



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

March 15, 2022

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

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

Attached is a list of political committees and their treasurers who failed to file the 2021 Year-End Report in accordance with 52 U.S.C. § 30104(a). The Year-End Report was due on January 31, 2022.

The committees listed in the attached RTB Circulation Report either failed to file the report, filed the report no more than thirty (30) days after the due date (considered a late filed report), or filed the report more than thirty (30) days after the due date (considered a non-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 YEAR-END Not Election Sensitive 01/31/2022 H_S_P_UNAUTH

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
4265	C00348540	1199 SERVICE EMPLOYEES INT'L UNION FEDERAL POLITICAL ACTION FUND		HELEN SCHAUB	\$10,723,827	0	2/9/2022	9	\$5,551,417	\$10,801
4266	C00719070	AJA SMITH FOR CONGRESS 2022	AJA SMITH	AJA SMITH	\$234,984	0		Not Filed	\$78,328 (est)	\$5,563
4267	C00197103	AUTOMOBILE CLUB OF MICHIGAN POLITICAL ACTION COMMITTEE		KEVIN GAWRONSKI	\$307,354	0	2/14/2022	14	\$160,210	\$4,606
4268	C00723270	BRAD BARRON FOR US SENATE	STEPHEN BRADLEY BARRON	JILL M. BARRON	\$128,788	6		Not Filed	\$128,788 (est)	\$17,885
4270	C00717025	EMILY ROBINSON FOR CONGRESS	EMILY ROBINSON	EMILY ROBINSON	\$120,240	8		Not Filed	\$120,240 (est)	\$21,462
4272	C00763995	FRIENDS OF BARBARA SHARIEF FOR CONGRESS	BARBARA SHARIEF	SUZETTE SPALDING	\$1,591,756	0		Not Filed	\$530,585 (est)	\$15,101
4273	C00736736	GEORGE MITRIS FOR CONGRESS	GEORGE MITRIS	THOMAS COSTA	\$145,106	5		Not Filed	\$145,106 (est)	\$16,096
4274	C00765347	GREG LIRETTE FOR CONGRESS	GREGORY LIRETTE	KEVIN KITCHEN	\$144,587	2		Not Filed	\$144,587 (est)	\$10,731
4275	C00732875	JIMMY RODRIGUEZ FOR CONGRESS	JIMMY RODRIGUEZ	JIMMY RODRIGUEZ	\$614,521	6		Not Filed	\$614,521 (est)	\$39,742
4276	C00766642	MATT BERG FOR CONGRESS	MATTHEW RICHARD BERG	GERALD D. GUNN	\$232,836	0		Not Filed	\$77,612 (est)	\$5,563
4277	C00749069	OUR BLACK PARTY		BETTY CRICHLow-EBERHARDT	\$155,353	0	2/7/2022	7	\$52,088	\$1,318
4278	C00776518	PEOPLE FOR ELVIN DOWLING	ELVIN DOWLING	ELVIN DOWLING	\$159,623	0		Not Filed	\$53,208 (est)	\$4,292
4280	C00729624	REBA FOR CONGRESS	REBA SHERRILL	BRYON FREDRICK MCCOMB	\$400,168	5		Not Filed	\$400,168 (est)	\$32,188
4281	C00360669	SOUTHWEST AIRLINES PILOTS' ASSOCIATION POLITICAL ACTION COMMITTEE (SWAPA PAC)		TOM NEKOU EI	\$636,576	0	3/8/2022	*Not Filed	\$230,588	\$10,332

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
4282	C00522458	TOGETHER WE THRIVE		CHRISTOPHER ZULLO	\$104,451	3		Not Filed	\$104,451 (est)	\$12,519
4283	C00002840	UAW - V - CAP (UAW VOLUNTARY COMMUNITY ACTION PROGRAM) 'INT'L UNION UNITED AUTOMOBILE AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA UAW		FRANK STUGLIN	\$10,253,004	1	2/11/2022	11	\$5,670,144	\$14,293
4284	C00616912	WOMEN VOTE SMART		AMY S. KREMER	\$145,616	5		Not Filed	\$145,616 (est)	\$16,096

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
Reason To Believe Recommendation - 2021)	
Year-End Report for the Administrative)	
Fine Program:)	
1199 SERVICE EMPLOYEES INT'L	)	AF# 4265
UNION FEDERAL POLITICAL ACTION)	
FUND, and SCHAUB, HELEN as)	
treasurer;)	
AJA SMITH FOR CONGRESS 2022, and	)	AF# 4266
SMITH, AJA as treasurer;)	
AUTOMOBILE CLUB OF MICHIGAN	)	AF# 4267
POLITICAL ACTION COMMITTEE, and)	
GAWRONSKI, KEVIN as treasurer;)	
BRAD BARRON FOR US SENATE, and	)	AF# 4268
BARRON, JILL M as treasurer;)	
EMILY ROBINSON FOR CONGRESS,	)	AF# 4270
and ROBINSON, EMILY as treasurer;)	
FRIENDS OF BARBARA SHARIEF FOR	)	AF# 4272
CONGRESS, and SPALDING, SUZETTE)	
as treasurer;)	
GEORGE MITRIS FOR CONGRESS, and	)	AF# 4273
COSTA, THOMAS as treasurer;)	
GREG LIRETTE FOR CONGRESS, and	)	AF# 4274
KITCHEN, KEVIN as treasurer;)	
JIMMY RODRIGUEZ FOR CONGRESS,	)	AF# 4275
and RODRIGUEZ, JIMMY as treasurer;)	
MATT BERG FOR CONGRESS, and	)	AF# 4276
GUNN, GERALD D as treasurer;)	
OUR BLACK PARTY, and CRICHLOW-	)	AF# 4277
EBERHARDT, BETTY as treasurer;)	
PEOPLE FOR ELVIN DOWLING, and	)	AF# 4278
DOWLING, ELVIN as treasurer;)	
REBA FOR CONGRESS, and MCCOMB,	)	AF# 4280
BRYON FREDRICK as treasurer;)	

Federal Election Commission
 Certification for Administrative Fines
 March 16, 2022

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SOUTHWEST AIRLINES PILOTS' ASSOCIATION POLITICAL ACTION COMMITTEE (SWAPA PAC), and NEKOUEI, TOM CAPTAIN as treasurer;)	AF# 4281
TOGETHER WE THRIVE, and CHRISTOPHER ZULLO as treasurer;	)	AF# 4282
UAW - V - CAP (UAW VOLUNTARY COMMUNITY ACTION PROGRAM) 'INT'L UNION UNITED AUTOMOBILE AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA UAW, and STUGLIN, FRANK as treasurer;	)	AF# 4283
WOMEN VOTE SMART, and KREMER, AMY S as treasurer;	)	AF# 4284

CERTIFICATION

I, Vicktoria J. Allen, Acting Deputy Secretary of the Federal Election Commission, do hereby certify that on March 16, 2022 the Commission took the following actions on the Reason To Believe Recommendation - 2021 Year-End Report for the Administrative Fine Program, as recommended in the Reports Analysis Division's Memorandum dated March 15, 2022, on the following committees:

AF#4265 Decided by a vote of 6-0 to: (1) find reason to believe that 1199 SERVICE EMPLOYEES INT'L UNION FEDERAL POLITICAL ACTION FUND, and SCHAUB, HELEN 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 Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

AF#4266 Decided by a vote of 6-0 to: (1) find reason to believe that AJA SMITH FOR CONGRESS 2022, and SMITH, AJA 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 Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

AF#4267 Decided by a vote of 6-0 to: (1) find reason to believe that AUTOMOBILE CLUB OF MICHIGAN POLITICAL ACTION COMMITTEE, and GAWRONSKI, KEVIN 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 Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

AF#4268 Decided by a vote of 6-0 to: (1) find reason to believe that BRAD BARRON FOR US SENATE, and BARRON, JILL M 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 Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

AF#4270 Decided by a vote of 6-0 to: (1) find reason to believe that EMILY ROBINSON FOR CONGRESS, and ROBINSON, EMILY 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 Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

AF#4272 Decided by a vote of 6-0 to: (1) find reason to believe that FRIENDS OF BARBARA SHARIEF FOR CONGRESS, and SPALDING, SUZETTE 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 Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

AF#4273 Decided by a vote of 6-0 to: (1) find reason to believe that GEORGE MITRIS FOR CONGRESS, and COSTA, THOMAS 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 Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

AF#4274 Decided by a vote of 6-0 to: (1) find reason to believe that GREG LIRETTE FOR CONGRESS, and KITCHEN, KEVIN 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 Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

AF#4275 Decided by a vote of 6-0 to: (1) find reason to believe that JIMMY RODRIGUEZ FOR CONGRESS, and RODRIGUEZ, JIMMY 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 Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

AF#4276 Decided by a vote of 6-0 to: (1) find reason to believe that MATT BERG FOR CONGRESS, and GUNN, GERALD D 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 Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

AF#4277 Decided by a vote of 6-0 to: (1) find reason to believe that OUR BLACK PARTY, and CRICHLOW-EBERHARDT, BETTY 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 Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

AF#4278 Decided by a vote of 6-0 to: (1) find reason to believe that PEOPLE FOR ELVIN DOWLING, and DOWLING, ELVIN 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 Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

AF#4280 Decided by a vote of 6-0 to: (1) find reason to believe that REBA FOR CONGRESS, and MCCOMB, BRYON FREDRICK 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 Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

AF#4281 Decided by a vote of 6-0 to: (1) find reason to believe that SOUTHWEST AIRLINES PILOTS' ASSOCIATION POLITICAL ACTION COMMITTEE (SWAPA PAC), and NEKOU EI, TOM CAPTAIN 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 Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

AF#4282 Decided by a vote of 6-0 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 Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

AF#4283 Decided by a vote of 6-0 to: (1) find reason to believe that UAW - V - CAP (UAW VOLUNTARY COMMUNITY ACTION PROGRAM) 'INT'L UNION UNITED AUTOMOBILE AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA UAW, and STUGLIN, FRANK 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 Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

AF#4284 Decided by a vote of 6-0 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 Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

Federal Election Commission
Certification for Administrative Fines
March 16, 2022

Attest:



March 17, 2022
Date

Vicktoria J Allen Digitally signed by Vicktoria J Allen
Date: 2022.03.17 17:21:18 -04'00'

Vicktoria J. Allen
Acting Deputy Secretary of the
Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AF

March 18, 2022

Tom Nekouei, in official capacity as Treasurer
Southwest Airlines Pilots' Association Political Action Committee (SWAPA PAC)
1450 Empire Central Dr.
Suite 737
Dallas, TX 75247

C00360669
AF#: 4281

Dear Mr. Nekouei,

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a Year-End Report of Receipts and Disbursements every calendar year. This report, covering the period July 1, 2021 through December 31, 2021, shall be filed no later than January 31, 2022. 52 U.S.C. § 30104(a). Because records at the Federal Election Commission ("FEC") indicate that you did not file this report within thirty (30) days of the due date, the report is considered not filed for the purpose of calculating the civil money penalty. You should file this report if you have not already done so.

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 March 16, 2022, the FEC found that there is reason to believe ("RTB") that Southwest Airlines Pilots' Association Political Action Committee (SWAPA 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 January 31, 2022. 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 \$10,332. Please see the attached copy of the Commission's administrative fine regulations at 11 C.F.R. §§ 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 C.F.R. § 111.34. Your payment of \$10,332 is due within forty (40) days of the finding, or by April 25, 2022, and is based on these factors:

Election Sensitivity of Report: Not Election Sensitive

Level of Activity: \$230,588

Number of Days Late: Not Filed (reports not filed within thirty (30) days of the due date are considered not filed for the purpose of calculating the penalty)

Number of Previous Civil Money Penalties Assessed: 0

SOUTHWEST AIRLINES PILOTS' ASSOCIATION POLITICAL ACTION COMMITTEE
(SWAPA PAC)

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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 April 25, 2022. 11 C.F.R. § 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 C.F.R. § 111.36(c).

Please note, all challenges to an RTB finding and/or calculated civil money penalty should be converted to PDF (Portable Document Format) and 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 they are 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 C.F.R. § 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 C.F.R. § 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 C.F.R. § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process

SOUTHWEST AIRLINES PILOTS' ASSOCIATION POLITICAL ACTION COMMITTEE
(SWAPA PAC)

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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 C.F.R. § 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 Southwest Airlines Pilots' Association Political Action Committee (SWAPA 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 C.F.R. § 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

SOUTHWEST AIRLINES PILOTS' ASSOCIATION POLITICAL ACTION COMMITTEE
(SWAPA PAC)

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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 C.F.R. § 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.

On behalf of the Commission,



Allen J. Dickerson
Chairman

ADMINISTRATIVE FINE PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at RTB is \$10,332 for the 2021 Year-End 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 Ben Holly in the Reports Analysis Division at our toll-free number (800) 424-9530 (at the prompt press 5) or (202)

SOUTHWEST AIRLINES PILOTS' ASSOCIATION POLITICAL ACTION COMMITTEE
(SWAPA PAC)

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694-1130.

COMMITTEE NAME: Southwest Airlines Pilots' Association Political Action
Committee (SWAPA PAC)

FEC ID#: C00360669

AF#: 4281

PAYMENT DUE DATE: April 25, 2022

PAYMENT AMOUNT DUE: \$10,332



1450 Empire Central Dr.
Suite 737
Dallas, TX 75247
800.969.797
SWAPA.ORG

Southwest Airlines Pilots Association
Political Action Committee (SWAPA PAC)

C00360669

Re: Response to AF#: 4281

Emailed to: AdministrativeFines@fec.gov

Dear Allen J. Dickerson and/or FEC Representative,

This letter is in response to the FEC Administrative Fine Letter dated March 18, 2022, from your office noting a late filing fee owed of \$10,332.00 (attached). Our intention for this challenge is to seek abatement for all or any portion of the late filing penalty due to our continued and consistent compliance with the FEC reporting requirements up until this point and during a non-election year. Our records indicate this as the first report not filed under the "best efforts defense" circumstances and follow up with additional amendments as we've done in the past.

As you can see from the events as listed below, despite the use of best efforts, SWAPA had unforeseen circumstances beyond our control. Although we understand the fact pattern may not qualify under the 'best efforts' defense as defined in the letter, we ask that you consider the events in totality and either reduce the fine or dismiss it in its entirety.

- January 26, 2022 – Email notification from FEC regarding requirement to file went to predecessors' email, which is not actively monitored. We believed the notification was related to LD-2 & LD-3 reports already filed.
- February 1, 2022 – Late filing notification was received from FEC. We contacted the FEC to inquire on further details and noted it was regarding Form 3X.
- February 2022 – we started gathering login information & data to complete Form 3X using the 3rd party software "VAN." We ran into software issues requiring for a complete rewrite of the 2021 data using a new software system "Every Action."
- March 1, 2022 – Every Action software provider contacted for training on how to file using their system.
- March 3-5, 2022 – Info received from Every Action on training/webinars on how to use/file using their system.
- March 8, 2022 – Form 3X filed using Every Action's website after using bypass code.



1450 Empire Central Dr.
Suite 737
Dallas, TX 75247
800.969.797
SWAPA.ORG

Since receiving the FEC late filing fine, we've been able to successfully change the contact information for our organization on Form 1 by removing specific named persons and replacing contact information with SWAPA email groups. However, we still have come across technical issues with using Every Action's website in completing such forms and transmitting to the FEC, which we've been diligent at attempting to resolve in a timely manner.

In order to avoid further delays, we remitted payment for this fine to the FEC in the amount of \$10,332.00 on April 20, 2022, which shows our good faith to comply with the civil money penalty calculated by the FEC while still preserving our intent to have all or part of the fine abated after consideration of this letter. Please find the attached support of payment.

We appreciate your consideration for a final determination on the late filing penalty and abatement of the \$10,332.00 penalty applied to our organization. If a full or partial refund is given, please remit the payment to:

SWAPA PAC
1450 Empire Central Dr., Ste. 737
Dallas, TX 75247

Sincerely,

A handwritten signature in black ink, appearing to read "Omid", written in a cursive style.

Omid Tom Nekouei
2nd Vice President, in official capacity as Treasurer
Southwest Airlines Pilots Association
Political Action Committee (SWAPA PAC)

Encl. FEC Fine Letter 3.18.22
FEC Fine Payment 4.20.22



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AF

March 18, 2022

Tom Nekouei, in official capacity as Treasurer
Southwest Airlines Pilots' Association Political Action Committee (SWAPA PAC)
1450 Empire Central Dr.
Suite 737
Dallas, TX 75247

C00360669
AF#: 4281

Dear Mr. Nekouei,

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a Year-End Report of Receipts and Disbursements every calendar year. This report, covering the period July 1, 2021 through December 31, 2021, shall be filed no later than January 31, 2022. 52 U.S.C. § 30104(a). Because records at the Federal Election Commission ("FEC") indicate that you did not file this report within thirty (30) days of the due date, the report is considered not filed for the purpose of calculating the civil money penalty. You should file this report if you have not already done so.

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 March 16, 2022, the FEC found that there is reason to believe ("RTB") that Southwest Airlines Pilots' Association Political Action Committee (SWAPA 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 January 31, 2022. 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 \$10,332. Please see the attached copy of the Commission's administrative fine regulations at 11 C.F.R. §§ 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 C.F.R. § 111.34. Your payment of \$10,332 is due within forty (40) days of the finding, or by April 25, 2022, and is based on these factors:

Election Sensitivity of Report: Not Election Sensitive

Level of Activity: \$230,588

Number of Days Late: Not Filed (reports not filed within thirty (30) days of the due date are considered not filed for the purpose of calculating the penalty)

Number of Previous Civil Money Penalties Assessed: 0

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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 April 25, 2022. 11 C.F.R. § 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 C.F.R. § 111.36(c).

Please note, all challenges to an RTB finding and/or calculated civil money penalty should be converted to PDF (Portable Document Format) and 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 they are 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 C.F.R. § 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 C.F.R. § 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 C.F.R. § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process

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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 C.F.R. § 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 Southwest Airlines Pilots' Association Political Action Committee (SWAPA 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 C.F.R. § 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

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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 C.F.R. § 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.

On behalf of the Commission,



Allen J. Dickerson
Chairman

ADMINISTRATIVE FINE PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at RTB is \$10,332 for the 2021 Year-End 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 Ben Holly in the Reports Analysis Division at our toll-free number (800) 424-9530 (at the prompt press 5) or (202)

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694-1130.

COMMITTEE NAME: Southwest Airlines Pilots' Association Political Action
Committee (SWAPA PAC)

FEC ID#: C00360669

AF#: 4281

PAYMENT DUE DATE: April 25, 2022

PAYMENT AMOUNT DUE: \$10,332

Subpart B—Administrative Fines

SOURCE: 65 FR 31794, May 19, 2000, unless otherwise noted.

§111.30 When will subpart B apply?

Subpart B applies to violations of the reporting requirements of 52 U.S.C. 30104(a) committed by political committees and their treasurers that relate to the reporting periods that begin on or after July 14, 2000, and that end on or before the date specified by 52 U.S.C. 30109(a)(4)(C)(v). This subpart, however, does not apply to reports that relate to reporting periods that end between January 1, 2014, and January 21, 2014.

[79 FR 3303, Jan. 21, 2014, as amended at 79 FR 77848, Dec. 29, 2014]

§111.31 Does this subpart replace subpart A of this part for violations of the reporting requirements of 52 U.S.C. 30104(a)?

(a) No; §§111.1 through 111.8 and 111.20 through 111.24 shall apply to all compliance matters. This subpart will apply, rather than §§111.9 through 111.19, when the Commission, on the basis of information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities, and when appropriate, determines that the compliance matter should be subject to this subpart. If the Commission determines that the violation should not be subject to this subpart, then the violation will be subject to all sections of subpart A of this part.

(b) Subpart B will apply to compliance matters resulting from a complaint filed pursuant to 11 CFR 111.4 through 111.7 if the complaint alleges a violation of 52 U.S.C. 30104(a). If the complaint alleges violations of any other provision of any statute or regulation over which the Commission has jurisdiction, subpart A will apply to the alleged violations of these other provisions.

[65 FR 31794, May 19, 2000, as amended at 79 FR 77848, Dec. 29, 2014]

§111.32 How will the Commission notify respondents of a reason to believe finding and a proposed civil money penalty?

If the Commission determines, by an affirmative vote of at least four (4) of its members, that it has reason to believe that a respondent has violated 52 U.S.C. 30104(a), the Chairman or Vice-Chairman shall notify such respondent of the Commission's finding. The written notification shall set forth the following:

(a) The alleged factual and legal basis supporting the finding including the type of report that was due, the filing deadline, the actual date filed (if filed), and the number of days the report was late (if filed);

(b) The applicable schedule of penalties;

(c) The number of times the respondent has been assessed a civil money penalty under this subpart during the current two-year election cycle and the prior two-year election cycle;

(d) The amount of the proposed civil money penalty based on the schedules of penalties set forth in 11 CFR 111.43 or 111.44; and

(e) An explanation of the respondent's right to challenge both the reason to believe finding and the proposed civil money penalty.

[65 FR 31794, May 19, 2000, as amended at 79 FR 77848, Dec. 29, 2014]

§111.33 What are the respondent's choices upon receiving the reason to believe finding and the proposed civil money penalty?

The respondent must either send payment in the amount of the proposed civil money penalty pursuant to 11 CFR 111.34 or submit a written response pursuant to 11 CFR 111.35.

§111.34 If the respondent decides to pay the civil money penalty and not to challenge the reason to believe finding, what should the respondent do?

(a) The respondent shall transmit payment in the amount of the civil money penalty to the Commission within forty (40) days of the Commission's reason to believe finding.

(b) Upon receipt of the respondent's payment, the Commission shall send the respondent a final determination that the respondent has violated the statute or regulations and the amount of the civil money penalty and an acknowledgment of the respondent's payment.

§111.35 If the respondent decides to challenge the alleged violation or proposed civil money penalty, what should the respondent do?

(a) To challenge a reason to believe finding or proposed civil money penalty, the respondent must submit a written response to the Commission within forty (40) days of the Commission's reason to believe finding.

(b) The respondent's written response must assert at least one of the following grounds for challenging the reason to believe finding or proposed civil money penalty:

(1) The Commission's reason to believe finding is based on a factual error including, but not limited to, the committee was not required to file the report, or the committee timely filed the report in accordance with 11 CFR 100.19;

(2) The Commission improperly calculated the civil money penalty; or

(3) The respondent used best efforts to file in a timely manner in that:

(i) The respondent was prevented from filing in a timely manner by reasonably unforeseen circumstances that were beyond the control of the respondent; and

(ii) The respondent filed no later than 24 hours after the end of these circumstances.

(c) Circumstances that will be considered reasonably unforeseen and beyond the control of respondent include, but are not limited to:

(1) A failure of Commission computers or Commission-provided software despite the respondent seeking technical assistance from Commission personnel and resources;

(2) A widespread disruption of information transmissions over the Internet not caused by any failure of the Commission's or respondent's computer systems or Internet service provider; and

(3) Severe weather or other disaster-related incident.

(d) Circumstances that will not be considered reasonably unforeseen and beyond the control of respondent include, but are not limited to:

- (1) Negligence;
 - (2) Delays caused by committee vendors or contractors;
 - (3) Illness, inexperience, or unavailability of the treasurer or other staff;
 - (4) Committee computer, software or Internet service provider failures;
 - (5) A committee's failure to know filing dates; and
 - (6) A committee's failure to use filing software properly.
- (e) Respondent's written response must detail the factual basis supporting its challenge and include supporting documentation.

[72 FR 14667, Mar. 29, 2007]

§111.36 Who will review the respondent's written response?

- (a) A reviewing officer shall review the respondent's written response. The reviewing officer shall be a person who has not been involved in the reason to believe finding.
- (b) The reviewing officer shall review the reason to believe finding with supporting documentation and the respondent's written response with supporting documentation. The reviewing officer may request supplemental information from the respondent and/or the Commission staff. The respondent shall submit the supplemental information to the reviewing officer within a time specified by the reviewing officer. The reviewing officer will be entitled to draw an adverse inference from the failure by the respondent to submit the supplemental information.
- (c) All documents required to be submitted by the respondents pursuant to this section and §111.35 should be submitted in the form of affidavits or declarations.
- (d) If the Commission staff, after the respondent files a written response pursuant to §111.35, forwards any additional documents pertaining to the matter to the reviewing officer for his or her examination, the reviewing officer shall also furnish a copy of the document(s) to the respondents.
- (e) Upon completion of the review, the reviewing officer shall forward a written recommendation to the Commission along with all documents required under this section and 11 CFR 111.32 and 111.35.
- (f) The reviewing office shall also forward a copy of the recommendation to the respondent. The respondent may file with the Commission Secretary a written response to the recommendation within ten (10) days of transmittal of the recommendation. This response may not raise any arguments not raised in the respondent's original written response or not directly responsive to the reviewing officer's recommendation.

§111.37 What will the Commission do once it receives the respondent's written response and the reviewing officer's recommendation?

(a) If the Commission, after having found reason to believe and after reviewing the respondent's written response and the reviewing officer's recommendation, determines by an affirmative vote of at least four (4) of its members, that the respondent has violated 52 U.S.C. 30104(a) and the amount of the civil money penalty, the Commission shall authorize the reviewing officer to notify the respondent by letter of its final determination.

(b) If the Commission, after reviewing the reason to believe finding, the respondent's written response, and the reviewing officer's written recommendation, determines by an affirmative vote of at least four (4) of its members, that no violation has occurred (either because the Commission had based its reason to believe finding on a factual error or because the respondent used best efforts to file in a timely manner) or otherwise terminates its proceedings, the Commission shall authorize the reviewing officer to notify the respondent by letter of its final determination.

(c) The Commission will modify the proposed civil money penalty only if the respondent is able to demonstrate that the amount of the proposed civil money penalty was calculated on an incorrect basis.

(d) When the Commission makes a final determination under this section, the statement of reasons for the Commission action will, unless otherwise indicated by the Commission, consist of the reasons provided by the reviewing officer for the recommendation, if approved by the Commission, although statements setting forth additional or different reasons may also be issued. If the reviewing officer's recommendation is modified or not approved, the Commission will indicate the grounds for its action and one or more statements of reasons may be issued.

[65 FR 31794, May 19, 2000, as amended at 72 FR 14668, Mar. 29, 2007; 79 FR 77848, Dec. 29, 2014]

§111.38 Can the respondent appeal the Commission's final determination?

Yes; within thirty (30) days of receipt of the Commission's final determination under 11 CFR 111.37, the respondent may submit a written petition to the district court of the United States for the district in which the respondent resides, or transacts business, requesting that the final determination be modified or set aside. The respondent's failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver of the respondent's right to present such argument in a petition to the district court under 52 U.S.C. 30109.

[65 FR 31794, May 19, 2000, as amended at 79 FR 77848, Dec. 29, 2014]

§111.39 When must the respondent pay the civil money penalty?

(a) If the respondent does not submit a written petition to the district court of the United States, the respondent must remit payment of the civil money penalty within thirty (30) days of receipt of the Commission's final determination under 11 CFR 111.37.

(b) If the respondent submits a written petition to the district court of the United States and, upon the final disposition of the civil action, is required to pay a civil money penalty, the respondent shall remit payment of the civil money penalty to the Commission within thirty (30) days of the final disposition of the civil action. The final disposition may consist of a judicial decision which is not reviewed by a higher court.

(c) Failure to pay the civil money penalty may result in the commencement of collection action under 31 U.S.C. 3701 *et seq.* (1996), or a civil suit pursuant to 52 U.S.C. 30109(a)(6)(A), or any other legal action deemed necessary by the Commission.

[65 FR 31794, May 19, 2000, as amended at 79 FR 77848, Dec. 29, 2014]

§111.40 What happens if the respondent does not pay the civil money penalty pursuant to 11 CFR 111.34 and does not submit a written response to the reason to believe finding pursuant to 11 CFR 111.35?

(a) If the Commission, after the respondent has failed to pay the civil money penalty and has failed to submit a written response, determines by an affirmative vote of at least four (4) of its members that the respondent has violated 52 U.S.C. 30104(a) and determines the amount of the civil money penalty, the respondent shall be notified by letter of its final determination.

(b) The respondent shall transmit payment of the civil money penalty to the Commission within thirty (30) days of receipt of the Commission's final determination.

(c) Failure to pay the civil money penalty may result in the commencement of collection action under 31 U.S.C. 3701 *et seq.* (1996), or a civil suit pursuant to 52 U.S.C. 30109(a)(6)(A), or any other legal action deemed necessary by the Commission.

[65 FR 31794, May 19, 2000, as amended at 79 FR 77848, Dec. 29, 2014]

§111.41 [Reserved]

§111.42 Will the enforcement file be made available to the public?

(a) Yes; the Commission shall make the enforcement file available to the public.

(b) If neither the Commission nor the respondent commences a civil action, the Commission shall make the enforcement file available to the public pursuant to 11 CFR 4.4(a)(3).

(c) If a civil action is commenced, the Commission shall make the enforcement file available pursuant to 11 CFR 111.20(c).

§111.43 What are the schedules of penalties?

(a) The civil money penalty for all reports that are filed late or not filed, except election sensitive reports and pre-election reports under 11 CFR 104.5, shall be calculated in accordance with the following schedule of penalties:

Table 1 to Paragraph (a)

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1-4,999.99 ¹	$[\$36 + (\$6 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$351 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$5,000-9,999.99	$[\$70 + (\$6 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$422 \times [1 + (.25 \times \text{Number of previous violations})]$
\$10,000-24,999.99	$[\$151 + (\$6 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$704 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$25,000-49,999.99	$[\$298 + (\$28 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$1267 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$50,000-74,999.99	$[\$450 + (\$113 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$4041 \times [1 + (.25 \times \text{Number of previous violations})]$.

\$75,000-99,999.99	$[\$598 + (\$151 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$5237 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$100,000-149,999.99	$[\$896 + (\$187 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$6735 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$150,000-199,999.99	$[\$1199 + (\$224 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$8231 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$200,000-249,999.99	$[\$1496 + (\$261 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$9727 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$250,000-349,999.99	$[\$2245 + (\$298 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$11,972 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$350,000-449,999.99	$[\$2994 + (\$298 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$13,468 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$450,000-549,999.99	$[\$3741 + (\$298 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$14,216 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$550,000-649,999.99	$[\$4489 + (\$298 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$14,966 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$650,000-749,999.99	$[\$5237 + (\$298 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$15,713 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$750,000-849,999.99	$[\$5986 + (\$298 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$16,461 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$850,000-949,999.99	$[\$6735 + (\$298 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$17,209 \times [1 + (.25 \times \text{Number of previous violations})]$
\$950,000 or over	$[\$7482 + (\$298 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$17,958 \times [1 + (.25 \times \text{Number of previous violations})]$.

¹The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(b) The civil money penalty for election sensitive reports that are filed late or not filed shall be calculated in accordance with the following schedule of penalties:

Table 2 to Paragraph (b)

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1-\$4,999.99 ¹	$[\$70 + (\$13 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$704 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$5,000-\$9,999.99	$[\$141 + (\$13 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$844 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$10,000-24,999.99	$[\$211 + (\$13 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$1267 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$25,000-49,999.99	$[\$450 + (\$36 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$1970 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$50,000-74,999.99	$[\$674 + (\$113 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$4489 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$75,000-99,999.99	$[\$896 + (\$151 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$5986 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$100,000-149,999.99	$[\$1347 + (\$187 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$7482 \times [1 + (.25 \times \text{Number of previous violations})]$.

\$150,000-199,999.99	$[\$1796 + (\$224 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$8978 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$200,000-249,999.99	$[\$2245 + (\$261 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$11,224 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$250,000-349,999.99	$[\$3367 + (\$298 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$13,468 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$350,000-449,999.99	$[\$4489 + (\$298 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$14,966 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$450,000-549,999.99	$[\$5612 + (\$298 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$16,461 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$550,000-649,999.99	$[\$6735 + (\$298 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$17,958 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$650,000-749,999.99	$[\$7857 + (\$298 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$19,455 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$750,000-849,999.99	$[\$8978 + (\$298 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$20,951 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$850,000-949,999.99	$[\$10,101 + (\$298 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$22,446 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$950,000 or over	$[\$11,224 + (\$298 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$23,944 \times [1 + (.25 \times \text{Number of previous violations})]$.

¹The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(c) If the respondent fails to file a required report and the Commission cannot calculate the level of activity under paragraph (d) of this section, then the civil money penalty shall be \$8,231.

(d) *Definitions.* For this section only, the following definitions will apply:

(1) *Election Sensitive Reports* means third quarter reports due on October 15th before the general election (for all committees required to file this report except committees of candidates who do not participate in that general election); monthly reports due October 20th before the general election (for all committees required to file this report except committees of candidates who do not participate in that general election); and pre-election reports for primary, general, and special elections under 11 CFR 104.5.

(2) *Estimated level of activity* means:

(i) For an authorized committee, total receipts and disbursements reported in the current two-year election cycle divided by the number of reports filed to date covering the activity in the current two-year election cycle. If the respondent has not filed a report covering activity in the current two-year election cycle, estimated level of activity for an authorized committee means total receipts and disbursements reported in the prior two-year election cycle divided by the number of reports filed covering the activity in the prior two-year election cycle.

(ii)(A) For an unauthorized committee, estimated level of activity is calculated as follows: $[(\text{Total receipts and disbursements reported in the current two-year cycle}) - (\text{Transfers received from non-Federal account(s) as reported on Line 18(a) of FEC Form 3X Disbursements for the non-Federal share of operating expenditures attributable to allocated Federal/non-Federal activity as reported on Line 21(a)(ii) of FEC Form 3X})] \div \text{Number of reports filed to date covering the activity in the current two-year election cycle}$.

(B) If the unauthorized committee has not filed a report covering activity in the current two-year election cycle, the estimated level of activity is calculated as follows: [(Total receipts and disbursements reported in the prior two-year election cycle)—(Transfers received from non-Federal account(s) as reported on Line 18(a) of FEC Form 3X Disbursements for the non-Federal share of operating expenditures attributable to allocated Federal/non-Federal activity as reported on Line 21(a)(ii) of FEC Form 3X)] ÷ Number of reports filed covering the activity in the prior two-year election cycle.

(3) *Level of activity* means:

(i) For an authorized committee, the total amount of receipts and disbursements for the period covered by the late report. If the report is not filed, the level of activity is the estimated level of activity as set forth in paragraph (d)(2)(i) of this section.

(ii) For an unauthorized committee, the total amount of receipts and disbursements for the period covered by the late report minus the total of: Transfers received from non-Federal account(s) as reported on Line 18(a) of FEC Form 3X and disbursements for the non-Federal share of operating expenditures attributable to allocated Federal/non-Federal activity as reported on Line 21(a)(ii) of FEC Form 3X for the period covered by the late report. If the report is not filed, the level of activity is the estimated level of activity as set forth in paragraph (d)(2)(ii) of this section.

(4) *Number of previous violations* means all prior final civil money penalties assessed under this subpart during the current two-year election cycle and the prior two-year election cycle.

(e) For purposes of the schedules of penalties in paragraphs (a) and (b) of this section,

(1) Reports that are not election sensitive reports are considered to be filed late if they are filed after their due dates but within thirty (30) days of their due dates. These reports are considered to be not filed if they are filed after thirty (30) days of their due dates or not filed at all.

(2) Election sensitive reports are considered to be filed late if they are filed after their due dates but prior to four (4) days before the primary election for pre-primary reports, prior to four (4) days before the special election for pre-special election reports, or prior to four (4) days before the general election for all other election sensitive reports. These reports are considered to be not filed if they are not filed prior to four (4) days before the primary election for pre-primary reports, prior to four (4) days before the special election for pre-special election reports or prior to four (4) days before the general election for all other election sensitive reports.

[65 FR 31794, May 19, 2000, as amended at 68 FR 12577, Mar. 17, 2003; 70 FR 34636, June 15, 2005; 74 FR 31348, July 1, 2009; 74 FR 37161, July 28, 2009; 78 FR 44421, July 24, 2013; 81 FR 41199, June 24, 2016; 82 FR 8987, Feb. 2, 2017; 82 FR 61141, Dec. 27, 2017; 83 FR 66597, Dec. 27, 2018; 85 FR 47892, Aug. 7, 2020; 86 FR 1739, Jan. 11, 2021]

§111.44 What is the schedule of penalties for 48-hour notices that are not filed or are filed late?

(a) If the respondent fails to file timely a notice regarding contribution(s) received after the 20th day but more than 48 hours before the election as required under 52 U.S.C. 30104(a)(6), the civil money penalty will be calculated as follows:

(1) Civil money penalty = \$151 + (.10 × amount of the contribution(s) not timely reported).

(2) The civil money penalty calculated in paragraph (a)(1) of this section shall be increased by twenty-five percent (25%) for each prior violation.

(b) For purposes of this section, prior violation means a final civil money penalty that has been assessed against the respondent under this subpart in the current two-year election cycle or the prior two-year election cycle.

[65 FR 31794, May 19, 2000, as amended at 70 FR 34636, June 15, 2005; 74 FR 31349, July 1, 2009; 79 FR 77848, Dec. 29, 2014; 81 FR 41200, June 24, 2016; 82 FR 8989, Feb. 2, 2017; 82 FR 61143, Dec. 27, 2017; 83 FR 66599, Dec. 27, 2018; 85 FR 47894, Aug. 7, 2020; 86 FR 1740, Jan. 11, 2021]

§111.45 [Reserved]

§111.46 How will the respondent be notified of actions taken by the Commission and the reviewing officer?

If a statement designating counsel has been filed in accordance with 11 CFR 111.23, all notifications and other communications to a respondent provided for in subpart B of this part will be sent to designated counsel. If a statement designating counsel has not been filed, all notifications and other communications to a respondent provided for in subpart B of this part will be sent to respondent political committee and its treasurer at the political committee's address as listed in the most recent Statement of Organization, or amendment thereto, filed with the Commission in accordance with 11 CFR 102.2.

[68 FR 12580, Mar. 17, 2003]

Subpart C—Collection of Debts Arising From Enforcement and Administration of Campaign Finance Laws

SOURCE: 75 FR 19876, Apr. 16, 2010, unless otherwise noted.

§111.50 Purpose and scope.

Subpart C prescribes standards and procedures under which the Commission will collect and dispose of certain debts owed to the United States, as described in 11 CFR 111.51. The regulations in this subpart implement the Debt Collection Improvement Act of 1996, 31 U.S.C. 3701, 3711, and 3716-3720A, as amended; and the Federal Claims Collection Standards, 31 CFR parts 900-904. The activities covered include: The collection of claims of any amount; compromising claims; suspending or terminating the collection of claims; and referring debts to the U.S. Department of the Treasury for collection action.

§111.51 Debts that are covered.

(a) The procedures of this subpart C of part 111 apply to claims for payment or debt arising from, or ancillary to, any action undertaken by or on behalf of the Commission in furtherance of efforts to ensure compliance with the Federal Election Campaign Act, 52 U.S.C. 30101 *et seq.*, as amended, and to administer the Presidential Election Campaign Fund Act, 26 U.S.C. 9001 *et seq.*, or the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031 *et seq.*, and Commission regulations, including:

- (1) Negotiated civil penalties in enforcement matters and alternative dispute resolution matters;
- (2) Civil money penalties assessed under the administrative fines program;
- (3) Claims reduced to judgment in the courts and that are no longer in litigation;
- (4) Repayments of public funds under the Presidential Election Campaign Fund Act, 26 U.S.C. 9001 *et seq.*; or

(5) Repayment of public funds under the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031 *et seq.*

(b) The procedures covered by this subpart do not apply to any of the following debts:

(1) Debts that result from administrative activities of the Commission that are governed by 11 CFR part 8.

(2) Debts involving criminal actions of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other person having an interest in the claim.

(3) Debts based in whole or in part on conduct in violation of the antitrust laws.

(4) Debts under the Internal Revenue Code of 1986.

(5) Debts between the Commission and another Federal agency. The Commission will attempt to resolve interagency claims by negotiation in accordance with Executive Order 12146, 3 CFR pp. 409-12 (1980 Comp.).

(6) Debts that have become subject to salary offset under 5 U.S.C. 5514.

[75 FR 19876, Apr. 16, 2010, as amended at 79 FR 16663, Mar. 26, 2014; 79 FR 77848, Dec. 29, 2014]

§111.52 Administrative collection of claims.

(a) The Commission shall act to collect all claims or debts. These collection activities will be undertaken promptly and follow up action will be taken as appropriate in accordance with 31 CFR 901.1.

(b) The Commission may take any and all appropriate collection actions authorized and required by the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. 3701 *et seq.* The U.S. Department of the Treasury regulations at 31 CFR 285.2, 285.4, 285.7, and 285.11, and the Federal Claims Collection Standards issued jointly by the Department of Justice and the U.S. Department of the Treasury at 31 CFR parts 900-904, also apply. The Commission has adopted these regulations by cross-reference.

(c) The Commission will refer to the Dept. of Treasury all debt that has been delinquent for more than 180 days, and may refer to the Dept. of Treasury any debt that has been delinquent for 180 days or less. On behalf of the Commission, the U.S. Department of the Treasury will attempt to collect the debt, in accordance with the statutory and regulatory requirements and authorities applicable to the debt and action. This may include referral to another debt collection center, or a private collection contractor. See 31 CFR 285.12 (Transfer of debts to Treasury for collection). This requirement does not apply to any debt that:

(1) Is in litigation or foreclosure;

(2) Will be disposed of under an approved asset sale program;

(3) Has been referred to a private collection contractor for a period of time acceptable to the U.S. Department of the Treasury; or

(4) Will be collected under internal offset procedures within three years after the debt first became delinquent.

(d) The U.S. Department of the Treasury is authorized to charge a fee for services rendered regarding referred or transferred debts. The Commission will add the fee to the debt as an administrative cost, in accordance with 11 CFR 111.55.

§111.53 Litigation by the Commission.

Nothing in this subpart C precludes the Commission from filing suit in the appropriate court to enforce compliance with a conciliation agreement under 52 U.S.C. 30109(a)(5)(D), seek a civil money penalty under 52 U.S.C. 30109(a)(6), petition the court for a contempt order under 52 U.S.C. 30109(a)(11), or otherwise exercise its authority to enforce or administer the statutes specified in 11 CFR 111.51(a).

[75 FR 19876, Apr. 16, 2010, as amended at 79 FR 77848, Dec. 29, 2014]

§111.54 Bankruptcy claims.

When the Commission learns that a bankruptcy petition has been filed by a debtor, before proceeding with further collection action, the Commission will take any necessary action in accordance with the provision of 31 CFR 901.2(h).

§111.55 Interest, penalties, and administrative costs.

(a) The Commission shall assess interest, penalties, and administrative costs on debts owed to the United States Government, pursuant to 31 U.S.C. 3717. Interest, penalties, and administrative costs will be assessed in accordance with 31 CFR 901.9.

(b) The Commission shall waive collection of interest and administrative costs on a debt or any portion of the debt that is paid within thirty days after the date on which the interest begins to accrue.

(c) The Commission may waive collection of interest, penalties, and administrative costs if it:

(1) Determines that collection is against equity and good conscience or not in the best interest of the United States, including when an administrative offset or installment agreement is in effect; or

(2) Determines that waiver is appropriate under the criteria for compromise of debts set forth at 31 CFR 902.2(a).

(d) The Commission is authorized to impose interest and related charges on debts not subject to 31 U.S.C. 3717, in accordance with common law.

AF428100034

Pay.gov Payment Confirmation: Administrative Fine Program Electronic Payment System

Reply Reply All Forward

Wed 4/20/2022 11:59 AM

notification@pay.gov
To Brian Hickman

Follow up. Start by Wednesday, April 20, 2022. Due by Wednesday, April 20, 2022.



An official email of the United States government



Your payment has been submitted to Pay.gov and the details are below. If you have any questions regarding this payment, please contact Rhiannon Magruder at 202-694-1660 or administrativefines@fec.gov.

Application Name: Administrative Fine Program Electronic Payment System
Pay.gov Tracking ID
Agency Tracking ID:
Transaction Type: Sale
Transaction Date: 04/20/2022 12:58:34 PM EDT
Account Holder Name: Brian Hickman
Transaction Amount: \$10,332.00
Card Type:
Card Number

AF#: 4281
Committee Name: Southwest Airlines Pilots Association Political Action Committee (SWAPA PAC)
FEC ID: 00360669

THIS IS AN AUTOMATED MESSAGE. PLEASE DO NOT REPLY.



Pay.gov is a program of the U.S. Department of the Treasury, Bureau of the Fiscal Service

Attachment 1
10 of 10



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 16, 2022

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

AF# 4281 – Southwest Airlines Pilots’ Association Political Action Committee (SWAPA PAC) and Captain Tom Nekouei, in their official capacity as Treasurer (C00360669)

Summary of Recommendation

Make a final determination that the respondents violated 52 U.S.C. § 30104(a) and assess a \$10,332 civil money penalty.

Reason-to-Believe Background

The 2021 Year-End Report was due on January 31, 2022. The respondents filed the report on March 8, 2022, 36 days late. The report is not election sensitive and was not filed within 30 days of the due date; therefore, the report is considered not filed. 11 C.F.R. §§ 111.43(d)(1) and (e)(1).

On March 16, 2022, the Commission found reason to believe (“RTB”) that the respondents violated 52 U.S.C. § 30104(a) for failing to timely file the 2021 Year-End Report and made a preliminary determination that the civil money penalty was \$10,332 based on the schedule of penalties at 11 C.F.R. § 111.43. A letter was sent to the respondents’ email address of record from the Reports Analysis Division (“RAD”) on March 18, 2022 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 December 31 no later than January 31 of the following calendar year. 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 April 25, 2022, the Commission received the written response (“challenge”) from the respondents noting the Committee’s previous compliance and stating in part:

As you can see from the events as listed below, despite the use of best efforts, SWAPA had unforeseen circumstances beyond our control. Although we understand the fact pattern may not qualify under the ‘best efforts’ defense as defined in the letter, we ask that you consider the events in totality and either reduce the fine or dismiss it in its entirety.

- January 26, 2022 – Email notification from FEC regarding requirement to file went to predecessors’ email, which is not actively monitored. We believed the notification was related to LD-2 & LD-3 reports already filed.
- February 1, 2022 – Late filing notification was received from FEC. We contacted the FEC to inquire on further details and noted it was regarding Form 3X.
- February 2022 – we started gathering login information & data to complete Form 3X using the 3rd party software “VAN.” We ran into software issues requiring for a complete rewrite of the 2021 data using a new software system “Every Action.”
- March 1, 2022 – Every Action software provider contacted for training on how to file using their system.
- March 3-5, 2022 – Info received from Every Action on training/webinars on how to use/file using their system.
- March 8, 2022 – Form 3X filed using Every Action’s website after using bypass code.

The respondents also state they have provided updated Committee contacts and email addresses to the Commission and are working with the third-party software provider to resolve outstanding technical issues. They further explain that they paid the \$10,332 civil money penalty assessed at RTB to show good faith but still request that the Commission consider a full or partial reduction of the civil money penalty.

Analysis

The respondents contend they used their best efforts to timely file the 2021 Year-End Report but were prevented from doing so due to unforeseen circumstances. The respondents indicate inexperience of staff and technical issues with the Committee’s third-party software contributed to the delay. The respondents also suggest that current staff may not have been aware of the Committee’s requirement to file the 2021 Year-End Report until receiving the late notification email

sent by the Commission's Electronic Filing Office ("EFO") on February 1, 2022.¹ On March 8, 2022, 36 days after the filing deadline, the Committee electronically filed the 2021 Year-End Report using third-party software.

In accordance with 11 C.F.R. § 111.35, 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) demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond the respondents' control. 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 Reviewing Officer recognizes the circumstances presented may have contributed to the Committee's delay in filing the 2021 Year-End Report. However, inexperience of staff, delays caused by committee vendors or contractors, computer/software failures, and failure to know filing dates 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 "best efforts" defense does not succeed.

The Reviewing Officer recommends that the Commission make a final determination that the respondents violated 52 U.S.C. § 30104(a) and assess a \$10,332 civil money penalty.

OAR Recommendations

1. Adopt the Reviewing Officer recommendation for AF# 4281 involving Southwest Airlines Pilots' Association Political Action Committee (SWAPA PAC) and Captain Tom Nekouei, in their official capacity as Treasurer, in making the final determination;
2. Make a final determination in AF# 4281 that Southwest Airlines Pilots' Association Political Action Committee (SWAPA PAC) and Captain Tom Nekouei, in their official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a \$10,332 civil money penalty; and
3. Send the appropriate letter.

¹ The Reviewing Officer confirms that the Commission appropriately sent all notifications via email in accordance with normal business procedures. On 12/22/21, the Commission's Information Division sent the 2021 Year-End Prior Notice to dstarling@swapa.org and asinopoli@swapa.org, the email addresses listed on the Committee's Statement of Organization. See Attachment 2. On 1/26/22, EFO sent a reminder email regarding the 2021 Year-End Report to the same email addresses. On 2/1/22, the day following the filing deadline, EFO sent a late notification email to the same email addresses because the report had not yet been filed. See Attachment 3. Further, on 2/17/22, RAD sent the non-filer notification to the same email addresses. See Attachment 4. On 4/14/22, the Committee filed an Amended Statement of Organization to update its email addresses to accounting@swapa.org and gac@swapa.org. See Attachment 5.

Attachments

Attachment 1

Attachment 2

Attachment 3

Attachment 4 – Declaration from RAD

Attachment 5 – 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 Southwest Airlines Pilots' Association Political Action Committee (SWAPA PAC):
 - A) Non-Filer Letter, dated February 17, 2022, referencing the 2021 Year-End Report (sent via electronic mail to: dstarling@swapa.org and asinopoli@swapa.org);
 - B) Reason-to-Believe Letter, dated March 18, 2022, referencing the 2021 Year-End Report (sent via electronic mail to: dstarling@swapa.org and asinopoli@swapa.org).
4. I hereby certify that I have searched the Commission’s public records and find that Southwest Airlines Pilots' Association Political Action Committee (SWAPA PAC) filed the 2021 Year-End Report with the Commission on March 8, 2022.
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 14th day of June, 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

February 17, 2022

NEKOUEI, TOM CAPTAIN, TREASURER
SOUTHWEST AIRLINES PILOTS' ASSOCIATION POLITICAL ACTION COMMITTEE
(SWAPA PAC)
1450 EMPIRE CENTRAL DR.
SUITE 737
DALLAS, TX 75247

IDENTIFICATION NUMBER: C00360669

REFERENCE: YEAR-END REPORT (07/01/2021 - 12/31/2021)

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.

SOUTHWEST AIRLINES PILOTS' ASSOCIATION POLITICAL ACTION COMMITTEE
(SWAPA PAC)

Page 2 of 2

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 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 Christopher Ritchie in the Reports Analysis Division on our toll-free number (800)424-9530. The analyst's direct number is (202)694-1146.

Sincerely,

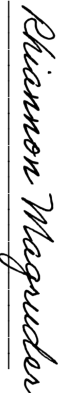


Deborah Chacona
Assistant Staff Director
Reports Analysis Division

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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 December 31 no later than January 31 of the following calendar year. Reports filed electronically must be received and validated at or before 11:59 pm, Eastern Standard/Daylight Time on January 31, 2022 for the 2021 Year-End 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 Year-End Report filed by Southwest Airlines Pilots’ Association Political Action Committee (SWAPA PAC). The report includes the coverage period of July 1, 2021 through December 31, 2021 and was electronically filed on March 8, 2022.
- 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 16th day of June, 2022.



Rhiannon Magruder
Reviewing Officer
Office of Administrative Review
Federal Election Commission

FEC FORM 3X

REPORT OF RECEIPTS AND DISBURSEMENTS For Other Than An Authorized Committee

Office Use Only

1. NAME OF COMMITTEE (in full) TYPE OR PRINT Example: If typing, type over the lines. 12FE4M5 Southwest Airlines Pilots' Association Political Action Committee (SWAPA PAC)

ADDRESS (number and street) 1450 EMPIRE CENTRAL DRIVE SUITE 737 DALLAS TX 75247

2. FEC IDENTIFICATION NUMBER CITY STATE ZIP CODE C C00360669 3. IS THIS REPORT NEW (N) OR AMENDED (A) [X] NEW (N) OR AMENDED (A)

4. TYPE OF REPORT (Choose One) (a) Quarterly Reports: April 15 Quarterly Report (Q1) July 15 Quarterly Report (Q2) October 15 Quarterly Report (Q3) [X] January 31 Year-End Report (YE) July 31 Mid-Year Report (Non-election Year Only) (MY) Termination Report (TER) (b) Monthly Report Due On: Feb 20 (M2) May 20 (M5) Aug 20 (M8) Nov 20 (M11) (Non-Election Year Only) Mar 20 (M3) Jun 20 (M6) Sep 20 (M9) Dec 20 (M12) (Non-Election Year Only) Apr 20 (M4) Jul 20 (M7) Oct 20 (M10) Jan 31 (YE) (c) 12-Day PRE-Election Report for the: Primary (12P) General (12G) Runoff (12R) Convention (12C) Special (12S) Election on in the State of (d) 30-Day POST-Election Report for the: General (30G) Runoff (30R) Special (30S) Election on in the State of

5. Covering Period 07 01 2021 through 12 31 2021

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete. NEKOU EI, TOM, , CAPTAIN, Type or Print Name of Treasurer

Signature of Treasurer NEKOU EI, TOM, , CAPTAIN, [Electronically Filed] Date 02 14 2022

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 52 U.S.C. § 30109.

**SUMMARY PAGE
OF RECEIPTS AND DISBURSEMENTS**

FEC Form 3X (Rev. 05/2016)

Page 2

Write or Type Committee Name

Southwest Airlines Pilots' Association Political Action Committee (SWAPA PAC)

Report Covering the Period: From: / / To: / /

	COLUMN A This Period	COLUMN B Calendar Year-to-Date
6. (a) Cash on Hand January 1, <input type="text" value="2021"/>		286256.64
(b) Cash on Hand at Beginning of Reporting Period.....	147744.04	
(c) Total Receipts (from Line 19)	142588.86	275076.26
(d) Subtotal (add Lines 6(b) and 6(c) for Column A and Lines 6(a) and 6(c) for Column B).....	290332.90	561332.90
7. Total Disbursements (from Line 31).....	88000.00	361500.00
8. Cash on Hand at Close of Reporting Period (subtract Line 7 from Line 6(d)).....	202332.90	199832.90
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

Southwest Airlines Pilots' Association Political Action Committee (SWAPA PAC)

Report Covering the Period: From: / / To: / /

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).....	71901.46	102551.28
(ii) Unitemized	70687.40	172524.98
(iii) TOTAL (add Lines 11(a)(i) and (ii)).....▶	142588.86	275076.26
(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)	142588.86	275076.26
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)).....▶	142588.86	275076.26
20. Total Federal Receipts (subtract Line 18(c) from Line 19).....▶	142588.86	275076.26

DETAILED SUMMARY PAGE
of Disbursements

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	0.00	0.00
(c) Total Operating Expenditures (add 21(a)(i), (a)(ii), and (b))	0.00	0.00
22. Transfers to Affiliated/Other Party Committees.....	0.00	0.00
23. Contributions to Federal Candidates/Committees and Other Political Committees.....	67000.00	340500.00
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).....	- 3000.00	- 3000.00
(d) Total Contribution Refunds (add Lines 28(a), (b), and (c)).....	- 3000.00	- 3000.00
29. Other Disbursements (Including Non-Federal Donations).....	24000.00	24000.00
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)) ..	88000.00	361500.00
32. Total Federal Disbursements (subtract Line 21(a)(ii) and Line 30(a)(ii) from Line 31).....	88000.00	361500.00

DETAILED SUMMARY PAGE
of Disbursements

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Page 5

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)	142588.86	275076.26
34. Total Contribution Refunds (from Line 28(d))	- 3000.00	- 3000.00
35. Net Contributions (other than loans) (subtract Line 34 from Line 33)	145588.86	278076.26
36. Total Federal Operating Expenditures (add Line 21(a)(i) and Line 21(b))	0.00	0.00
37. Offsets to Operating Expenditures (from Line 15, page 3).....	0.00	0.00
38. Net Operating Expenditures (subtract Line 37 from Line 36)	0.00	0.00



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 23, 2022

Captain Tom Nekouei
Southwest Airlines Pilots' Association Political Action Committee (SWAPA PAC)
1450 Empire Central Dr.
Suite 737
Dallas, TX 75247

C00360669
AF# 4281

Dear Captain Nekouei,

On March 16, 2022, the Federal Election Commission (“the Commission”) found reason to believe (“RTB”) that Southwest Airlines Pilots’ Association Political Action Committee (SWAPA PAC) and you, in your official capacity as Treasurer, violated 52 U.S.C. § 30104(a) for failing to file the 2021 Year-End Report. The Commission also made a preliminary determination that the civil money penalty was \$10,332 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 1158) 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 4:11 pm, Aug 09, 2022

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463**SENSITIVE**

August 9, 2022

MEMORANDUM

To: The Commission

Through: Alec Palmer *AP*
Staff Director

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

Rhiannon Magruder *RM*
Reviewing Officer
Office of Administrative Review

Subject: Final Determination Recommendation in AF# 4281 – Southwest Airlines Pilots’ Association Political Action Committee (SWAPA PAC) and Captain Tom Nekouei, in their official capacity as Treasurer (C00360669)

On March 16, 2022, the Commission found reason to believe (“RTB”) that the respondents violated 52 U.S.C. § 30104(a) for failing to timely file the 2021 Year-End Report and made a preliminary determination that the civil money penalty was \$10,332 based on the schedule of penalties at 11 C.F.R. § 111.43. On April 20, 2022, the Commission received the respondents’ full payment of \$10,332. On April 25, 2022, the Commission received their written response (“challenge”). After reviewing the challenge, the Reviewing Officer Recommendation (“ROR”) dated June 16, 2022 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference.

The Reviewing Officer noted that inexperience of staff, delays caused by committee vendors or contractors, computer/software failures, and failure to know filing dates 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 determined the “best efforts” defense did not succeed and recommended that the Commission make a final determination that the respondents violated 52 U.S.C. § 30104(a) and assess a \$10,332 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). To date, a response has not been received.

OAR Recommendations

1. Adopt the Reviewing Officer recommendation for AF# 4281 involving Southwest Airlines Pilots' Association Political Action Committee (SWAPA PAC) and Captain Tom Nekouei, in their official capacity as Treasurer, in making the final determination;
2. Make a final determination in AF# 4281 that Southwest Airlines Pilots' Association Political Action Committee (SWAPA PAC) and Captain Tom Nekouei, in their official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a \$10,332 civil money penalty; and
3. Send the appropriate letter.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) AF 4281
 Final Determination Recommendation:)
 Southwest Airlines Pilots' Association)
 Political Action Committee (SWAPA)
 PAC) and Captain Tom Nekouei, in their)
 official capacity as Treasurer)
 (C00360669))

CERTIFICATION

I, Laura E. Sinram, Acting Secretary and Clerk of the Federal Election Commission, do hereby certify that on August 17, 2022, the Commission decided by a vote of 6-0 to take the following actions in AF 4281:

1. Adopt the Reviewing Officer recommendation for AF# 4281 involving Southwest Airlines Pilots' Association Political Action Committee (SWAPA PAC) and Captain Tom Nekouei, in their official capacity as Treasurer, in making the final determination.
2. Make a final determination in AF# 4281 that Southwest Airlines Pilots' Association Political Action Committee (SWAPA PAC) and Captain Tom Nekouei, in their official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a \$10,332 civil money penalty.
3. Send the appropriate letter.

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

Attest:

**Laura e
Sinram**

Digitally signed by
 Laura e Sinram
 Date: 2022.08.17
 18:12:29 -04'00'



 Laura E. Sinram
 Acting Secretary and Clerk of the
 Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 25, 2022

Captain Tom Nekouei, in official capacity as Treasurer
Southwest Airlines Pilots' Association Political Action Committee (SWAPA PAC)
1450 Empire Central Dr.
Suite 737
Dallas, TX 75247

C00360669
AF# 4281

Dear Captain Nekouei:

On March 16, 2022, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Southwest Airlines Pilots' Association Political Action Committee (SWAPA PAC) and you, in your official capacity as Treasurer, violated 52 U.S.C. § 30104(a) for failing to timely file the 2021 Year-End Report. By letter dated March 18, 2022, the Commission sent notification of the RTB finding that included a civil money penalty calculated at \$10,332 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On April 25, 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 Southwest Airlines Pilots' Association Political Action Committee (SWAPA 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 \$10,332 in accordance with 11 C.F.R. § 111.43. The Reviewing Officer Recommendation was sent to you on June 23, 2022.

On August 17, 2022, the Commission adopted the Reviewing Officer's recommendation and made a final determination that Southwest Airlines Pilots' Association Political Action Committee (SWAPA PAC) and you, in your official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assessed a civil money penalty of \$10,332. It is based on the same factors used to calculate the civil money penalty at RTB. A copy of the Final Determination Recommendation is attached.

On April 20, 2022, the Commission received your \$10,332 payment.

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.

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", written over a horizontal line.

Allen Dickerson
Chairman