



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

September 23, 2021

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

SUBJECT: Reason To Believe Recommendation – 2021 Mid-Year Report for the Administrative Fine Program

Attached is a list of political committees and their treasurers who failed to file the 2021 Mid-Year Report in accordance with 52 U.S.C. § 30104(a). The Mid-Year Report was due on July 31, 2021.

The committees listed on the attached RTB Circulation Report either failed to file the report or filed the report no more than thirty (30) days after the due date (considered a late filed report). In accordance with the schedule of civil money penalties for reports at 11 C.F.R. 111.43, these committees should be assessed the civil money penalties highlighted on the attached circulation report.

Recommendation

1. Find reason to believe that the political committees and their treasurers, 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
2021 MID-YEAR REPORT Not Election Sensitive 07/31/2021 UNAUTH

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
4240	C00699785	MISES PAC		KYLE BURTON	\$279,387	0	8/19/2021	19	\$279,387	\$7,907
4241	C00738237	PEOPLE'S ACTION POWER		BREE CARLSON	\$294,721	0	8/9/2021	9	\$294,721	\$4,927

4243	C00522458	TOGETHER WE THRIVE		CHRISTOPHER ZULLO	\$104,451	1		Not Filed	\$104,451 (est)	\$8,418
4244	C00616912	WOMEN VOTE SMART		AMY S. KREMER	\$145,616	3		Not Filed	\$145,616 (est)	\$11,786

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Reason To Believe Recommendation - 2021)
Mid-Year Report for the Administrative)
Fine Program:)
MISES PAC, and BURTON, KYLE as) AF# 4240
treasurer;)
PEOPLE'S ACTION POWER, and) AF# 4241
CARLSON, BREE as treasurer;)
TOGETHER WE THRIVE, and) AF# 4243
CHRISTOPHER ZULLO as treasurer;)
WOMEN VOTE SMART, and KREMER,) AF# 4244
AMY S as treasurer;)

CERTIFICATION

I, Laura E. Sinram, Acting Secretary and Clerk of the Federal Election Commission, do hereby certify that on September 27, 2021 the Commission took the following actions on the Reason To Believe Recommendation - 2021 Mid-Year Report for the Administrative Fine Program, as recommended in the Reports Analysis Division's Memorandum dated September 23, 2021, on the following committees:

AF#4240 Decided by a vote of 4-0 to: (1) find reason to believe that MISES PAC, and BURTON, KYLE in their official capacity as treasurer, violated 52 U.S.C. § 30104(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 Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision. Commissioners Broussard and Cooksey did not vote.

Federal Election Commission
 Certification for Administrative Fines
 September 27, 2021

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AF#4241 Decided by a vote of 4-0 to: (1) find reason to believe that PEOPLE'S ACTION POWER, and CARLSON, BREE in their official capacity as treasurer, violated 52 U.S.C. § 30104(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 Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision. Commissioners Broussard and Cooksey did not vote.

AF#4243 Decided by a vote of 4-0 to: (1) find reason to believe that TOGETHER WE THRIVE, and CHRISTOPHER ZULLO in their official capacity as treasurer, violated 52 U.S.C. § 30104(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 Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision. Commissioners Broussard and Cooksey did not vote.

AF#4244 Decided by a vote of 4-0 to: (1) find reason to believe that WOMEN VOTE SMART, and KREMER, AMY S in their official capacity as treasurer, violated 52 U.S.C. § 30104(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 Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision. Commissioners Broussard and Cooksey did not vote.

Attest:

**Laura e
Sinram**

Digitally signed by Laura
e Sinram
Date: 2021.09.29 16:00:10
-04'00'

Laura E. Sinram
Acting Secretary and Clerk of the
Commission





FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AF

September 30, 2021

Kyle Burton, in official capacity as Treasurer
 Mises PAC
 P.O. Box 2183
 Norristown, PA 19401

CO0699785
 AF#: 4240

Dear Mr. Burton,

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a Mid-Year Report of Receipts and Disbursements in any calendar year other than one during which a regularly scheduled general election is held. This report, covering the period January 1, 2021 through June 30, 2021, shall be filed no later than July 31, 2021. 52 U.S.C. § 30104(a). Records at the Federal Election Commission ("FEC") indicate that this report was filed on August 19, 2021, 19 days late.

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 September 27, 2021, the FEC found that there is reason to believe ("RTB") that Mises PAC 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 July 31, 2021. 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 \$7,907. 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 <https://www.fec.gov/af/pay.shtml> 11 CFR § 111.34. Your payment of \$7,907 is due within forty (40) days of the finding, or by November 6, 2021, and is based on these factors:

Election Sensitivity of Report: Not Election Sensitive
 Level of Activity: \$279,387
 Number of Days Late: 19
 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

MISES PAC

Page 2 of 5

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 November 6, 2021. 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, the Federal Election Commission's office remains closed to visitors and most of its employees are continuing 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 daily 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). 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).

MISES PAC

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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 Mises PAC 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

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

MISES PAC

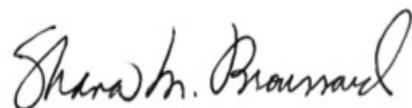
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be deposited and treated as a partial payment towards the civil money penalty that the Commission assesses upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth 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 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,



Shana M. Broussard
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 \$7,907 for the 2021 Mid-Year 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.

MISES PAC

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COMMITTEE NAME: Mises PAC

FEC ID#: C00699785

AF#: 4240

PAYMENT DUE DATE: November 6, 2021

PAYMENT AMOUNT DUE: \$7,907

MISES PAC
 PO Box 2183
 Norristown, PA 19401
 March 1, 2022

Federal Election Commission
 Washington, DC 20463

RE: Mises PAC Committee ID: C00699785 Challenge to AF#4240

To whom it may concern,

My name is Michael Heise, I am the chair of Mises PAC. I am writing to you in regards to a Reason to Believe finding that we received in our email on Friday, January 21st 2022. The finding was that we were late in filing our mid-year report by 19 days, filed on August 19th 2021.

I am challenging the fine on the grounds that Mises PAC expended all reasonable efforts to timely file the report referenced above and was prevented from doing so by unforeseen circumstances beyond our control in accordance with 11 CFR § 111.35(b). The problems we experienced in the middle of the COVID-19 crisis hampered our access to our existing equipment, records, and software. As a consequence, we were forced to reconstruct much of our process and dataset, as well having a novice trained in using FECFILE. During this time, we were in constant contact with the Federal Election Commission as we sought to and were finally able to comply with the filing requirements.

Prior to this incident, we have had no violations or issues with our filings or compliance. With this particular filing, a confluence of unforeseen factors came together which prevented us from being able to file this report on time. Prior to this, our assistant treasurer, Brandon Reisinger, was doing most of the heavy lifting with our filings without issue. As we came up to the filing deadline I was unable to contact Brandon despite repeated attempts via phone calls and text messages. To this day there has been no contact with him and no explanation as to this very sudden non-communication. I then contacted our treasurer, Kyle Burton, to fill in. Kyle was

unable to do the filing. I was then put into a position to scramble at the last minute to find somebody that was able to help us. I contacted Todd Haggopian who was able to file as quickly as he could on our ad-hoc behalf on such short notice.

Kyle takes full responsibility for this late filing. We are a small organization that, to this point, has been relying on friends with CPA experience to help us with this administrative work. This experience has led us to hire a firm to professionalize this process on our end. Corrective action has been taken. With the help of this firm we will be sophisticating our bookkeeping, report generating and filing methods.

I will let Kyle and Todd speak to the details of their experience within all of this as well.

Michael Heise
 Chair, Mises PAC

To whom it may concern,

My name is Kyle Burton, I am the treasurer of the Mises PAC. I am reaching out in regards to a Reason to Believe finding that was sent to us on 1/21/22. The finding states we were late on our report by 19 days which was filed on 8/19/21. I am requesting a best efforts challenge.

Prior to this occurrence, Brandon Reisinger was handling the actual formatting and filing of the report, and I was reviewing the report for accuracy. When the deadline was approaching, myself and Michael Heise, the chair of the Mises PAC was unable to reach Brandon. No one has still heard from him to this day.

At

this time Michael Heise then contacted Todd Hagopian who then completed the filing ASAP. I take responsibility for the report being late.

Kyle Burton
Treasurer, Mises PAC

To Whom It May Concern,

My name is Todd Hagopian. I am the Treasurer of the Oklahoma Libertarian Party, who is also a FEC-filing organization. I have been asked to write to you regarding my part in the late filing of the Mid-year FEC report for the Mises PAC.

I have been donating to the Mises PAC, since early 2020, and have become close with the folks who run the organization. On August 10, 2021, Michael Heise called me and informed me that the organization's treasurer had not been able to complete their FEC report, and they could not find anyone to do the work. He asked me if I could assist. I was, of course, working full-time, but agreed to help the organization out with their urgent filing as best I could, given my time constraints.

Due to not having been in the position, I started with a huge disadvantage of not knowing what accounts, what relationships, and what outputs were needed to complete their specific report. Michael, and I, worked very closely for the next 7-8 days to get ahold of all of the necessary data and review it for accuracy.

Over the next two days, I compiled the data, spoke with the FEC over the phone on questions regarding their online portal and inputted the data into the FEC Tool. On August 19, 2021, I submitted the report to the FEC. Michael Heise, the Mises PAC team, and the FEC, all worked very well together to pull a report together in about ten days.

While I wish it could have been done faster once we started, I can assure you that the Mises PAC was stressing accuracy over speed, which was the only responsible way to do it. I hope that you consider reducing the fine based on extenuating circumstances that left the Mises PAC essentially starting over a filing with a brand new person. Thank you.

Todd Hagopian
Oklahoma Libertarian Party Treasurer



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 18, 2022

**REVIEWING OFFICER RECOMMENDATION
OFFICE OF ADMINISTRATIVE REVIEW (“OAR”)**

AF# 4240 – Mises PAC and Kyle Burton, Jr., in their official capacity as Treasurer (C00699785)

Summary of Recommendation

Make a final determination that the respondents violated 52 U.S.C. § 30104(a) and assess a \$7,907 civil money penalty.

Reason-to-Believe Background

The 2021 Mid-Year Report was due on July 31, 2021. The respondents filed the report on August 19, 2021, 19 days late. The report is not election sensitive and was filed within 30 days of the due date; therefore, the report is considered late. 11 C.F.R. §§ 111.43(d)(1) and (e)(1).

On September 27, 2021, the Commission found reason to believe (“RTB”) that the respondents violated 52 U.S.C. § 30104(a) for failing to timely file the 2021 Mid-Year Report and made a preliminary determination that the civil money penalty was \$7,907 based on the schedule of penalties at 11 C.F.R. § 111.43. A letter was mailed to the respondents’ email address of record from the Reports Analysis Division (“RAD”) on September 30, 2021 to notify them of the Commission’s RTB finding and civil money penalty.

Legal Requirements

The Federal Election Campaign Act (“Act”) states that the treasurer of a political committee not authorized by a candidate which is filing on a quarterly basis shall file, in a non-election year, a report for the period ending June 30 no later than July 31. 52 U.S.C. § 30104(a) and 11 C.F.R. § 104.5(c)(2)(i). 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).

Summary of Respondents' Challenge

On March 2, 2022, the Commission received the written response (“challenge”) from the respondents, which includes statements from three individuals. Mr. Heise, the PAC’s Chair, explains the circumstances of the late filing, stating in part:

I am challenging the fine on the grounds that Mises PAC expended all reasonable efforts to timely file the report referenced above and was prevented from doing so by unforeseen circumstances beyond our control in accordance with 11 CFR § 111.35(b). The problems we experienced in the middle of the COVID-19 crisis hampered our access to our existing equipment, records, and software. As a consequence, we were forced to reconstruct much of our process and dataset, as well as having a novice trained in using FECFILE. During this time, we were in constant contact with the Federal Election Commission as we sought to and were finally able to comply with the filing requirements.

Prior to this incident, we have had no violations or issues with our filings or compliance. With this particular filing, a confluence of unforeseen factors came together which prevented us from being able to file this report on time. Prior to this, our assistant treasurer, Brandon Reisinger, was doing most of the heavy lifting with our filings without issue. As we came up to the filing deadline I was unable to contact Brandon despite repeated attempts via phone calls and text messages. To this day there has been no contact with him and no explanation as to this very sudden non-communication. I then contacted our treasurer, Kyle Burton, to fill in. Kyle was

unable to do the filing. I was then put into a position to scramble at the last minute to find somebody that was able to help us. I contacted Todd Hagopian (sp) who was able to file as quickly as he could on our ad-hoc behalf on such short notice.

Kyle takes full responsibility for this late filing. We are a small organization that, to this point, has been relying on friends with CPA experience to help us with this administrative work. This experience has led us to hire a firm to professionalize this process on our end. Corrective action has been taken. With the help of this firm we will be sophisticating our bookkeeping, report generating and filing methods.

Mr. Burton and Mr. Hagopian provided individual statements which support the explanation provided by Mr. Heise.

Analysis

The Committee indicates the 2021 Mid-Year Report was not timely filed due to a multitude of unforeseen circumstances. Specifically, the respondents reference the impact of COVID-19 on normal operations and resulting need to rebuild the Committee’s dataset, the sudden inability to contact the Assistant Treasurer, the unavailability of the Treasurer due to personal circumstances, and inexperience of other committee representatives taking on filing responsibilities. As stated in

the challenge, Commission records indicate the Committee contacted RAD and the Electronic Filing Office (“EFO”) multiple times between August 5, 2021 and August 19, 2021 to provide progress updates and request assistance. On August 19, 2021, the Committee successfully filed the 2021 Mid-Year Report, 19 days late.

The Reviewing Officer acknowledges COVID-19 and its related impacts may be considered a reasonably unforeseen circumstance beyond a committee’s control. 11 C.F.R. § 111.35. The “best efforts” defense is a two-part test: the respondents 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.

The Commission states in its *Explanation and Justification for Revised 11 CFR § 111.35(b)(3) – “Best Efforts” Defense*, 72 Fed. Reg. 14662, 14664-14666 (Mar. 29, 2007) that respondents must show

...that the reasonably unforeseen circumstances in fact *prevented* the timely and proper filing of the required report...[T]his rule requires a strict causal relationship between the circumstances described in the challenge...and the respondent's inability to file the report timely. It is not sufficient for reasonably unforeseen circumstances to make it merely more difficult than usual for the respondent to file on time. The circumstance must cause the respondent to be *unable* to file in a timely and proper manner, despite the respondent attempting to use all available methods of filing. (emphasis included)

However, the Committee did not demonstrate that the circumstances directly *prevented* the respondents from filing the report. Nor did the respondents demonstrate that they filed the report no later than 24 hours after the end of a circumstance considered to be unforeseen and beyond the respondents’ control. Therefore, a “best efforts” defense with respect to COVID-19 does not succeed in this matter.

The Reviewing Officer is sympathetic to the other circumstances presented and recognizes these circumstances may have impacted the Committee’s ability to timely file the 2021 Mid-Year Report. The Reviewing Officer also recognizes the Committee’s overall timeliness in filing its other reports. However, the Reviewing Officer notes that a committee’s treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d). Moreover, committee computer and software problems; and illness, unavailability, and inexperience of a treasurer or other staff are specifically included at 11 C.F.R. § 111.35(d) as examples of circumstances 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) and assess a \$7,907 civil money penalty.

OAR Recommendations

1. Adopt the Reviewing Officer recommendation for AF# 4240 involving Mises PAC and Kyle Burton, Jr., in their official capacity as Treasurer, in making the final determination;
2. Make a final determination in AF# 4240 that Mises PAC and Kyle Burton, Jr., in their official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a \$7,907 civil money penalty; and
3. Send the appropriate letter.

Attachments

Attachment 1 –

Attachment 2 –

Attachment 3 – Declaration from RAD

Attachment 4 – Declaration from OAR

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. 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.
3. I hereby certify that documents identified herein are true and accurate copies of the following sent by the Commission to Mises PAC:
 - A) Non-Filer Letter, dated August 16, 2021, referencing the 2021 Mid-Year Report (sent via electronic mail to: lpmisescaucus@gmail.com and kyleburton44@gmail.com);
 - B) Reason-to-Believe Letter, dated September 30, 2021, referencing the 2021 Mid-Year Report (sent via electronic mail to: lpmisescaucus@gmail.com and kyleburton44@gmail.com).
4. I hereby certify that I have searched the Commission’s public records and find that Mises PAC filed the 2021 Mid-Year Report with the Commission on August 19, 2021.
5. 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 on the 28th day of March, 2022.

Kristin D. Roser

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



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-7

August 16, 2021

BURTON, KYLE JR, TREASURER
MISES PAC
PO BOX 2183
NORRISTOWN, PA 19401

IDENTIFICATION NUMBER: C00699785

REFERENCE: MID-YEAR REPORT REPORT (01/01/2021 - 06/30/2021)

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 or failed to file a report covering the entire reporting period as required by the Federal Election Campaign Act, as amended. 52 U.S.C. §30104(a)

It is important that you file this report immediately with the Federal Election Commission, 1050 First Street, NE, Washington, DC 20002. Please note, the Federal Election Commission's office remains closed to visitors and most of its employees are continuing to telework in an effort to limit the spread of coronavirus (COVID-19). The Commission is processing campaign finance reports filed by mail, though processing will not occur on a daily basis until the agency resumes normal mail operations. As a result, paper filers may continue to receive non-filer letters. Nevertheless, filers should continue to file their reports on time. Reports sent by registered mail, overnight delivery, or certified mail, are considered filed with the FEC as of the date of the postmark. Reports submitted by first-class mail will be considered filed when actually received by Commission staff, subject to delays resulting from the agency's limited mail processing. The Commission will not be able to receive or process reports filed by courier service at this time. The FEC does not have statutory authority to extend filing deadlines, but it may choose not to pursue administrative fines against filers prevented from filing by reasonably unforeseen circumstances beyond their control. See 11 CFR 111.35.

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.

The failure to timely file this report may result in civil money penalties, suspension of matching funds payments, an audit or legal enforcement action. The civil money penalty

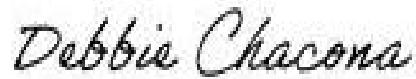
MISES PAC

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calculation for late reports does not include a grace period and begins on the day following the due date for the report. Due to heightened security screening measures, delivery of mail by the US Postal Service may be delayed. The Commission recommends that you submit your report via overnight delivery or courier service.

If you have any questions regarding this matter, please contact Jamie Sikorsky in the Reports Analysis Division on our toll-free number (800)424-9530. The analyst's direct number is (202)694-1137.

Sincerely,



Deborah Chacona
Assistant Staff Director
Reports Analysis Division

250

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) Political committees not authorized by a candidate which are filing on a quarterly basis shall file, in a non-election year, a report for the period ending June 30 no later than July 31. Reports filed electronically must be received and validated at or before 11:59 pm, Eastern Standard/Daylight Time on July 31, 2021 for the 2021 Mid-Year Report to be timely filed.
- 3) 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) Cover Page, Summary Page, and Detailed Summary Pages of the 2021 Mid-Year Report filed by Mises PAC. The report includes the coverage period of January 21, 2021 through June 30, 2021 and was electronically filed on August 19, 2021.
- 4) 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 on the 18th day of April, 2022.

Rhiannon Magruder
Rhiannon Magruder
Reviewing Officer
Office of Administrative Review
Federal Election Commission

SUMMARY PAGE
OF RECEIPTS AND DISBURSEMENTS

FEC Form 3X (Rev. 05/2016)

Page 2

Write or Type Committee Name

MISES PAC

Report Covering the Period: From:

M = M	/	D = D	/	Y = Y	Y = Y
01		01		2021	

To:

M = M	/	D = D	/	Y = Y	Y = Y
06		30		2021	

COLUMN A
This Period

COLUMN B
Calendar Year-to-Date

6. (a) Cash on Hand January 1,	Y = Y	2021	10919.95
(b) Cash on Hand at Beginning of Reporting Period.....			10919.95
(c) Total Receipts (from Line 19)			147151.97
(d) Subtotal (add Lines 6(b) and 6(c) for Column A and Lines 6(a) and 6(c) for Column B)			158071.92
7. Total Disbursements (from Line 31).....			132235.05
8. Cash on Hand at Close of Reporting Period (subtract Line 7 from Line 6(d))			25836.87
9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)			0.00
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)			0.00



This committee has qualified as a multicandidate committee. (see FEC FORM 1M)

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

FEC Form 3X (Rev. 05/2016)

Page 3

Write or Type Committee Name

MISES PAC

Report Covering the Period: From:

M = M
01D = D
01Y = Y = Y = Y
2021

To:

M = M
06D = D
30Y = Y = Y = Y
2021**I. Receipts****COLUMN A**
Total This Period**COLUMN B**
Calendar Year-to-Date

11. Contributions (other than loans) From:

(a) Individuals/Persons Other Than Political Committees
(i) Itemized (use Schedule A).....

46145.64

46145.64

(ii) Unitemized

101006.33

101006.33

(iii) TOTAL (add Lines 11(a)(i) and (ii)).....►

147151.97

147151.97

(b) Political Party Committees

0.00

0.00

(c) Other Political Committees (such as PACs).....

0.00

0.00

(d) Total Contributions (add Lines 11(a)(iii), (b), and (c)) (Carry Totals to Line 33, page 5)

147151.97

147151.97

12. Transfers From Affiliated/Other Party Committees.....

0.00

0.00

13. All Loans Received

0.00

0.00

14. Loan Repayments Received.....

0.00

0.00

15. Offsets To Operating Expenditures (Refunds, Rebates, etc.) (Carry Totals to Line 37, page 5).....

0.00

0.00

16. Refunds of Contributions Made to Federal Candidates and Other Political Committees.....

0.00

0.00

17. Other Federal Receipts (Dividends, Interest, etc.).....

0.00

0.00

18. Transfers from Non-Federal and Levin Funds

(a) Non-Federal Account (from Schedule H3)

0.00

0.00

(b) Levin Funds (from Schedule H5)

0.00

0.00

(c) Total Transfers (add 18(a) and 18(b))..

0.00

0.00

19. Total Receipts (add Lines 11(d), 12, 13, 14, 15, 16, 17, and 18(c)).....►

147151.97

147151.97

20. Total Federal Receipts (subtract Line 18(c) from Line 19).....►

147151.97

147151.97

DETAILED SUMMARY PAGE

of Disbursements

FEC Form 3X (Rev. 05/2016)

Page 4

II. Disbursements	COLUMN A Total This Period	COLUMN B Calendar Year-to-Date
21. Operating Expenditures:		
(a) Allocated Federal/Non-Federal Activity (from Schedule H4)		
(i) Federal Share	0.00	0.00
(ii) Non-Federal Share.....	0.00	0.00
(b) Other Federal Operating Expenditures	132235.05	132235.05
(c) Total Operating Expenditures (add 21(a)(i), (a)(ii), and (b))	132235.05	132235.05
22. Transfers to Affiliated/Other Party Committees.....	0.00	0.00
23. Contributions to Federal Candidates/Committees and Other Political Committees.....	0.00	0.00
24. Independent Expenditures (use Schedule E)	0.00	0.00
25. Coordinated Party Expenditures (52 U.S.C. § 30116(d)) (use Schedule F).....	0.00	0.00
26. Loan Repayments Made.....	0.00	0.00
27. Loans Made.....	0.00	0.00
28. 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 28(a), (b), and (c)).....	0.00	0.00
29. Other Disbursements (Including Non-Federal Donations).....	0.00	0.00
30. Federal Election Activity (52 U.S.C. § 30101(20))		
(a) Allocated Federal Election Activity (from Schedule H6)		
(i) Federal Share	0.00	0.00
(ii) "Levin" Share.....	0.00	0.00
(b) Federal Election Activity Paid Entirely With Federal Funds	0.00	0.00
(c) Total Federal Election Activity (add Lines 30(a)(i), 30(a)(ii) and 30(b))	0.00	0.00
31. Total Disbursements (add Lines 21(c), 22, 23, 24, 25, 26, 27, 28(d), 29 and 30(c))..	132235.05	132235.05
32. Total Federal Disbursements (subtract Line 21(a)(ii) and Line 30(a)(ii) from Line 31).....	132235.05	132235.05

DETAILED SUMMARY PAGE
of Disbursements

Page 5

FEC Form 3X (Rev. 05/2016)

III. Net Contributions/ Operating Expenditures	COLUMN A Total This Period	COLUMN B Calendar Year-to-Date
33. Total Contributions (other than loans) (from Line 11(d), page 3)	147151.97	147151.97
34. Total Contribution Refunds (from Line 28(d))	0.00	0.00
35. Net Contributions (other than loans) (subtract Line 34 from Line 33)	147151.97	147151.97
36. Total Federal Operating Expenditures (add Line 21(a)(i) and Line 21(b))	132235.05	132235.05
37. Offsets to Operating Expenditures (from Line 15, page 3).....	0.00	0.00
38. Net Operating Expenditures (subtract Line 37 from Line 36)	132235.05	132235.05



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 20, 2022

Kyle Burton, Jr., in official capacity as Treasurer
Mises PAC
PO Box 2183
Norristown, PA 19401

C00699785
AF# 4240

Dear Mr. Burton:

On September 27, 2021, the Federal Election Commission (“the Commission”) found reason to believe (“RTB”) that Mises PAC and you, in your official capacity as Treasurer, violated 52 U.S.C. § 30104(a) for failing to file the 2021 Mid-Year Report. The Commission also made a preliminary determination that the civil money penalty was \$7,907 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 and assess a civil money penalty. 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. Please note, all written responses and supporting documentation should be converted to PDF (Portable Document Format) and emailed to the Commission Secretary at secretary@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 responses will be deemed received on the date it is electronically received by staff. 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 202-694-1158 if you have any questions.

Sincerely,

Rhiannon Magruder

Rhiannon Magruder
Reviewing Officer
Office of Administrative Review

RECEIVED

By Office of the Commission Secretary at 11:02 am, May 02, 2022

SENSITIVE

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 2, 2022

MEMORANDUM

To: The Commission

Through: Alec Palmer *AP*
Staff DirectorFrom: Patricia C. Orrock *PCO*
Chief Compliance OfficerRhiannon Magruder *RM*
Reviewing Officer
Office of Administrative Review

Subject: Final Determination Recommendation in AF# 4240 – Mises PAC and Kyle Burton, Jr., in their official capacity as Treasurer (C00699785)

On September 27, 2021, the Commission found reason to believe (“RTB”) that the respondents violated 52 U.S.C. § 30104(a) for failing to timely file the 2021 Mid-Year Report and made a preliminary determination that the civil money penalty was \$7,907 based on the schedule of penalties at 11 C.F.R. § 111.43. On March 2, 2022, the Commission received their written response (“challenge”). After reviewing the challenge, the Reviewing Officer Recommendation (“ROR”) dated April 18, 2022 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. *See* ROR. The Reviewing Officer determined the respondents’ “best efforts” defense with respect to COVID-19 did not succeed in this matter. The Reviewing Officer was sympathetic to the other circumstances presented but noted that committee computer and software problems; and illness, unavailability, and inexperience of a treasurer or other staff are specifically included at 11 C.F.R. § 111.35(d) as examples of circumstances that will not be considered reasonably unforeseen and beyond the respondents’ control. Therefore, the Reviewing Officer recommended that the Commission make a final determination that the respondents violated 52 U.S.C. § 30104(a) and assess a \$7,907 civil money penalty.

Within 10 days of transmittal of the recommendation, the respondents 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 28, 2022, the Committee stated it intends to pay the civil money penalty.

OAR Recommendations

1. Adopt the Reviewing Officer recommendation for AF# 4240 involving Mises PAC and Kyle Burton, Jr., in their official capacity as Treasurer, in making the final determination;
2. Make a final determination in AF# 4240 that Mises PAC and Kyle Burton, Jr., in their official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a \$7,907 civil money penalty; and
3. Send the appropriate letter.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) AF 4240
Final Determination Recommendation –)
Mises PAC and Kyle Burton, Jr., in their)
official capacity as Treasurer)
(C00699785))

CERTIFICATION

I, Vicktoria J. Allen, Acting Deputy Secretary of the Federal Election Commission, do hereby certify that on May 11, 2022, the Commission decided by a vote of 6-0 to take the following actions in AF 4240:

1. Adopt the Reviewing Officer recommendation for AF# 4240 involving Mises PAC and Kyle Burton, Jr., in their official capacity as Treasurer, in making the final determination.
2. Make a final determination in AF# 4240 that Mises PAC and Kyle Burton, Jr., in their official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a \$7,907 civil money penalty.
3. Send the appropriate letter.

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

Attest:

Vicktoria J Allen

Digitally signed by Vicktoria J
Allen
Date: 2022.05.12 15:30:48 -04'00

Vicktoria J. Allen
Acting Deputy Secretary of the
Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 2022

Kyle Burton, in official capacity as Treasurer
Mises PAC
P.O. Box 2183
Norristown, PA 19401

C00699785
AF# 4240

Dear Mr. Burton:

On September 27, 2021, the Federal Election Commission (“the Commission”) found reason to believe (“RTB”) that Mises PAC and you, in your official capacity as Treasurer, violated 52 U.S.C. § 30104(a) for failing to file the 2021 Mid-Year Report. By letter dated September 30, 2021, the Commission sent notification of the RTB finding that included a civil money penalty calculated at \$7,907 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On March 2, 2022, 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 Mises PAC and you, in your official capacity as Treasurer, violated 52 U.S.C. § 30104(a), and assess a civil money penalty in the amount of \$7,907 in accordance with 11 C.F.R. § 111.43. The Reviewing Officer Recommendation was sent to you on April 20, 2022.

On May 11, 2022, the Commission adopted the Reviewing Officer’s recommendation and made a final determination that Mises PAC and you, in your official capacity as Treasurer, violated 52 U.S.C. § 30104(a), and assessed a civil money penalty in the amount of \$7,907. A copy of the Final Determination Recommendation is attached.

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

1. If You Choose to Appeal the Final Determination and/or Civil Money Penalty

If you choose to appeal the final determination, you should submit a written petition, within 30 days of receipt of this letter, to the U.S. District Court for the district in which the committee or you reside, or transact business, requesting that the final determination be modified or set aside. See 52 U.S.C. § 30109(a)(4)(C)(iii). Your failure to raise an argument in a timely fashion during

the administrative process shall be deemed a waiver of the respondents' right to present such argument in a petition to the district court under 52 U.S.C. § 30109. 11 CFR § 111.38.

2. If You Choose Not to Pay the Civil Money Penalty and Not to Appeal

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 ("DCIA"), 31 U.S.C. § 3701, *et seq.* If you do not pay this debt within 30 days (or file a written petition to a federal district court - see below), the Commission will transfer the debt to the U.S. Department of the Treasury ("Treasury") for collection. Within 5 days of the transfer to Treasury, Treasury will contact you to request payment. Treasury currently charges a fee of 30% of the civil money penalty amount for its collection services. If the age of the debt is greater than or equal to two years old, Treasury will charge a fee of 32% of the civil money penalty amount for its collection services. The fee will be added to the amount of the civil money penalty that you owe. Should Treasury's attempts fail, Treasury will refer the debt to a private collection agency ("PCA"). If the debt remains unpaid, Treasury may recommend that the Commission refer the matter to the Department of Justice for litigation.

Actions which may be taken to enforce recovery of a delinquent debt by Treasury may also include: (1) offset of any payments that the debtor is due, including tax refunds and salary; (2) referral of the debt to agency counsel for litigation; (3) reporting of the debt to a credit bureau; (4) administrative wage garnishment; and (5) reporting of the debt, if discharged, to the IRS as potential taxable income. In addition, under the provisions of DCIA and other statutes applicable to the FEC, the debtor may be subject to the assessment of other statutory interest, penalties, and administrative costs.

In accordance with the DCIA, at your request, the agency will offer you the opportunity to inspect and copy records relating to the debt, the opportunity for a review of the debt, and the opportunity to enter into a written repayment agreement.

3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the civil money penalty, follow the payment instructions on page 4 of this letter. You should make payment within thirty (30) days of receipt of this letter.

NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS

4. Partial Payments

If you make a payment in an amount less than the civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assessed 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 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 assessed 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.

The confidentiality provisions at 52 U.S.C. § 30109(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.

If you have any questions regarding the payment of the civil money penalty, please contact Rhiannon Magruder on 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 blue ink, appearing to read "Allen Dickerson".

Allen Dickerson
Chairman

Attachment

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 final determination is \$7,907 for the 2021 Mid-Year 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 Rhiannon Magruder on our toll-free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

COMMITTEE NAME: Mises PAC

FEC ID#: C00699785

AF#: 4240

PAYMENT AMOUNT DUE: \$7,907