLITICAL ACTION COMMITTEE - SOUTHERN COMPANY - SOUTHERN NUCLEAR OPERATING COMPANY, INC. PAC		DICK O'BRIEN	\$123,440	0	11/1/2012	7	\$1,200	\$125
2629	C00250407			ROBERT M. CANNON	\$202,627	1	11/20/2012	Not Filed	\$5,239	\$825

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Reason To Believe Recommendation - 2012 )  
12 Day Pre-General Report (Unauthorized )  
Committees - Monthly Filers) For The )  
Administrative Fine Program: )  
DEMOCRATIC PARTY OF HAWAII, ) AF# 2626  
and SUGIMURA, YURIKO J. as treasurer; )  
  
PROFESSIONALS IN ADVERTISING ) AF# 2628  
POLITICAL ACTION COMMITTEE, and )  
O'BRIEN, DICK as treasurer; )  
SOUTHERN COMPANY - SOUTHERN ) AF# 2629  
NUCLEAR OPERATING COMPANY, )  
INC. PAC, and CANNON, ROBERT M. as )  
treasurer; )

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on January 23, 2013 the Commission took the following actions on the Reason To Believe Recommendation - 2012 12 Day Pre-General Report (Unauthorized Committees - Monthly Filers) For The Administrative Fine Program as recommended in the Reports Analysis Division's Memorandum dated January 18, 2013, on the following committees:

AF#2626 Decided by a vote of 6-0 to: (1) find reason to believe that DEMOCRATIC PARTY OF HAWAII, and SUGIMURA, YURIKO J. 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#2628 Decided by a vote of 6-0 to: (1) find reason to believe that PROFESSIONALS IN ADVERTISING POLITICAL ACTION COMMITTEE, and O'BRIEN, DICK 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#2629 Decided by a vote of 6-0 to: (1) find reason to believe that SOUTHERN COMPANY - SOUTHERN NUCLEAR OPERATING COMPANY, INC. PAC, and CANNON, ROBERT M. 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:

January 23, 2013  
Date

Shawn Woodhead Werth  
Shawn Woodhead Werth  
Secretary and Clerk of the Commission

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

January 24, 2013

Yuriko J. Sugimura, in official capacity as Treasurer  
Democratic Party of Hawaii  
1050 Ala Moana Blvd., Ste. 2150  
Honolulu, HI 96814

C00212787  
AF#: 2626

Dear Mr. Sugimura:

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 17, 2012, shall be filed no later than October 25, 2012. 2 U.S.C. 434(a). Because records at the Federal Election Commission ("FEC") indicate that you did not file this report prior to four (4) days before the General Election held on November 6, 2012, the report is considered not filed for the purpose of calculating the civil money penalty.

The Act permits 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 January 23, 2013, the FEC found that there is reason to believe ("RTB") that Democratic Party of Hawaii and you, in your official capacity as treasurer, violated 2 U.S.C. 434(a) by failing to file timely this report on or before October 25, 2012. Based on the FEC's schedules of civil money penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$5,500. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.55. Attachment 1. 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 CFR § 111.34. Your payment of \$5,500 is due within forty (40) days of the finding, or by March 4, 2013, and is based on these factors:

Election Sensitivity of Report: Election Sensitive

Level of Activity: \$128,399

Number of Days Late: Not Filed (reports not filed prior to four (4) days before the General Election held on November 6, 2012 are considered not filed for the purpose of calculating the penalty)

Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

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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 at the top of page 1 under your committee's identification number, 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 March 4, 2013. 11 CFR § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and 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 CFR § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) 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 CFR § 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: (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

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 U.S. district court under 2 U.S.C. § 437g. 11 CFR § 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.

## **2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge**

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Democratic Party of Hawaii and you, in your official capacity 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

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action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 CFR § 111.51(a)(2).

**3. If You Choose to Pay the 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.

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 CFR § 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 Sari Pickerall 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,



Ellen L. Weintraub  
Chair

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**ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at RTB is \$5,500 for the 2012 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 March 4, 2013. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

**PAYMENTS BY PERSONAL CHECK**

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**  
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FOR: Democratic Party of Hawaii

FEC ID#: C00212787

AF#: 2626

PAYMENT DUE DATE: March 4, 2013

PAYMENT AMOUNT DUE: \$5,500

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2013 APR 12 PM 2: 57

**SENSITIVE**

April 12, 2013

**MEMORANDUM**

TO: The Commission

THROUGH: Alec Palmer *AP*  
Staff Director

FROM: Patricia C. Orrock *DC/PCO*  
Chief Compliance Officer

Debbie Chacona *DC*  
Assistant Staff Director  
Reports Analysis Division

BY: *W*odi Winship/Sari Pickeral *SP*  
Compliance Branch

SUBJECT: Administrative Fine Program – Final Determination Recommendation for the  
2012 12 Day Pre-General Report (Unauthorized Committees – Monthly  
Filers)

Attached are two lists of political committees and their treasurers against which the Commission has found reason to believe (RTB) and assessed proposed civil money penalties calculated at RTB for failure to file or failure to timely file the 2012 12 Day Pre-General Report. The first list represents the committees that have paid the civil money penalty and the second list represents the committee that has not paid the civil money penalty. The committee that has not paid has been given at least forty (40) days from the date of the Commission's RTB finding to remit payment.

In accordance with 11 CFR § 111.34 and 11 CFR § 111.40, the Commission shall send a final determination notice to those respondents that have either paid or not paid the civil money penalty.

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### **RAD Recommendation**

- (1) Make final determination that the political committees and their treasurers listed on the attached reports violated 2 U.S.C. § 434(a) and assess the final civil money penalties so indicated.**
- (2) Send the appropriate letters.**

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4/12/2013 10:33 AM

Federal Election Commission  
FD Circulation Report Fine Paid  
2012 PRE-GENERAL Election Sensitive 10/25/2012 UNAUTH\_M

AF#	Committee Name	Candidate Name	Committee ID	Treasurer	Receipt Date	Days Late	LOA	PV	RTB Date	RTB Penalty	Final Money Penalty	Date Paid	Amount Paid
2626	DEMOCRATIC PARTY OF HAWAII		C00212787	YURIKO J. SUGIMURA	11/06/2012	Not Filed	\$136,560	0	01/23/2013	\$5,500	\$5,500	03/11/2013	\$5,500
2628	PROFESSIONALS IN ADVERTISING POLITICAL ACTION COMMITTEE - SOUTHERN COMPANY - SOUTHERN NUCLEAR OPERATING COMPANY, INC. PAC.		C00233353	DICK O'BRIEN	11/01/2012	7	\$1,200	0	01/23/2013	\$125	\$125	02/27/2013	\$125
2629			C00250407	ROBERT M. CANNON	11/20/2012	Not Filed	\$5,239	1	01/23/2013	\$825	\$825	03/08/2013	\$825

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
)  
Administrative Fine Program - Final )  
Determination Recommendation for the 12 )  
Day Pre-General Report (Unauthorized )  
Committees - Monthly Filers): )  
DEMOCRATIC PARTY OF HAWAII, ) AF# 2626  
and SUGIMURA, YURIKO J. as treasurer; )  
  
PROFESSIONALS IN ADVERTISING ) AF# 2628  
POLITICAL ACTION COMMITTEE, and )  
O'BRIEN, DICK as treasurer; )  
SOUTHERN COMPANY - SOUTHERN ) AF# 2629  
NUCLEAR OPERATING COMPANY, )  
INC. PAC, and CANNON, ROBERT M. as )  
treasurer; )

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on April 15, 2013 the Commission took the following actions on the Administrative Fine Program - Final Determination Recommendation for the 12 Day Pre-General Report (Unauthorized Committees - Monthly Filers) as recommended in the Reports Analysis Division's Memorandum dated April 12, 2013, on the following committees:

AF#2626 Decided by a vote of 5-0 to: (1) make a final determination that DEMOCRATIC PARTY OF HAWAII, and SUGIMURA, YURIKO J. as treasurer, violated 2 U.S.C. 434(a) and assess the final civil money penalty so indicated; (2) send the appropriate letter. Commissioners Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

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AF#2628 Decided by a vote of 5-0 to: (1) make a final determination that PROFESSIONALS IN ADVERTISING POLITICAL ACTION COMMITTEE, and O'BRIEN, DICK as treasurer, violated 2 U.S.C. 434(a) and assess the final civil money penalty so indicated; (2) send the appropriate letter. Commissioners Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2629 Decided by a vote of 5-0 to: (1) make a final determination that SOUTHERN COMPANY - SOUTHERN NUCLEAR OPERATING COMPANY, INC. PAC, and CANNON, ROBERT M. as treasurer, violated 2 U.S.C. 434(a) and assess the final civil money penalty so indicated; (2) send the appropriate letter. Commissioners Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

April 15, 2013  
Date

Shawn Woodhead Werth  
Shawn Woodhead Werth  
Secretary and Clerk of the Commission

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

April 16, 2013

Yuriko J. Sugimura, in official capacity as Treasurer  
Democratic Party of Hawaii  
1050 Ala Moana Blvd., Ste. 2150  
Honolulu, HI 96814

C00212787  
AF#: 2626

Dear Mr. Sugimura:

On January 23, 2013, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Democratic Party of Hawaii and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) for filing late or failing to file the 2012 Pre-General Report. By letter dated January 24, 2013, the Commission notified you of the RTB finding and the civil money penalty calculated at the RTB stage totaling \$5,500 in accordance with the schedule of penalties at 11 CFR § 111.43.

On March 11, 2013, the FEC received payment of the civil money penalty calculated at the RTB stage. The FEC made a final determination on April 15, 2013 that Democratic Party of Hawaii and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a), assessed a civil money penalty in the amount of \$5,500 in accordance with 11 CFR § 111.43, 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 CFR § 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 Sari Pickerall on our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130.

On behalf of the Commission,

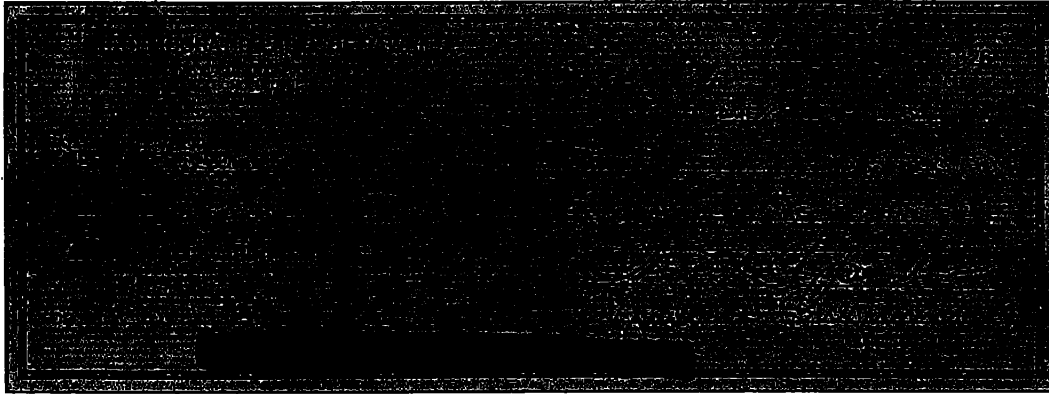
A handwritten signature in black ink that reads "Ellen L. Weintraub". The signature is written in a cursive, flowing style.

Ellen L. Weintraub  
Chair

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FEDERAL ELECTION COMMISSION

Lockbox: GLX-979058 Ledger Date 03/08/2013



Batch	Item	TID	Batch Total	Amount
1	1	Y-3001601	\$5,750.00	\$5,500.00

13092683665  
**usbank.**

St. Louis GA Lockbox  
(314) 425-1818





FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 2626

DATE SCANNED

5/15/13

SCANNER NO.

2

SCAN OPERATOR

EES

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