

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE #3785



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 14, 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/Ben Holly *BH*
Reports Analysis Division
Compliance Branch

SUBJECT: Reason To Believe Recommendation – 2020 12 Day Pre-Primary Report
(California and Texas) for the Administrative Fine Program

Attached is a list of political committees and their treasurers who failed to timely file the 2020 12 Day Pre-Primary Report for the California and Texas Primary Elections in accordance with 52 U.S.C. § 30104(a). The 12 Day Pre-Primary Report was due on February 20, 2020 and the Primary Election was held on March 3, 2020.

The committees listed on the attached RTB Circulation Report failed to file the election sensitive report by the required due date. Election sensitive reports filed more than four days prior to the election are considered late, and reports not filed more than four days prior to the election are considered not filed¹. In accordance with the schedule of civil money penalties for reports at 11 CFR § 111.43, the committees should be assessed the civil money penalties highlighted on the attached circulation report.

Recommendation

¹ The estimated level of activity for any committee that failed to file a 12 Day Pre-Primary Report was calculated using the formula at 11 CFR § 111.43(d)(2).

1. Find reason to believe that the political committees and their treasurers, in their official capacity, listed on the RTB Circulation Report violated 52 U.S.C. § 30104(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.

Federal Election Commission
Reason to Believe Circulation Report
2020 PRE-PRIMARY Election Sensitive 02/20/2020 AUTH (CA, TX)

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
3784	C00663435	COMMITTEE TO ELECT MAURO GARZA FOR US CONGRESS	MAURO EVERETT GARZA	ELIZABETH IRIS CASTILLO	\$200,754	1	3/3/2020	*Not Filed	\$46,320	\$2,391
3785	C00254573	EDDIE BERNICE JOHNSON FOR CONGRESS	EDDIE BERNICE JOHNSON	RANDY WHITAKER	\$554,801	0	3/1/2020	*Not Filed	\$94,605	\$5,813
3786	C00717215	HOWARD STEELE FOR CONGRESS	HOWARD LYNN STEELE	ANDREA LESTER	\$136,184	0		Not Filed	\$68,091 (est)	\$4,360
3787	C00710129	JON HOLLIS 4 CONGRESS	JON HOLLIS	JON HOLLIS	\$326,925	0	2/26/2020	6	\$5,198	\$215
3789	C00676320	UNITED FORWARD 2020 BENZEL FOR CONGRESS	JULIANNE ELIZABETH BENZEL	GREG DON BENZEL	\$202,857	0	2/28/2020	*Not Filed	\$75,716	\$5,813

* The committee did not file their report prior to four (4) days before the primary election; therefore, per 11 C.F.R. 111.43(e), the report is considered to be not filed.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) AF 3785
 Reason To Believe Recommendation -)
 2020 12 Day Pre-Primary Report the)
 Administrative Fine Program: Eddie)
 Bernice Johnson for Congress and Mr.)
 Randy Whitaker, 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, as recommended in the Reports Analysis Division's Memorandum dated April 14, 2020, and subject to the Notice of Errata Memorandum dated June 19, 2020, in AF# 3785:

1. Find reason to believe that Eddie Bernice Johnson for Congress and Mr. Randy Whitaker, in his official capacity as treasurer, violated 52 U.S.C. § 30104(a) and make a preliminary determination that a civil money penalty would be in the amount of \$5,813.
2. Send the appropriate letter.

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

Federal Election Commission
Certification for Administrative Fines
June 29, 2020



Attest:

**Laura
Sinram**

Digitally signed by
Laura Sinram
Date: 2020.07.16
17:52:23 -04'00'

Laura E. Sinram
Acting Secretary and Clerk of the
Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AF

July 21, 2020

Randy Whitaker, in official capacity as Treasurer
Eddie Bernice Johnson for Congress
1825 Market Center Blvd., Suite 605
Dallas, TX 75207

C00254573

AF#: 3785

Dear Mr. Whitaker,

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a 12 Day Pre-Primary Report of Receipts and Disbursements in any 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 January 1, 2020 through February 12, 2020, shall be filed no later than February 20, 2020. 52 U.S.C. § 30104(a). Because records at the Commission indicate that you did not file this report prior to four (4) days before the election, 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). 52 U.S.C. § 30109g(a)(4). On June 29, 2020, the FEC found that there is reason to believe ("RTB") that Eddie Bernice Johnson for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) by failing to file timely this report on or before February 20, 2020. Based on the FEC's schedules of civil money penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$5,813. Please see the attached copy of the Commission's administrative fine regulations at 11 C.F.R. §§ 111.30-111.46. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <https://www.fec.gov/af/pay.shtml> 11 C.F.R. § 111.34. Your payment of \$5,813 is due within forty (40) days of the finding, or by August 8, 2020, and is based on these factors:

Election Sensitivity of Report: Election Sensitive

Level of Activity: \$94,605

Number of Days Late: Not Filed (reports not filed prior to four (4) days before the Primary Election held on March 3, 2020 are considered not filed for the purpose of calculating the penalty)

Number of Previous Civil Money Penalties Assessed: 0

EDDIE BERNICE JOHNSON FOR CONGRESS

Page 2 of 5

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

EDDIE BERNICE JOHNSON FOR CONGRESS

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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.

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 Eddie Bernice Johnson 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).

3. 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

EDDIE BERNICE JOHNSON FOR CONGRESS

Page 4 of 5

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 <https://www.fec.gov/af/pay.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Ben Holly 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.

Sincerely,



James E. "Trey" Trainor III
Chair

ADMINISTRATIVE FINE 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 \$5,813 for the Pre-Primary Report.

You may remit payment by ACH withdrawal from your bank account, or by debit or

EDDIE BERNICE JOHNSON FOR CONGRESS

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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 Ben Holly in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130.

COMMITTEE NAME: Eddie Bernice Johnson for Congress

FEC ID#: C00254573

AF#: 3785

PAYMENT DUE DATE: August 8, 2020

PAYMENT AMOUNT DUE: \$5,813

RECEIVED

By Office of the Commission Secretary at 9:42 am, Nov 03, 2020



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

November 3, 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

BY: Kristin D. Roser/Ben Holly *KDR BH*
Reports Analysis Division
Compliance Branch

SUBJECT: Administrative Fine Program – Final Determination Recommendation for the
2020 12 Day Pre-Primary Report (Texas)

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 2020 12 Day Pre-Primary Report. The first list represents a committee that has paid the civil money penalty and the second list represents committees that have not paid the civil money penalty. The committees that have not paid have 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.

RAD Recommendation

- (1) Make a final determination that the political committees and their treasurers, in their official capacity, listed on the attached reports violated 52 U.S.C. § 30104(a) and assess the final civil money penalties so indicated.
- (2) Send the appropriate letters.

Federal Election Commission
FD Circulation Report Fine Paid
2020 PRE-PRIMARY Election Sensitive 02/20/2020 AUTH (TX)

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
3785	EDDIE BERNICE JOHNSON FOR CONGRESS	EDDIE BERNICE JOHNSON	C00254573	RANDY WHITAKER	03/01/2020	*Not Filed	\$94,605	0	06/29/2020	\$5,813	\$5,813	07/31/2020	\$5,813

* The committee did not file their report prior to four (4) days before the primary election; therefore, per 11 C.F.R. 111.43(e), the report is considered to be not filed.

Federal Election Commission
FD Circulation Report Fine Not Paid
2020 PRE-PRIMARY Election Sensitive 02/20/2020 AUTH (TX)

AF#	Committee Name	Candidate Name	Committee ID	Treasurer	Receipt Date	Days Late	LOA	PV	RTB Date	RTB Penalty	Days Since RTB	FD Penalty
3784	COMMITTEE TO ELECT MAURO GARZA FOR US CONGRESS	MAURO EVERETT GARZA	C00663435	ELIZABETH IRIS CASTILLO	03/03/2020	*Not Filed	\$46,320	1	06/29/2020	\$2,391	127	\$2,391
3786	HOWARD STEELE FOR CONGRESS	HOWARD LYNN STEELE	C00717215	ANDREA LESTER		Not Filed	\$68,091 (est)	0	06/29/2020	\$4,360	127	\$4,360
3787	JON HOLLIS 4 CONGRESS	JON HOLLIS	C00710129	JON HOLLIS	02/26/2020	6	\$5,198	0	06/29/2020	\$215	127	\$215

* The committee did not file their report prior to four (4) days before the primary election; therefore, per 11 C.F.R. 111.43(e), the report is considered to be not filed.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
Administrative Fine Program – Final)	
Determination Recommendation for the)	
2020 12 Day Pre-Primary Report (Texas):)	
COMMITTEE TO ELECT MAURO)	AF# 3784
GARZA FOR US CONGRESS, and)	
CASTILLO, IRIS ELIZABETH MS. as)	
treasurer;)	
EDDIE BERNICE JOHNSON FOR)	AF# 3785
CONGRESS, and WHITAKER, RANDY)	
MR. as treasurer;)	
HOWARD STEELE FOR CONGRESS,)	AF# 3786
and LESTER, ANDREA as treasurer;)	
JON HOLLIS 4 CONGRESS, and)	AF# 3787
HOLLIS, JON 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 took the following actions on the Administrative Fine Program – Final Determination Recommendation for the 2020 12 Day Pre-Primary Report (Texas), as recommended in the Reports Analysis Division's Memorandum dated November 03, 2020, on the following committees:

AF#3784 Decided by a vote of 6-0 to: (1) make a final determination that COMMITTEE TO ELECT MAURO GARZA FOR US CONGRESS, and CASTILLO, IRIS ELIZABETH MS. in her official capacity as treasurer, violated 52 U.S.C. 30104(a) and assess the final civil money penalty so indicated; (2) send the appropriate letter. Commissioners Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

Federal Election Commission
Certification for Administrative Fines
January 7, 2021

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AF#3785 Decided by a vote of 6-0 to: (1) make a final determination that EDDIE BERNICE JOHNSON FOR CONGRESS, and WHITAKER, RANDY MR. in his official capacity as treasurer, violated 52 U.S.C. 30104(a) and assess the final civil money penalty so indicated; (2) send the appropriate letter. Commissioners Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

AF#3786 Decided by a vote of 6-0 to: (1) make a final determination that HOWARD STEELE FOR CONGRESS, and LESTER, ANDREA in her official capacity as treasurer, violated 52 U.S.C. 30104(a) and assess the final civil money penalty so indicated; (2) send the appropriate letter. Commissioners Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

AF#3787 Decided by a vote of 6-0 to: (1) make a final determination that JON HOLLIS 4 CONGRESS, and HOLLIS, JON in his official capacity as treasurer, violated 52 U.S.C. 30104(a) and assess the final civil money penalty so indicated; (2) send the appropriate letter. Commissioners Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.



Attest:

Laura
Sinram

Laura E. Sinram
Acting Secretary and Clerk of the
Commission

Digitally signed by Laura
Sinram
Date: 2021.02.11
20:41:19 -05'00'



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AF

February 17, 2021

Randy Whitaker, in official capacity as Treasurer
Eddie Bernice Johnson for Congress
2279 Dorian Place
Dallas, TX 75228

C00254573

AF#: 3785

Dear Mr. Whitaker,

On June 29, 2020, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Eddie Bernice Johnson for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) for filing late or failing to file the 2020 12 Day Pre-Primary Report. By letter dated July 21, 2020, the Commission notified you of the RTB finding and the civil money penalty calculated at the RTB stage totaling \$5,813 in accordance with the schedule of penalties at 11 CFR § 111.43.

On July 31, 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 Eddie Bernice Johnson 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 \$5,813 in accordance with 11 CFR § 111.43, 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 Ben Holly 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 #3785