



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 2977

DATE SCANNED

7/9/15

SCANNER NO.

2

SCAN OPERATOR

Jh



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2014 DEC 16 AM 9:25

December 15, 2014

MEMORANDUM

**SENSITIVE**

TO: The Commission

THROUGH: Alec Palmer *AP*  
Staff Director

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

Debbie Chacona *for PCO*  
Assistant Staff Director  
Reports Analysis Division

BY: *KDR* Kristin D. Roser/Sari Pickerall *dp*  
Reports Analysis Division  
Compliance Branch

SUBJECT: Reason To Believe Recommendation – 2014 12 Day Pre-General Report  
(Authorized Committees) for the Administrative Fine Program

Attached is a list of political committees and their treasurers who failed to file or timely file the 2014 12 Day Pre-General Report in accordance with 52 U.S.C. § 30104(a) (formerly 2 U.S.C. 434(a)). The 12 Day Pre-General Report was due on October 23, 2014. The list is comprised of authorized committees whose candidates sought election in the General Election held on November 4, 2014.

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

An explanation of the civil money penalties calculation for two (2) committees that failed to file the report is outlined below:

The committee (AF 2876) represents a candidate that participated in the 2014 General Election. The committee was required to file a 2014 12 Day Pre-General Report (12G) covering October 1, 2014 through October 15, 2014 (15 days). In order to determine the civil money penalty for the 2014 12 Day Pre-General Report, an estimated level of activity was calculated using a per diem average by multiplying the previous activity reported for the 2013-2014 election cycle (\$113,575) by 9.49% (the number of days required in 12G (15) divided by the number of days included in the Committee's 2013-2014 election cycle reports (158)).

The committee (AF 2880) represents a candidate that participated in the 2014 General Election. The committee was required to file a 2014 12 Day Pre-General Report (12G) covering October 1, 2014 through October 15, 2014 (15 days). In order to determine the civil money penalty for the 2014 12 Day Pre-General Report, an estimated level of activity was calculated using a per diem average by multiplying the previous activity reported for the 2013-2014 election cycle (\$119,177) by 16.30% (the number of days required in 12G (15) divided by the number of days included in the Committee's 2013-2014 election cycle reports (92)).

#### **Recommendation**

1. Find reason to believe that the political committees and their treasurers listed on the RTB Circulation Report violated 52 U.S.C. § 30104(a) (formerly 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.

12/15/2014 4:49 PM

Federal Election Commission  
Reason to Believe Circulation Report  
2014 PRE-GENERAL Election Sensitive 10/23/2014 AUTH

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
2874	C00552091	COMMITTEE TO ELECT JOYCE DICKERSON FOR US SENATE	DICKERSON, JOYCE	JOYCE DICKERSON	\$129,357	0	12/4/2014	Not Filed	\$9,952	\$660
2875	C00554840	FRIENDS OF TATE MACQUEEN	MACQUEEN, TATE	LORI MURPHY	\$134,102	0	10/30/2014	7	\$7,501	\$180
2876	C00561100	JEFF JONES FOR SENATE	JONES, JEFFREY ALLAN	DANIEL J. JONES	\$113,575	0		Not Filed	\$10,778 (est)	\$1,090
2877	C00551317	LARRY SMITH VETERAN FOR CONGRESS	SMITH, LARRY STANLEY	LARRY STANLEY SMITH	\$230,204	0	10/31/2014	Not Filed	\$10,568	\$1,090
2878	C00543538	RON LEACH FOR CONGRESS CAMPAIGN COMMITTEE	LEACH, RONALD ALLEN	THERESA DRAKE	\$225,451	0	12/3/2014	Not Filed	\$1,440	\$550
2879	C00556530	STEPHEN H SHOGAN FOR SENATE	SHOGAN, STEPHEN H	LISA CHAIKEN	\$403,101	0	10/30/2014	7	\$8,700	\$180
2880	C00566331	WADE FOR US SENATE 14	WADE, KEVIN L	JAMES PICCONI	\$119,177	0		Not Filed	\$19,425 (est)	\$1,090

# Introduction

In the Matter of	)	
	)	
Reason To Believe Recommendation - 2014	)	
12 Day Pre-General Report (Authorized	)	
Committees) for the Administrative Fine	)	
Program:	)	
COMMITTEE TO ELECT JOYCE	)	AF# 2874
DICKERSON FOR US SENATE, and	)	
JOYCE DICKERSON as treasurer;	)	
FRIENDS OF TATE MACQUEEN, and	)	AF# 2875
LORI MURPHY as treasurer;	)	
JEFF JONES FOR SENATE, and DANIEL	)	AF# 2876
J JONES as treasurer;	)	
LARRY SMITH VETERAN FOR	)	AF# 2877
CONGRESS, and LARRY STANLEY	)	
SMITH as treasurer;	)	
RON LEACH FOR CONGRESS	)	AF# 2878
CAMPAIGN COMMITTEE, and DRAKE,	)	
THERESA MS as treasurer;	)	
STEPHEN H SHOGAN FOR SENATE,	)	AF# 2879
and LISA CHAIKEN as treasurer;	)	
WADE FOR US SENATE 14, and JAMES	)	AF# 2880
PICCONI as treasurer;	)	



CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on December 17, 2014 the Commission took the following actions on the Reason To Believe Recommendation - 2014 12 Day Pre-General Report (Authorized Committees) for the Administrative Fine Program as recommended in the Reports Analysis Division's Memorandum dated December 15, 2014, on the following committees:

AF#2874 Decided by a vote of 6-0 to: (1) find reason to believe that COMMITTEE TO ELECT JOYCE DICKERSON FOR US SENATE, and JOYCE DICKERSON as treasurer violated 52 U.S.C. 30104(a) (formerly 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 Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

AF#2875 Decided by a vote of 6-0 to: (1) find reason to believe that FRIENDS OF TATE MACQUEEN, and LORI MURPHY as treasurer violated 52 U.S.C. 30104(a) (formerly 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 Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

AF#2876 Decided by a vote of 6-0 to: (1) find reason to believe that JEFF JONES FOR SENATE, and DANIEL J JONES as treasurer violated 52 U.S.C. 30104(a) (formerly 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 Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

AF#2877 Decided by a vote of 6-0 to: (1) find reason to believe that LARRY SMITH VETERAN FOR CONGRESS, and LARRY STANLEY SMITH as treasurer violated 52 U.S.C. 30104(a) (formerly 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 Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

AF#2878 Decided by a vote of 6-0 to: (1) find reason to believe that RON LEACH FOR CONGRESS CAMPAIGN COMMITTEE, and DRAKE, THERESA MS as treasurer violated 52 U.S.C. 30104(a) (formerly 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 Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

AF#2879 Decided by a vote of 6-0 to: (1) find reason to believe that STEPHEN H SHOGAN FOR SENATE, and LISA CHAIKEN as treasurer violated 52 U.S.C. 30104(a) (formerly 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 Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

AF#2880 Decided by a vote of 6-0 to: (1) find reason to believe that WADE FOR US SENATE 14, and JAMES PICCONI as treasurer violated 52 U.S.C. 30104(a) (formerly 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 Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

Attest:

December 18, 2014  
Date

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





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 18, 2014

Larry Stanley Smith, in official capacity as Treasurer  
Larry Smith Veteran for Congress  
P.O. Box 1366  
Yorktown, TX 78164

C00551317  
AF#: 2877

Dear Mr. Smith:

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 for which the candidate is seeking election, or nomination for election. This report, covering the period October 1, 2014 through October 15, 2014, shall be filed no later than October 23, 2014. 52 U.S.C. § 30104(a) (formerly 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 4, 2014, 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 52 U.S.C. § 30104(a) (formerly 2 U.S.C. 434(a)). 52 U.S.C. § 30109(a)(4) (formerly 2 U.S.C. 437g(a)(4)). On December 17, 2014, the FEC found that there is reason to believe ("RTB") that Larry Smith Veteran for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. 434(a)) by failing to file timely this report on or before October 23, 2014. 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 \$1,090. 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 \$1,090 is due within forty (40) days of the finding, or by January 26, 2015, and is based on these factors:

Election Sensitivity of Report: Election Sensitive

Level of Activity: \$10,568

Number of Days Late: Not Filed (reports not filed prior to four (4) days before the General Election held on November 4, 2014 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

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 January 26, 2015. 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 52 U.S.C. § 30109 (formerly 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 Larry Smith Veteran for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) (formerly 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 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.

**NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS**

**4. Partial Payments**

If you make a payment in an amount less than the calculated civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assesses upon making a final determination.

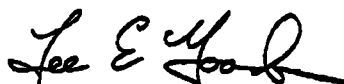
**5. Settlement Offers**

If you make a payment in an amount less than the calculated civil money penalty as an offer to settle or compromise a debt owed to the Commission, the offer is herewith rejected despite any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assesses upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 52 U.S.C. § 30109(a)(2) (formerly 2 U.S.C. § 437g(a)(2)). It will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) (formerly 2 U.S.C. § 437g(a)(4)(B)) and 30109(a)(12)(A) (formerly 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,



Lee E. Goodman  
Chairman

**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 \$1,090 for the 2014 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 January 26, 2015. 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: Larry Smith Veteran for Congress

FEC ID#: C00551317

AF#: 2877

PAYMENT DUE DATE: January 26, 2015

PAYMENT AMOUNT DUE: \$1,090

Mr. Goodman,

I was just recently contacted regarding a late filing fee for committee # C00551317. I apologize for not remembering the details, but I do recall calling the FEC numerous times after getting error messages and being unable to upload the report. After several days of this, I was able to figure it out myself and the report was filed.

~~My campaign was not overly funded or well-staffed and the duties of treasurer fell to me, the candidate. Just because I decided to run for the House of Representatives does not mean that I am a millionaire. I am a combat veteran that quit his job to do so, and since that job was in the oil field industry (and with the price of oil having dropped significantly it means that I am still unemployed).~~

So I am asking that the fine be waived and make the task of putting my life back together that much easier. Thank you.

**Larry S. Smith**



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
MARCH 31 AM 10:36

**SENSITIVE**

March 31, 2015

**MEMORANDUM**

To: The Commission

Through: Alec Palmer *AMP*  
Staff Director

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

Rhiannon Magruder *RM*  
Reviewing Officer  
Office of Administrative Review

Subject: Reviewing Officer Recommendation in AF# 2877 – Larry Smith Veteran for Congress and Larry Stanley Smith. in his official capacity as Treasurer (C00551317)

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.

Please note, the Committee filed a Termination Report on January 31, 2015 and is eligible to terminate once this matter is closed.

Attachment



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

March 31, 2015

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

AF# 2877 – Larry Smith Veteran for Congress and Larry Stanley Smith, in his official capacity as Treasurer (C00551317)

**Summary of Recommendation**

Make a final determination that the respondents violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) and assess a \$1,090 civil money penalty.

**Reason-to-Believe Background**

The 2014 Pre-General Report was due on October 23, 2014. The respondents filed the report on October 31, 2014. The report is election sensitive and was not filed prior to four days before the 2014 General Election held on November 4, 2014; therefore, the report is considered not filed. 11 C.F.R. §§ 111.43(d)(1) and (c)(2).

On December 17, 2014, the Commission found reason to believe ("RTB") that the respondents violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) for failing to timely file the 2014 Pre-General Report and made a preliminary determination that the civil money penalty was \$1,090 based on the schedule of penalties at 11 C.F.R. § 111.43. A letter was mailed to the respondents' address of record from the Reports Analysis Division ("RAD") on December 18, 2014 to notify them of the Commission's RTB finding and civil money penalty. After repeated attempts, the notification was successfully delivered on January 20, 2015.

**Legal Requirements**

The Federal Election Campaign Act ("Act") states that in any calendar year during which there is a regularly scheduled election for which such candidate is seeking election, the treasurer of a principal campaign committee shall file a pre-election report no later than the 12th day before the election. Reports electronically filed must be received and validated at or before 11:59 pm Eastern Standard/Daylight Time on the filing deadline to be timely filed. 11 C.F.R. §§ 100.19(c) and 104.5(e). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

41000N0M4-10



## Summary of Respondents' Challenge

On January 30, 2015, the Commission received the written response ("challenge") from the Candidate requesting that the civil money penalty be waived. The Candidate explains that while he does not remember the details, he called the Commission numerous times for technical assistance when trying to electronically file the 2014 Pre-General Report. He specifically states that he received error messages and was unable to upload the report. Further, the challenge states:

"My campaign was not overly funded or well-staffed and the duties of treasurer fell to me, the candidate. Just because I decided to run for the House of Representatives does not mean that I am a millionaire. I am a combat veteran that quit his job to do so, and since that job was in the oil field industry (and with the price of oil having dropped significantly it means that I am still unemployed)."

## Analysis

The Candidate contends that he attempted to contact the Commission for technical assistance when trying to electronically file the 2014 Pre-General Report, yet he is unable to provide details.

According to RAD and Electronic Filing Office (EFO) telecoms (written records of telephone conversations), there is no indication that the Candidate, or any other Committee representative, contacted the Commission for technical assistance around the 2014 Pre-General Report filing deadline. Since the challenge did not include any details about the Candidate's attempts to contact the Commission, there is not enough evidence to suggest the Commission's record is incomplete. In addition, according to the Manager of the E-filing and Disclosure Branch of the Commission's Office of the Chief Information Officer, there is no indication of any problems with Commission computers or the electronic filing system that would have prevented the Committee from timely filing the 2014 Pre-General Report.

Thus, the Committee's inability to file the 2014 Pre-General Report can only be attributed to the Committee's failure to use filing software properly, which is included at 11 C.F.R. § 111.35(d) as an example of a circumstance that will not be considered reasonably unforeseen and beyond the respondents' control. Their challenge fails to address any of the three valid grounds at 11 C.F.R. § 111.35(b). These are: (i) the RTB finding is based on factual errors; and/or (ii) the improper calculation of the civil money penalty; and/or (iii) they used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances that were beyond their control and they filed the report no later than 24 hours after the end of these circumstances. Therefore, the Reviewing Officer recommends that the Commission make a final determination that the respondents violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) and assess a \$1,090 civil money penalty.

# THE COMPANY

- ## Attachments

**Attachment 2 –**

## Attachment 4 – Declaration from OAR

January 23<sup>rd</sup>, 2015

Mr. Goodman,

I was just recently contacted regarding a late filing fee for committee # C00551317. I apologize for not remembering the details, but I do recall calling the FEC numerous times after getting error messages and being unable to upload the report. After several days of this, I was able to figure it out myself and the report was filed.

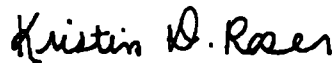
~~My campaign was not overly funded or well-staffed and the duties of treasurer fell to me,~~ the candidate. Just because I decided to run for the House of Representatives does not mean that I am a millionaire. I am a combat veteran that quit his job to do so, and since that job was in the oil field industry (and with the price of oil having dropped significantly it means that I am still unemployed).

So I am asking that the fine be waived and make the task of putting my life back together that much easier. Thank you.

Larry S. Smith

**DECLARATION OF KRISTIN D. ROSER**

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 Larry Smith Veteran for Congress:
  - A) Non-Filer Letter, dated October 24, 2014, referencing the 2014 12 Day Pre-General Report (sent via electronic mail to: lsmithvfc@gmail.com);
  - B) Reason-to-Believe Letter, dated December 18, 2014 referencing the 2014 12 Day Pre-General Report (sent via overnight mail to the address of record).
3. I hereby certify that I have searched the Commission's public records and find that Larry Smith Veteran for Congress filed the 2014 12 Day Pre-General Report with the Commission on October 31, 2014.
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 5<sup>th</sup> day of February, 2015.



Kristin D. Roser  
Chief, Compliance Branch  
Reports Analysis Division  
Federal Election Commission

1500N GEMINI



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RQ-7

October 24, 2014

LARRY STANLEY SMITH, TREASURER  
LARRY SMITH VETERAN FOR CONGRESS  
PO BOX 1366  
YORKTOWN, TX 78164

IDENTIFICATION NUMBER: C00551317

REFERENCE: PRE-GENERAL REPORT (10/01/2014 - 10/15/2014)

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 disbursements as required by the Federal Election Campaign Act, as amended. 52 U.S.C. §30104(a) (formerly 2 U.S.C. §434(a))

You will be allowed until **5:00 pm est on the fourth (4th) business day** from the date of this notice to file this report to avoid publication. If you have already filed the report by express, certified or registered mail or are planning to file it within four (4) business days from the date of this notice, **please notify us immediately** of the certified, registered or express tracking number and the date that the report was sent.

The report must be filed with the Federal Election Commission, 999 E Street, N.W., Washington, DC 20463 for House candidates, or the Secretary of the Senate, 232 Hart Senate Office Building, Washington, DC 20510 (if sent via overnight delivery service) or Senate Office of Public Records, P.O. Box 77578, Washington, DC 20013-7578 (if sent via USPS) for Senate Candidates. Please note that electronic filers must submit their reports electronically, as per 11 CFR §104.18. A copy of the report must also be filed with the Secretary of 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](http://www.fec.gov).

In addition, the failure to timely file this report may result in civil money penalties, an audit or other 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.

11/03/2014 10:00 AM

LARRY SMITH VETERAN FOR CONGRESS

Page 2 of 2

If you have any questions regarding this matter, please contact Marlene Colucci in the Reports Analysis Division on our toll-free number (800)424-9530. The Analyst's direct number is (202)694-1394.

Sincerely,

*Debbie Chacona*

Deborah Chacona  
Assistant Staff Director  
Reports Analysis Division

250

UNCLASSIFIED



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 18, 2014

Larry Stanley Smith, in official capacity as Treasurer  
Larry Smith Veteran for Congress  
P.O. Box 1366  
Yorktown, TX 78164

C00551317  
AF#: 2877

Dear Mr. Smith:

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 for which the candidate is seeking election, or nomination for election. This report, covering the period October 1, 2014 through October 15, 2014, shall be filed no later than October 23, 2014. 52 U.S.C. § 30104(a) (formerly 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 4, 2014, 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 52 U.S.C. § 30104(a) (formerly 2 U.S.C. 434(a)). 52 U.S.C. § 30109(a)(4) (formerly 2 U.S.C. 437g(a)(4)). On December 17, 2014, the FEC found that there is reason to believe ("RTB") that Larry Smith Veteran for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. 434(a)) by failing to file timely this report on or before October 23, 2014. 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 \$1,090. 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 \$1,090 is due within forty (40) days of the finding, or by January 26, 2015, and is based on these factors:

Election Sensitivity of Report: Election Sensitive  
Level of Activity: \$10,568  
Number of Days Late: Not Filed (reports not filed prior to four (4) days before the General Election held on November 4, 2014 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

# THEORY



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).

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 and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Larry Smith Veteran for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) (formerly 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 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.

**NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS**

**4. Partial Payments**

If you make a payment in an amount less than the calculated civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assesses upon making a final determination.

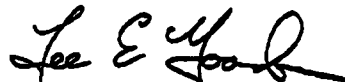
**5. Settlement Offers**

If you make a payment in an amount less than the calculated civil money penalty as an offer to settle or compromise a debt owed to the Commission, the offer is herewith rejected despite any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assesses upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 52 U.S.C. § 30109(a)(2) (formerly 2 U.S.C. § 437g(a)(2)). It will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) (formerly 2 U.S.C. § 437g(a)(4)(B)) and 30109(a)(12)(A) (formerly 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,



Lee E. Goodman  
Chairman

-----  
**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 \$1,090 for the 2014 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 January 26, 2015. 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: Larry Smith Veteran for Congress

FEC ID#: C00551317

AF#: 2877

PAYMENT DUE DATE: January 26, 2015

PAYMENT AMOUNT DUE: \$1,090

# MISSION STATEMENT

### DECLARATION OF RHIANNON MAGRUDER

- 1) I am the Reviewing Officer in the Office of Administrative Review for the Federal Election Commission ("Commission"). In my capacity as Reviewing Officer, I conduct research with respect to all challenges submitted in accordance with the Administrative Fine program.
- 2) A political committee authorized by a candidate shall file a pre-general election report no later than the 12<sup>th</sup> day before the general election in any year in which there is a regularly scheduled general election for which such candidate is seeking election. Reports filed electronically must be received and validated at or before 11:59 pm, Eastern Standard/Daylight Time on October 23, 2014 for the 2014 12 Day Pre-General Report to be timely filed.
- 3) It is the practice of the Reports Analysis Division to document all calls to or from committees regarding a letter they receive or any questions relating to the FECFile software or administrative fine regulations, including due dates of reports and filing requirements.
- 4) 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) Report Cover Page, Summary Page, and Detailed Summary Pages for the 2014 Pre-General Report electronically filed by Larry Smith Veteran for Congress and Larry Stanley Smith, in his official capacity as Treasurer. According to the Commission's records, the report covers the period from October 1 through 15, 2014 and was received on October 31, 2014.
- 5) 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, D.C. on the 31st day of March, 2015.



Rhiannon Magruder  
Reviewing Officer  
Office of Administrative Review  
Federal Election Commission

**FEC  
FORM 3****REPORT OF RECEIPTS  
AND DISBURSEMENTS**  
For An Authorized Committee

Office Use Only

1. NAME OF COMMITTEE (in full) TYPE OR PRINT ▼ Example: If typing, type over the lines. 12FE4M5

Larry Smith Veteran for Congress

ADDRESS (number and street) 214 Chapparel

Check if different  
than previously  
reported. (ACC)

Nordheim

TX

75164

2. FEC IDENTIFICATION NUMBER ▼

C C00551317

CITY ▲

STATE ▲

ZIP CODE ▲

STATE ▼ DISTRICT

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

TX 34

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 Year-End Report (YE)

Termination Report (TER)

(b) 12-Day PRE-Election Report for the:

Primary (12P) X General (12G) Runoff (12R)

Convention (12C) Special (12S)

Election on 11 04 2014 in the State of TX

(c) 30-Day POST-Election Report for the:

General (30G) Runoff (30R) Special (30S)

Election on in the State of

5. Covering Period 10 01 2014 through 10 15 2014

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 Larry Smith

Signature of Treasurer Larry Smith

[Electronically Filed]

Date 10 15 2014

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

Office  
Use  
Only**FEC FORM 3**  
(Revised 02/2003)

**SUMMARY PAGE**  
of Receipts and Disbursements

FEC Form 3 (Revised 02/2003)

PAGE 2 / 10

Write or Type Committee Name

**Larry Smith Veteran for Congress**

Report Covering the Period: From: 10 01 2014 To: 10 15 2014

	<b>COLUMN A This Period</b>	<b>COLUMN B Election Cycle-to-Date</b>
<b>6. Net Contributions (other than loans)</b>		
(a) Total Contributions (other than loans) (from Line 11(e)) ....	5793.00	5793.00
(b) Total Contribution Refunds (from Line 20(d)) .....	0.00	0.00
(c) Net Contributions (other than loans) (subtract Line 6(b) from Line 6(a)) .....	5793.00	5793.00
<b>7. Net Operating Expenditures</b>		
(a) Total Operating Expenditures (from Line 17) .....	4775.12	4775.12
(b) Total Offsets to Operating Expenditures (from Line 14) .....	0.00	0.00
(c) Net Operating Expenditures (subtract Line 7(b) from Line 7(a)) .....	4775.12	4775.12
<b>8. Cash on Hand at Close of Reporting Period (from Line 27) .....</b>	<b>1759.98</b>	
<b>9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D) .....</b>	<b>0.00</b>	
<b>10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D) .....</b>	<b>0.00</b>	

**For further information contact:**

Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

Toll Free 800-424-9530  
Local 202-694-1100

# **DETAILED SUMMARY PAGE** of Receipts

PAGE 3 / 10

FEC Form 3 (Revised 12/2003)

Write or Type Committee Name

Larry Smith Veteran for Congress

Report Covering the Period: From: 10 01 2014 To: 10 15 2014

I. RECEIPTS	COLUMN A Total This Period	COLUMN B Election Cycle-to-Date
<b>11. CONTRIBUTIONS (other than loans) FROM:</b>		
(a) Individuals/Persons Other Than Political Committees		
(i) Itemized (use Schedule A) .....	2375.00	2375.00
(ii) Unitemized .....	918.00	918.00
(iii) TOTAL of contributions from individuals .....	3293.00	3293.00
(b) Political Party Committees .....	0.00	0.00
(c) Other Political Committees (such as PACs) .....	2500.00	2500.00
(d) The Candidate .....	0.00	0.00
(e) TOTAL CONTRIBUTIONS (other than loans) (add Lines 11(a)(iii), (b), (c), and (d))..	5793.00	5793.00
<b>12. TRANSFERS FROM OTHER AUTHORIZED COMMITTEES .....</b>	0.00	0.00
<b>13. LOANS:</b>		
(a) Made or Guaranteed by the Candidate .....	0.00	0.00
(b) All Other Loans .....	0.00	0.00
(c) TOTAL LOANS (add Lines 13(a) and (b)) .....	0.00	0.00
<b>14. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.) .....</b>	0.00	0.00
<b>15. OTHER RECEIPTS (Dividends, Interest, etc.) .....</b>	0.00	0.00
<b>16. TOTAL RECEIPTS (add Lines 11(e), 12, 13(c), 14, and 15) (Carry Total to Line 24, page 4) .....</b>	5793.00	5793.00



# **DETAILED SUMMARY PAGE** of Disbursements

FEC Form 3 (Revised 02/2003)

PAGE 4 / 10

II. DISBURSEMENTS	COLUMN A Total This Period	COLUMN B Election Cycle-to-Date
17. OPERATING EXPENDITURES.....	4775.12	4775.12
18. TRANSFERS TO OTHER AUTHORIZED COMMITTEES .....	0.00	0.00
19. LOAN REPAYMENTS:		
(a) Of Loans Made or Guaranteed by the Candidate.....	0.00	0.00
(b) Of All Other Loans .....	0.00	0.00
(c) TOTAL LOAN REPAYMENTS (add Lines 19(a) and (b)).....	0.00	0.00
20. REFUNDS OF CONTRIBUTIONS TO:		
(a) Individuals/Persons Other Than Political Committees .....	0.00	0.00
(b) Political Party Committees.....	0.00	0.00
(c) Other Political Committees (such as PACs) .....	0.00	0.00
(d) TOTAL CONTRIBUTION REFUNDS (add Lines 20(a), (b), and (c)).....	0.00	0.00
21. OTHER DISBURSEMENTS .....	0.00	0.00
22. TOTAL DISBURSEMENTS (add Lines 17, 18, 19(c), 20(d), and 21) ►	4775.12	4775.12

## **III. CASH SUMMARY**

23. CASH ON HAND AT BEGINNING OF REPORTING PERIOD.....	742.10
24. TOTAL RECEIPTS THIS PERIOD (from Line 16, page 3).....	5793.00
25. SUBTOTAL (add Line 23 and Line 24).....	6535.10
26. TOTAL DISBURSEMENTS THIS PERIOD (from Line 22).....	4775.12
27. CASH ON HAND AT CLOSE OF REPORTING PERIOD (subtract Line 26 from Line 25).....	1759.98



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

March 31, 2015

Larry Stanley Smith, Treasurer  
Larry Smith Veteran for Congress  
P.O. Box 1366  
Yorktown, TX 78164

C00551317  
AF#: 2877

Dear Mr. Smith:

On December 17, 2014, the Federal Election Commission ("Commission") found reason to believe ("RTB") that Larry Smith Veteran for Congress and you, in your official capacity as Treasurer ("respondents"), violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) for failing to file the 2014 Pre-General Report. The Commission also made a preliminary determination that the civil money penalty was \$1,090 based on the schedule of penalties at 11 C.F.R. § 111.43.

After reviewing your written response and any supplemental information submitted by you and Commission staff, the Reviewing Officer has recommended that the Commission make a final determination. 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 or via facsimile (202-208-3333). Please include the AF # in your response. Your response may not raise any arguments not raised in your original written response or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). The Commission will then make a final determination in this matter.

Please contact me at the toll free number 800-424-9530 (press 0, then press 1660) or 202-694-1660 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Rhiannon Magruder". The signature is fluid and cursive.

Rhiannon Magruder  
Reviewing Officer  
Office of Administrative Review

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

AF 2877

2015 APR 31 AM 7:06

May 11th, 2015

Commission Secretary,

I was contacted several months ago regarding a late filing fee for committee #C00551317. I apologize for not remembering the details, but I do recall calling the FEC numerous times after getting error messages and being unable to upload the report. After several days of this, I was able to figure it out myself and the report was filed.

I spoke with Ms. Magruder last Thursday and she asked that I reiterate my original concerns with the fine. Contrary to popular belief, everyone that runs for the House of Representatives is not a wealthy person. I quit my job during the campaign and because of a slow-down in that industry I have been unemployed since Election Day last November.

My campaign was not overly funded or well-staffed and the duties of treasurer fell to me, the candidate. The software (not user friendly) caused significant delays in filing reports. After contacting tech support several times at the FEC I was simply told to do my best.

Now I am not a tech savvy person and yes it did take a while to figure out the software. I was just someone who was trying to make my community a better place. Aside from my wife's income we receive \$250 from the Veterans Administration for injuries received overseas while I was in Baghdad so things are a little tight and probably will be for a while. Due to these circumstances I am asking that you waive the fine of \$1,050.

Larry S. Smith

20150514091000



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2015 MAY 19 P 3 53

May 19, 2015

MEMORANDUM

**SENSITIVE**

To: The Commission

Through: Alec Palmer *AWH for*  
Staff Director

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

Rhiannon Magruder *RM*  
Reviewing Officer  
Office of Administrative Review

Subject: Final Determination Recommendation in AF# 2877 – Larry Smith Veteran for Congress and Larry Stanley Smith, in his official capacity as Treasurer (C00551317)

On December 17, 2014, the Commission found reason to believe (“RTB”) that the respondents violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) for failing to timely file the 2014 Pre-General Report and made a preliminary determination that the civil money penalty was \$1,090 based on the schedule of penalties at 11 C.F.R. § 111.43.

On January 30, 2015, the Commission received their written response (“challenge”). After reviewing the challenge, the Reviewing Officer Recommendation (“ROR”) dated March 31, 2015 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. They submitted no evidence that a factual error was made in the RTB finding, that the penalty was miscalculated at RTB, or that they used best efforts to file on time. 11 C.F.R. § 111.35(b).

Within 10 days of transmittal of the recommendation, they may file a written response with the Commission Secretary which may not raise any arguments not raised in their challenge or not directly responsive to the ROR. 11 C.F.R. § 111.36(f).

On April 20, 2015, the respondents filed a Miscellaneous Document (FEC Form 99) dated April 8, 2015 regarding its outstanding administrative fines.<sup>1</sup> The document, which was prepared prior to the Candidate's receipt of the ROR for AF# 2877, indicated the Candidate was confused on the status of the cases. After repeated attempts, the Reviewing Officer made contact with the Candidate on May 7, 2015. The Reviewing Officer clarified the status of the Committee's open administrative fines. The Candidate reiterated his reasons for challenging AF# 2877 and asked what else he could do to challenge the fine. The Reviewing Officer informed the Candidate that he could file a response to the ROR. On May 14, 2015, the Reviewing Officer contacted the Candidate because the Commission had not yet received the response. The Candidate indicated he did fax the response to the Commission Secretary's Office, but he would fax it again. On May 14, 2015, the Commission received the response. The Candidate reiterated the points made in the original challenge, stressing the technical difficulties of filing the report and the Candidate's financial hardships.

As stated in the ROR, according to Reports Analysis Division and Electronic Filing Office telecoms (written records of telephone conversations), there is no indication that the Candidate, or any other Committee representative, contacted the Commission for technical assistance around the 2014 Pre-General Report filing deadline. Since the challenge and the response to the ROR do not include any details about the Candidate's attempts to contact the Commission, there is not enough evidence to suggest the Commission's record is incomplete. As also stated in the ROR, according to the Manager of the E-filing and Disclosure Branch of the Commission's Office of the Chief Information Officer, there is no indication of any problems with Commission computers or the electronic filing system that would have prevented the Committee from timely filing the 2014 Pre-General Report.

The Reviewing Officer is sympathetic to the Candidate's financial hardships. However, the Committee's inability to file the 2014 Pre-General Report can only be attributed to the Committee's failure to use filing software properly, which is included at 11 C.F.R. § 111.35(d) as an example of a circumstance that will not be considered reasonably unforeseen and beyond the respondents' control. Therefore, the Reviewing Officer recommends that the Commission make a final determination that the respondents violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) and assess a \$1,090 civil money penalty.

---

<sup>1</sup>In addition to this matter, the respondents are also involved in AF# 2898. The respondents did not challenge AF# 2898 and paid the \$150 penalty after RTB. A final determination has not yet been made in the matter. Because the Miscellaneous Document filed 4/20/15 only relates to AF# 2877 and AF# 2898, and both cases are not yet public, the document has been removed from the Committee's list of official filings on the public record. Instead, the document is now a part of the case files for AF# 2877 and AF# 2898.

### **OAR Recommendations**

1. Adopt the Reviewing Officer recommendation for AF# 2877 that Larry Smith Veteran for Congress and Larry Stanley Smith, in his official capacity as Treasurer, in making the final determination;
2. Make a final determination in AF# 2877 that Larry Smith Veteran for Congress and Larry Stanley Smith, in his official capacity as Treasurer, violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) and assess a \$1,090 civil money penalty; and
3. Send the appropriate letter.

### **Attachments**

Attachment 1 - Miscellaneous Document, filed 4/20/15

Attachment 2 - Response to ROR, received 5/14/15

11-22-2015 10:00:00 AM



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RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARY

AF 2877

MAY 11 AM 7:06

May 11th, 2015

Commission Secretary,

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Larry S. Smith

14002703444

54446026051

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) AF 2877  
Final Determination Recommendation: )  
Larry Smith Veteran for Congress and )  
Larry Stanley Smith, in his official )  
capacity as Treasurer (C00551317) )

CERTIFICATION

I, Shelley E. Garr, recording secretary for the Federal Election Commission executive session on June 16, 2015, do hereby certify that the Commission decided by a vote of 6-0 to, pursuant to 11 C.F.R. § 111.37(b), otherwise terminate the proceedings.

Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

Attest:

June 17, 2015  
Date

Shelley E. Garr  
Shelley E. Garr  
Deputy Secretary of the Commission



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 19, 2015

Larry Stanley Smith, Treasurer  
Larry Smith Veteran for Congress  
P.O. Box 1366  
Yorktown, TX 78164

C00551317  
AF#: 2877

Dear Mr. Smith:

On December 17, 2014, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Larry Smith Veteran for Congress and you, in your official capacity as Treasurer, violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) for failing to file the 2014 Pre-General Report. By letter dated December 18, 2014, the Commission sent notification of the RTB finding that included a civil money penalty calculated at RTB of \$1,090 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On January 30, 2015, the Office of Administrative Review received your written response challenging the RTB finding.

The Reviewing Officer reviewed the Commission's RTB finding with its supporting documentation and your written response. Based on this review, the Reviewing Officer recommended that the Commission make a final determination that Larry Smith Veteran for Congress and you, in your official capacity as Treasurer, violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) and assess a civil money penalty in the amount of \$1,090 in accordance with 11 C.F.R. § 111.43. A copy of the Reviewing Officer Recommendation was sent to you on March 31, 2015.

On June 16, 2015, the Commission failed to adopt the Reviewing Officer's final recommendation, and voted to terminate the proceedings with respect to 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) and close the file. A copy of the Final Determination Recommendation is attached.

The confidentiality provisions at 52 U.S.C. § 30109(a)(12) (formerly 2 U.S.C. § 437g(a)(12)) no longer apply and this matter is now public. Pursuant to 11 C.F.R. §§ 111.42(b) and 111.20(c), the file will be placed on the public record within 30 days from the date of this notification.

1-800-N-OR-4-8

Jon M Ravel

**Attachment**

4100NOM46



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 2877

DATE SCANNED 7/9/15

SCANNER NO. 2

SCAN OPERATOR JR

1-800-4-NEXT