

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE #3746



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

2019 SEP 24 PM 2:54

SENSITIVE

September 24, 2019

MEMORANDUM

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: Kristin D. Roser *KDR*
Compliance Branch

SUBJECT: Reason to Believe Recommendation -
Failure to File 48-Hour Notices under the Administrative Fine Program

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 Idaho 12 Day Pre-Primary Report up to 48 hours before the May 15, 2018 Primary Election in accordance with 52 U.S.C. § 30104(a) and 11 CFR. § 104.5(f). The committee, Malek for Congress, represents a candidate who lost the Primary Election. The committee is being referred for failing to file 48-hour notices for contributions totaling \$26,200.00.

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.

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 Malek for Congress and Chris M. Harrison, in his official capacity as treasurer, violated 52 U.S.C. § 30104(a) and make a preliminary determination that a civil money penalty of \$3,204 be assessed.
2. Send the appropriate letter.

Attachment

Contributions for Which a 48-Hour Notice Was Not Received**AF 3746****Committee ID: C00652958****Committee Name: Malek for Congress****Report Type: July Quarterly Report (4/26/2018 – 6/30/2018)****48-Hour Reporting Period: 4/26/2018 – 5/12/2018**

CONTRIBUTOR	DATE	AMOUNT
NATIONAL ASSOCIATION OF REALTORS POLITICAL ACTION COMMITTEE	4/26/2018	\$5,000.00
ESKRIDGE, GEORGE	4/30/2018	\$1,000.00
SNAKE RIVER SUGAR COMPANY POLITICAL ACTION COMMITTEE	4/30/2018	\$1,000.00
WOODWARD, JAMES	4/30/2018	\$1,000.00
NATIONAL EMERGENCY MEDICINE POLITICAL ACTION COMMITTEE / AMERICAN COLLEGE OF EMERGENCY PHY	5/2/2018	\$2,500.00
REPUBLICAN MAINSTREET PARTNERSHIP PAC	5/2/2018	\$5,000.00
WIRTH, PHILIP	5/2/2018	\$2,700.00
MEYER, STEPHEN	5/8/2018	\$1,000.00
NATIONAL BEER WHOLESALERS ASSOCIATION POLITICAL ACTION COMMITTEE	5/8/2018	\$5,000.00
MALEK, STEVE	5/9/2018	\$1,000.00
GREENWALL, EPHRAIM	5/11/2018	\$1,000.00
	TOTAL	\$26,200.00

Proposed Civil Money Penalty: \$3,204 ((4 Notices Not Filed at \$146 each) + (10% of the Overall Contributions Not Reported))

Federal Election Commission
Reason to Believe Circulation Report
48-Hour Notification Report

9/23/2019 3:36 PM

AF#	Committee ID	Committee Name	State	Election	Candidate Name	Treasurer	Prev Violations	Notices Not Filed	LOA	Penalty
3746	C00652958	MALEK FOR CONGRESS	ID	2018	MALEK, LUCAS TODD	HARRISON, CHRIS M MR	0	4	\$26,200	\$3,204

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) AF 3746
Reason to Believe Recommendation -)
Failure to File 48-Hour Notices under the)
Administrative Fine Program: Malek for)
Congress and Chris M. Harrison, in his)
official capacity as treasurer)

CERTIFICATION

I, Laura E. Sinram, Acting Secretary and Clerk of the Federal Election Commission, do hereby certify that on June 29, 2020, the Commission decided by a vote of 4-0 to take the following actions in AF 3746:

1. Find reason to believe that Malek for Congress and Chris M. Harrison, in his official capacity as treasurer, violated 52 U.S.C. § 30104(a) and make a preliminary determination that a civil money penalty of \$3,204 be assessed.
2. Send the appropriate letter.

Commissioners Hunter, Trainor, Walther, and Weintraub voted affirmatively for the decision.

Attest:

Laura Sinram

Digitally signed by
Laura Sinram
Date: 2020.07.08
12:26:32 -04'00'

Laura E. Sinram
Acting Secretary and Clerk of the
Commission

A circular watermark of the Federal Election Commission seal. The outer ring contains the text "FEDERAL ELECTION COMMISSION" at the top and "UNITED STATES OF AMERICA" at the bottom. The inner circle features a stylized eagle with its wings spread, perched on a shield with horizontal stripes. The entire seal is rendered in a light gray, semi-transparent style.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 9, 2020

Chris M. Harrison, in official capacity as Treasurer
Malek for Congress
P.O. Box 1379
Coeur d'Alene, ID 83816

C00652958
AF#: 3746

Dear Mr. Harrison:

The Federal Election Campaign Act of 1971, as amended, 52 U.S.C. § 30101, *et seq.* ("the Act"), requires principal campaign committees of candidates for federal office to notify in writing 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. 52 U.S.C. § 30104(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.* These notification requirements are in addition to all other reporting requirements. 52 U.S.C. § 30104(a). Our records indicate that Malek for Congress did not submit 48-Hour Notices for contributions of \$1,000 or more, received between April 26, 2018 and May 12, 2018, totaling \$26,200, as required by 52 U.S.C. § 30104(a)(6)(A). Attachment 1.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 52 U.S.C. § 30104(a). 52 U.S.C. § 30109(a)(4). On June 29, 2020, the FEC found that there is Reason to Believe ("RTB") that Malek for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) by failing to file the 48-Hour Notices. Based on the FEC's schedule of civil money penalties at 11 CFR § 111.44, the amount of your civil money penalty calculated at the RTB stage is \$3,204. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.55. Attachment 2. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. <http://www.fec.gov/af/af.shtml>. 11 CFR § 111.34. The amount of the civil money penalty is \$146 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 of \$3,204 within forty (40) days of the finding, or by August 8, 2020.

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 to the FEC's Office of Administrative Review. Your response must include the AF# (found at the top of page 1 under your committee's identification number) and be received within forty (40) days of the Commission's RTB finding, or August 8, 2020. 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).

Please note, on June 18, 2020, the Federal Election Commission began the initial phase (Phase I) of its return to normal operations. At this stage, the agency's offices will remain closed to visitors and most of its employees will continue to telework in an effort to limit the spread of coronavirus (COVID-19). The Commission is processing some documents submitted by mail, though processing will not occur on a daily basis until the agency resumes normal mail operations. Nevertheless, a challenge to an RTB finding and/or calculated civil money penalty must be received on time. Thus, all written responses and supporting documentation should be converted to PDF (Portable Document Format) and must be emailed to administrativefines@fec.gov. The Commission encourages the use of electronic signatures on electronically submitted documents, but scanned copies of ink signatures will be accepted. Electronically submitted challenges will be deemed received on the date it is electronically received by staff.

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. 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.

1. 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 Malek for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(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).

2. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the calculated civil money penalty, follow the payment instructions on page 4 of this letter. 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

Any offer to settle or compromise a debt owed to the Commission, including a payment in an amount less than the calculated civil money penalty assessed or any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order, will be rejected. 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). Unless you notify the FEC in writing that you wish the matter to be made public, it will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) until it is placed on the public record at the conclusion of this matter in accordance with 11 CFR § 111.42.

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 Jamie Sikorsky 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. 1158) or (202) 694-1158.

On behalf of the Commission,

A handwritten signature in black ink, appearing to read "J.E. Trainor, III". The signature is fluid and cursive, with a large, stylized "J" and "E".

James E. "Trey" Trainor III
Chair

ADMINISTRATIVE FINE PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 CFR § 111.44, the amount of your civil money penalty calculated at RTB is \$3,204 for the Idaho 2018 Primary Election 48-Hour Notification Report.

You may remit payment by ACH withdrawal from your bank account, or by debit or credit card through Pay.gov, the federal government's secure portal for online collections. Visit www.fec.gov/af/pay.shtml to be directed to Pay.gov's Administrative Fine Program Payment form. Please use the details below to complete the required fields. For additional payment options, please contact Jamie Sikorsky in the Reports Analysis Division at our toll-free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130.

COMMITTEE NAME: Malek for Congress

FEC ID#: C00652958

AF#: 3746

PAYMENT DUE DATE: August 8, 2020

PAYMENT AMOUNT DUE: \$3,204

Contributions for Which a 48-Hour Notice Was Not Received**AF 3746****Committee ID: C00652958****Committee Name: Malek for Congress****Report Type: July Quarterly Report (4/26/2018 – 6/30/2018)****48-Hour Reporting Period: 4/26/2018 – 5/12/2018**

CONTRIBUTOR	DATE	AMOUNT
NATIONAL ASSOCIATION OF REALTORS POLITICAL ACTION COMMITTEE	4/26/2018	\$5,000.00
ESKRIDGE, GEORGE	4/30/2018	\$1,000.00
SNAKE RIVER SUGAR COMPANY POLITICAL ACTION COMMITTEE	4/30/2018	\$1,000.00
WOODWARD, JAMES	4/30/2018	\$1,000.00
NATIONAL EMERGENCY MEDICINE POLITICAL ACTION COMMITTEE / AMERICAN COLLEGE OF EMERGENCY PHY	5/2/2018	\$2,500.00
REPUBLICAN MAINSTREET PARTNERSHIP PAC	5/2/2018	\$5,000.00
WIRTH, PHILIP	5/2/2018	\$2,700.00
MEYER, STEPHEN	5/8/2018	\$1,000.00
NATIONAL BEER WHOLESALERS ASSOCIATION POLITICAL ACTION COMMITTEE	5/8/2018	\$5,000.00
MALEK, STEVE	5/9/2018	\$1,000.00
GREENWALL, EPHRAIM	5/11/2018	\$1,000.00
TOTAL		\$26,200.00

Proposed Civil Money Penalty: \$3,204 ((4 Notices Not Filed at \$146 each) + (10% of the Overall Contributions Not Reported))

RECEIVED

By Office of the Commission Secretary at 5:25 pm, Nov 18, 2020



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

November 18, 2020

MEMORANDUM

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
KDR

BY: Kristin D. Roser
Reports Analysis Division
Compliance Branch

SUBJECT: Administrative Fine Program – Final Determination Recommendation for Failure to File 48-Hour Notices

Attached is a list 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 Idaho 2018 Primary Election. The committee has paid the civil money penalty requested at RTB.

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

RAD Recommendation

- (1) Make a final determination that the political committee and its treasurer, in his official capacity, listed on the attached report violated 52 U.S.C. § 30104(a) and assess the final civil money penalty so indicated.
- (2) Send the appropriate letter.

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

11/17/2020 2:12 PM

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
3746	C00652958	MALEK FOR CONGRESS	ID	2018	LUCAS TODD MALEK	CHRIS M HARRISON	0	4	\$26,200	06/29/2020	\$3,204	\$3,204	08/11/2020	\$3,204

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) AF 3746
Administrative Fine Program – Final)
Determination Recommendation for)
Failure to File 48-Hour Notices: Malek)
for Congress and Chris M Harrison, in)
his official capacity as treasurer)

CERTIFICATION

I, Laura E. Sinram, Acting Secretary and Clerk of the Federal Election Commission, do hereby certify that on January 07, 2021, the Commission decided by a vote of 6-0 to take the following actions in AF 3746:

1. Make a final determination that Malek for Congress and Chris M Harrison in his official capacity as treasurer, violated 52 U.S.C. § 30104(a) and assess the final civil money penalty in the amount of \$3,204.
2. Send the appropriate letter.

Commissioners Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

Attest:

Laura
Sinram

Digitally signed by
Laura Sinram
Date: 2021.02.17
19:25:01 -05'00'

Laura E. Sinram
Acting Secretary and Clerk of the
Commission

A faint watermark of the Federal Election Commission seal is visible in the background. The seal is circular with a scalloped outer edge. The words "FEDERAL ELECTION COMMISSION" are written in a circular pattern along the top inner edge. The bottom inner edge contains the words "UNITED STATES OF AMERICA". In the center of the seal is a stylized eagle with its wings spread, perched on a shield. The shield features a grid pattern with the words "ELECTION COMMISSION" and "UNITED STATES" visible.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AF

February 23, 2021

Chris M. Harrison, in official capacity as Treasurer
Malek for Congress
P.O. Box 1379
Coeur D'Alene, ID 83816

C00652958
AF#: 3746

Dear Mr. Harrison,

On June 29, 2020, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Malek for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) for failing to file 48-Hour Notices for contributions of \$1,000 or more, received between April 26, 2018 and May 12, 2018, totaling \$26,200. By letter dated July 9, 2020, the Commission notified you of the RTB finding and the civil money penalty calculated at the RTB stage totaling \$3,204 in accordance with the schedule of penalties at 11 CFR § 111.44.

On August 11, 2020, the FEC received payment of the civil money penalty calculated at the RTB stage. The FEC made a final determination on January 7, 2021 that Malek for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a), assessed a civil money penalty in the amount of \$3,204 in accordance with 11 CFR § 111.44 and voted to close the file.

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

If you have any questions regarding this matter, please contact Jamie Sikorsky 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, appearing to read "Shana M. Broussard".

Shana M. Broussard
Chair

THIS IS THE END OF ADMINISTRATIVE FINE CASE #3746