



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 1740

DATE SCANNED 11-29-87

SCANNER NO. 2

SCAN OPERATOR Jms

27092614051



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION COMMISSION  
SECRETARIAT

JUL -6 P 4:57

July 6, 2007

**SENSITIVE**

MEMORANDUM

TO: THE COMMISSION

THROUGH: PATRINA M. CLARK *PC*  
STAFF DIRECTOR *me*

FROM: JOHN D. GIBSON *JG*  
ACTING CHIEF COMPLIANCE OFFICER

CRAIG CROOKS *CC*  
ACTING ASSISTANT STAFF DIRECTOR  
REPORTS ANALYSIS DIVISION

BY: PATRICIA CARMONA / RHIANNON RYAN *PC* *RR*  
COMPLIANCE BRANCH

SUBJECT: REASON TO BELIEVE RECOMMENDATION – 2007 APRIL  
QUARTERLY REPORT FOR THE ADMINISTRATIVE FINE  
PROGRAM

Attached is a list of political committees and their treasurers who failed to file the 2007 April Quarterly Report in accordance with 2 U.S.C. 434(a). The April Quarterly Report was due on April 15, 2007.

The committees listed in the attached RTB Circulation Report either failed to file the report, filed the report more than five (5) days after the due date, 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 all other political committees and their treasurers listed on the RTB Circulation Report violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalties would be the amounts indicated on the RTB Circulation Report.
2. Send the appropriate letters.

27092614052

Federal Election Commission  
Reason to Believe Circulation Report  
2007 APRIL QUARTERLY Not Election Sensitive 04/15/2007 H\_S\_P

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
1740	C00411652	BOB MCEWEN FOR CONGRESS COMMITTEE	MCEWEN, BOB	LIZ MCEWEN ✓	\$208,428	0		Not Filed	\$208,428 (est)	\$6,500
1742	C00416438	COMMITTEE TO ELECT OZ BENGUR	BENGUR, O. R. OZ	JOANNE M. RUBIN	\$171,072	0		Not Filed	\$171,072 (est)	\$5,000
1744	C00424978	DONZELLA JAMES FOR US CONGRESS CAMPAIGN 2006	JAMES, DONZELLA	ELMO JAMES	\$117,024	1		Not Filed	\$117,024 (est)	\$5,625
1745	C00428193	FRANK ENRIQUEZ FOR CONGRESS	ENRIQUEZ, FRANK	PRESTON E. HENRICHSON	\$203,635	0		Not Filed	\$203,635 (est)	\$6,500
1746	C00423210	FRIENDS TO ELECT VANCE W CHEEK JR	CHEEK, VANCE W. JR	FRANK LITTLE	\$210,081	1		Not Filed	\$210,081 (est)	\$8,125
1751	C00395822	SCHWARZ FOR CONGRESS	SCHWARZ, JOHN	ROBERT HANS SCHULER	\$329,678	0		Not Filed	\$329,678 (est)	\$8,000
1752	C00419820	SKINNER FOR CONGRESS 06	SKINNER, NANCY ANN	CHUCK SKINNER	\$118,016	0		Not Filed	\$118,016 (est)	\$4,500

27092614054

7/6/2007 10:01 AM

AF# Committee ID Committee Name Candidate Name Treasurer Threshold PV Receipt Date Days Late LOA RTB Penalty

1755	C00415034	VAS FOR CONGRESS	VAS, JOSEPH	MELVIN RAMOS	\$260,408	0	Not Filed	\$260,408 (est)	\$8,000
------	-----------	------------------	-------------	--------------	-----------	---	-----------	-----------------	---------

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
)  
Reason To Believe Recommendation 2007 )  
April Quarterly Report for the )  
Administrative Fine Program: )  
MCEWEN, BOB, and MCEWEN, LIZ as ) AF# 1740  
treasurer; )

BENGUR, O R OZ, and JOANNE M ) AF# 1742  
RUBIN as treasurer; )

JAMES, DONZELLA, and ELMO JAMES ) AF# 1744  
as treasurer; )  
ENRIQUEZ, FRANK, and PRESTON E ) AF# 1745  
HENRICHSON as treasurer; )  
CHEEK, VANCE W JR, and FRANK ) AF# 1746  
LITTLE as treasurer; )

SCHWARZ, JOHN, and ROBERT HANS ) AF# 1751  
SCHULER as treasurer; )

VAS, JOSEPH, and RAMOS, MELVIN as ) AF# 1755  
treasurer; )

27092614055

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on July 12, 2007 the Commission took the following actions on the Reason To Believe Recommendation 2007 April Quarterly Report for the Administrative Fine Program, as recommended in the Reports Analysis Division's Memorandum dated July 06, 2007, on the following committees:

AF#1740 Decided by a vote of 5-0 to: (1) find reason to believe that MCEWEN, BOB, and MCEWEN, LIZ as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Lenhard, Mason, von Spakovsky, Walther, and Weintraub voted affirmatively for the decision.

AF#1742 Decided by a vote of 5-0 to: (1) find reason to believe that BENGUR, O R OZ, and JOANNE M RUBIN as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Lenhard, Mason, von Spakovsky, Walther, and Weintraub voted affirmatively for the decision.

AF#1744 Decided by a vote of 5-0 to: (1) find reason to believe that JAMES, DONZELLA, and ELMO JAMES as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Lenhard, Mason, von Spakovsky, Walther, and Weintraub voted affirmatively for the decision.

27092614056

AF#1745 Decided by a vote of 5-0 to: (1) find reason to believe that ENRIQUEZ, FRANK, and PRESTON E HENRICHSON as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Lenhard, Mason, von Spakovsky, Walther, and Weintraub voted affirmatively for the decision.

AF#1746 Decided by a vote of 5-0 to: (1) find reason to believe that CHEEK, VANCE W JR, and FRANK LITTLE as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Lenhard, Mason, von Spakovsky, Walther, and Weintraub voted affirmatively for the decision.

AF#1751 Decided by a vote of 5-0 to: (1) find reason to believe that SCHWARZ, JOHN, and ROBERT HANS SCHULER as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Lenhard, Mason, von Spakovsky, Walther, and Weintraub voted affirmatively for the decision.

27092614057

the report; (2) send the appropriate letter. Commissioners Lenhard, Mason, von Spakovsky, Walther, and Weintraub voted affirmatively for the decision.

AF#1755 Decided by a vote of 5-0 to: (1) find reason to believe that VAS, JOSEPH, and RAMOS, MELVIN as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Lenhard, Mason, von Spakovsky, Walther, and Weintraub voted affirmatively for the decision.

Attest:

July 13, 2007  
Date

Mary W. Dove  
Mary W. Dove  
Secretary of the Commission

27092614058





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 16, 2007

Liz McEwen  
Bob McEwen for Congress Committee  
P.O. Box 44009  
Cincinnati, OH 45244

C00411652  
AF#: 1740

Dear Liz McEwen:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file an April Quarterly Report of Receipts and Disbursements every calendar year. This report, covering the period through March 31st, shall be filed no later than April 15th. 2 U.S.C. 434(a). Records at the Federal Election Commission ("FEC") indicate that this report was not filed within thirty (30) days of the due date. You should file this report if you have not already done so.

The Act was further amended in 1999 to permit the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. 434(a). 2 U.S.C. 437g(a)(4). On 7/12/2007, the FEC found that there is reason to believe ("RTB") that Bob McEwen for Congress Committee and you, as treasurer, violated 2 U.S.C. 434(a) by failing to file timely this report on or before April 15th. 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 \$6,500. It is due by 8/21/2007 and is based on these factors:

Election Sensitivity of Report: Not Election Sensitive  
Level of Activity: \$208,428  
Number of Days Late: Not Filed  
Number of Previous Civil Money Penalties Assessed: 0

**To Pay the Calculated Civil Money Penalty**

To pay the calculated civil money penalty, send the enclosed remittance and your payment to the FEC at the address on page 3. Upon receipt of your payment, the FEC will send you a final determination letter.

**To Challenge the RTB Finding and/or Calculated Civil Money Penalty**

To challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found on page one, to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must be received by 8/21/2007. Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty. The FEC will only consider challenges that are based on a factual error, miscalculation of the calculated civil money penalty by the FEC, or the existence of extraordinary circumstances that persisted for more than 48 hours that were beyond your control and prevented you from filing the report in a timely manner. Your response must include the

27092614059

factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. Examples of circumstances that will not be considered extraordinary include, but are not limited to, negligence, problems with vendors or contractors, staff illness, computer failures and similar circumstances. 11 C.F.R. 111.35(b)(1)(iii) and (4).

Your failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver of your right to present such argument in a petition to the district court under 2 U.S.C. 437g. 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.

**If You Do Not Pay the Calculated Civil Money Penalty or Submit a Challenge**


If you do not pay the calculated civil money penalty or submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Bob McEwen for Congress Committee and you, as treasurer, violated 2 U.S.C. 434(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA") as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. 3701 et seq. The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 C.F.R. 111.45.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. 437g(a)(2). It will remain confidential in accordance with 2 U.S.C. 437g(a)(4)(B) and 437g(a)(12)(A) until it is placed on the public record in accordance with 11 C.F.R. 111.42, unless you notify the FEC in writing that you wish the matter to be made public.

Additional information on the FEC's administrative fine program, including the final regulations, is located at the FEC's website at [www.FEC.gov](http://www.FEC.gov). If you have questions regarding the payment of the calculated civil money penalty, please contact Rhiannon Ryan in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

Sincerely,



Robert D. Lenhard  
Chairman

27092614050

-----  
**ADMINISTRATIVE FINE REMITTANCE & 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 \$6,500 for the 2007 April Quarterly Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission  
P.O. Box 979058  
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox  
FEC #979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

The remittance and your payment are due by 8/21/2007. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

**PAYMENTS BY PERSONAL CHECK**

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**  
-----

FOR: Bob McEwen for Congress Committee

FEC ID#: C00411652

AF#: 1740

PAYMENT DUE DATE: 8/21/2007

PAYMENT AMOUNT DUE: \$6,500

27092614061

August 9, 2007

2007 AUG 20 A 10:40

Federal Elections Commission  
Office of Administrative Review  
999 E Street, NW  
Washington, DC  
20463

RE: COO411652  
AF#: 1740  
Request to Challenge

Mr. Chairman,

This is in response to your letter of July 16, 2007 assessing the Bob McEwen for Congress committee \$6,500.00 dollars for failure to file the April Quarterly report in a timely manner.

I wish to respectfully inform the Commission that repeated efforts were made to file the report. I personally visited the Commission offices, twice, seeking to make the filing. I was informed that only an electronic filing using FEC software would be accepted. We worked faithfully with our FEC advisor Mr. Chris Jones in an effort to convert our electronic data to conform to the new FEC software. This effort proved unsuccessful.

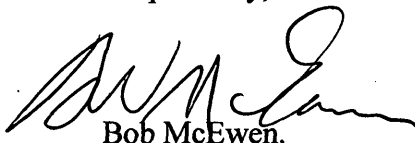
AT NO TIME DURING THIS YEAR HAS THERE BEEN ANY ACTIVITY BY THE COMMITTEE. NO CONTRIBUTIONS AND NO DISBURSEMENTS.

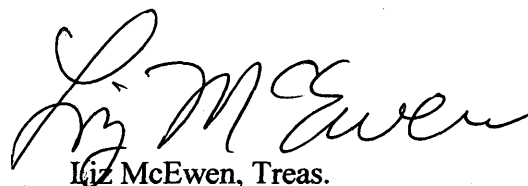
It was always our desire to terminate the committee during this period.

Finally, together with Mr. Jones and the FEC software tech support staff, we manually reconstructed information sufficient to close the account electronically.

Your appreciation of our eagerness to comply, and that this committee performed no function other than an effort to terminate, is respectfully requested as you consider our petition to vacate the fine imposed in the letter of 07/16/07.

Respectfully,

  
Bob McEwen.

  
Liz McEwen, Treas.

Cc: Chris Jones

27092614062

2007 AUG 23 P 2:18

**Date:** August 23, 2007

**REFERRAL TO OFFICE OF ADMINISTRATIVE REVIEW  
CHALLENGE RECEIVED**

**AF#: 1740**

**Committee Name:** Bob McEwen for Congress Committee

**Committee ID#:** C00411652

**Committee Address (if different than in RTB letter):** 10935 Rice Field Pl.  
Fx. Station, VA 22039-1694

**Treasurer Name (if different than in RTB finding):** N/A

**Attachments:**

**Copy of RTB Circulation Report, dated July 6, 2007 and RTB Certification,  
dated July 12, 2007: Previously Forwarded**

**Attachment #:** N/A

**Certified Return Receipt (to be forwarded at later date if not yet received)(Y/N):N**

**Attachment #:** N/A

**Original Correspondence Received by RAD in Response to RTB Letter (Y/N): N**

**Attachment #:** N/A

**RAD Staff Declaration (Y/N): Y**

**-2007 April Quarterly Report Prior Notice, dated March 22, 2007  
(via electronic mail).**

**-Non-Filer Letter, dated April 30, 2007.**

**-RTB Letter, dated July 16, 2007.**

**Attachment #:** 2

**Other RAD Information: (Y/N): Y – Memo to File, Copy of Returned RTB  
Envelope, Re-mail Tracking Info**

**Attachment #:** 3

27092614063

## DECLARATION OF PATRICIA CARMONA

1. I am the Chief of the Compliance Branch for the Reports Analysis Division of the Federal Election Commission ("Commission"). In my capacity as Chief of the Compliance Branch, I oversee the initial processing of the Administrative Fine Program. I make this declaration based on my personal knowledge and, if called upon as a witness, could and would testify competently to the following matters.
2. I hereby certify that documents identified herein are true and accurate copies of the following sent by the Commission to Bob McEwen for Congress Committee:
  - A) Prior Notice, dated March 22, 2007, referencing the 2007 April Quarterly Report (sent via electronic mail to: info@bobmcewenforcongress.com);
  - B) Non-Filer Letter, dated April 30, 2007, referencing the 2007 April Quarterly Report;
  - C) Reason-to-Believe Letter, dated July 16, 2007, referencing the 2007 April Quarterly Report.
3. I hereby certify that I have searched the Commission's public records and find that Bob McEwen for Congress Committee filed the 2007 April Quarterly Report with the Commission on July 26, 2007.
4. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct and that all relevant telecoms for the matter have been provided. This declaration was executed at Washington, D.C. on the 23rd day of August, 2007.



Patricia Carmona  
Chief, Compliance Branch  
Reports Analysis Division  
Federal Election Commission



APRIL QUARTERLY

# REPORT NOTICE

FEDERAL ELECTION COMMISSION

CONGRESSIONAL COMMITTEES

March 22, 2007

## CURRENT REPORT DUE:

REPORT	REPORTING PERIOD <sup>1</sup>	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
April Quarterly	01/01/07 - 03/31/07	04/15/07	04/15/07 <sup>2</sup>

## REPORTING SCHEDULE FOR REMAINDER OF 2007:

REPORT	REPORTING PERIOD <sup>1</sup>	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
July Quarterly	04/01/07 - 06/30/07	07/15/07	07/15/07 <sup>2</sup>
October Quarterly	07/01/07 - 09/30/07	10/15/07	10/15/07
Year-End	10/01/07 - 12/31/07	01/31/08	01/31/08

Supplemental Filing Information is available on pages 2 and 3 of this notice.

<sup>1</sup>These dates indicate the beginning and the end of the reporting period. A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered.

<sup>2</sup>Notice that this filing date falls on a weekend. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than Registered, Certified or Overnight Mail, or electronically, must be received before the Commission's (or the Secretary of the Senate's) close of business on the last business day before the deadline.

## **SUPPLEMENTAL FILING INFORMATION**

**PLEASE NOTE:** The Commission provides reminders of upcoming filing dates as a courtesy to help committees comply with the filing deadlines set forth in the Act and Commission regulations. Committee treasurers must comply with all applicable filing deadlines established by law, and the lack of prior notice does not constitute an excuse for failing to comply with any filing deadline.

### **WHO MUST FILE**

Principal campaign committees of congressional candidates<sup>3</sup> (including unopposed candidates and candidates whose names do not appear on the ballot) must file Quarterly Reports.<sup>4</sup> Before a committee can stop filing with the FEC, it must file a termination report with the Commission. Committees must continue to file reports until the Commission notifies them in writing that their termination report has been accepted.

### **METHODS OF FILING REPORTS**

#### **Electronic Filing**

Reports filed electronically must be received and validated by 11:59 p.m. Eastern Time on the filing deadline. For additional information, call the Electronic Filing Office at (800) 424-9530 or (202) 694-1642 or visit our website at [www.fec.gov/electfil/electron.shtml](http://www.fec.gov/electfil/electron.shtml).

Under the Commission's mandatory electronic filing regulations, U.S. House committees that receive contributions or make expenditures in excess of \$50,000 in a calendar year, or that have reason to expect to do so, must file all reports and statements with the FEC electronically. Other U.S. House committees may voluntarily file electronically; however, any entity that files electronically, whether required to do so or not, must comply with the electronic filing rules. U.S. Senate committees that file with the Secretary of the Senate are not subject to the mandatory electronic filing rules, but may file an unofficial copy of their reports with the Commission in order to speed disclosure.

#### **Registered & Certified Mail**

Reports sent by Registered or Certified Mail must be postmarked on or before the mailing deadline to be considered timely filed. A committee sending its reports by Certified Mail should keep its certified mailing receipt with the U.S. Postal Service (USPS) postmark as proof of filing because the USPS does not keep complete records of items sent by Certified Mail. A committee sending its report by Registered Mail should keep its proof of mailing. Note that a Certificate of Mailing from the USPS is not sufficient to prove that a report is timely filed using Registered, Certified or Overnight Mail.

<sup>3</sup>Generally, an individual becomes a candidate for Federal office (and thus triggers registration and reporting obligations) when his or her campaign exceeds \$5,000 in either contributions received or expenditures made. If the campaign has not exceeded the \$5,000 threshold, it is not required to file reports. See also 11 CFR 100.3(a)(2) & (3).

<sup>4</sup>If the campaign has more than one authorized committee in addition to the principal campaign committee, the principal campaign committee must also file a consolidated report on Form 3Z.



### Overnight Mail

Reports filed via overnight mail will be considered timely filed if the report is received by the delivery service on or before the mailing deadline. "Overnight mail" includes Priority or Express Mail having a delivery confirmation, or an overnight delivery service with which the report is scheduled for next business day delivery and is recorded in the service's on-line tracking system.

### Other Means of Filing

Reports filed by any other means—including first class and courier—must be received by the Commission (or for Senate committees, the Secretary of the Senate) before the close of business on the last business day before the filing deadline.

Paper forms are available at the FEC website at [www.fec.gov/info/forms.shtml](http://www.fec.gov/info/forms.shtml).

## COMPLIANCE

**Treasurer Responsibility.** Treasurers of political committees are responsible for both the timeliness and the accuracy of all reports. They may be subject to monetary penalties if reports are inaccurate or are not filed on time.

**Administrative Fine Program.** Under the Administrative Fine Program, political committees and their treasurers who fail to file their reports on time may be subject to civil money penalties up to \$16,000 (or more for repeat late- and non-filers).<sup>5</sup> For additional information, visit the FEC website at [www.fec.gov/af/af.shtml](http://www.fec.gov/af/af.shtml).

**Report Format.** In addition, political committees that file illegible reports or use non-FEC forms (except for FEC-approved, computer-generated forms) will be required to refile their reports.

**Electronic Filers Must File Electronically.** Electronic filers who instead file on paper, or who submit an electronic report (either by direct transmission, 3.5" diskette or CD) that does not pass the validation program by 11:59 p.m. Eastern Time on the filing deadline, will be considered non-filers and may be subject to enforcement actions (including administrative fines).

**Form 3Z-1.** Principal campaign committees of U.S. House and U.S. Senate candidates running in 2008 must file FEC Form 3Z-1 as part of their 2007 July Quarterly and Year-End Reports. The information provided on this form allows opposing candidates to compute their "gross receipts advantage" which is used to determine whether a candidate is entitled to increased contribution and coordinated expenditure limits under the "Millionaires' Amendment."<sup>6</sup>

<sup>5</sup> Penalties for late- or non-filing of 48-hour notices are based on the amount of contributions not timely disclosed. As a result, these penalties may exceed \$16,000, even for first-time violations.

<sup>6</sup> See *Millionaires' Amendment* brochure on the FEC website at [www.fec.gov/pages/brochures/millionaire.shtml](http://www.fec.gov/pages/brochures/millionaire.shtml).

27092614067



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

April 30, 2007

RQ-7

Liz Mcewen, Treasurer  
Bob Mcewen For Congress Committee  
P.O. Box 44009  
Cincinnati, OH 45244 0009

IDENTIFICATION NUMBER: C00411652

Reference: April Quarterly Report 1/1/2007 - 3/31/2007

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 expenditures as required by the Federal Election Campaign Act, as amended. You were previously notified of the due date for this report.

It is important that you file this report immediately with the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463 for House candidates, or the Secretary of the Senate, 232 Hart Senate office building, Washington, D.C. 20510, for Senate candidates. Please note that electronic filers must submit their reports electronically, as per 11 CFR §104.18. A copy of the report must also be filed with the Secretary of State or equivalent State officer unless the State is exempt from the federal requirement to receive and maintain paper copies. You can verify the Commission's receipt of any documents submitted by your committee on the FEC website at [www.fec.gov](http://www.fec.gov).

The failure to timely file this report may result in civil money penalties, 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 Swapna Krishna at our toll free number (800)424-9530. Our direct local number is (202)694-1130.

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Gibson".

John D. Gibson  
Assistant Staff Director  
Reports Analysis Division (RAD)



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2007 SEP 28 P 5:08  
September 28, 2007

**MEMORANDUM**

**SENSITIVE**

To: The Commission

Through: Patrina M. Clark *JMC*  
Staff Director *pmc*

From: John D. Gibson *JG*  
Chief Compliance Officer

Shawn Woodhead Werth *SW*  
Reviewing Officer  
Office of Administrative Review

By: Jill I. Sugarman *JS*  
Reviewing Analyst

Subject: AF# 1740 – Bob McEwen for Congress Committee and Liz McEwen, as  
Treasurer (C00411652)

The respondents' challenge for this case was due after the April 30, 2007 effective date of the revised administrative fine regulations. The Office of General Counsel informed this Office that if the respondents' challenge is due after the April 30 effective date, the new rules apply. The Reviewing Officer's recommendation, therefore, is based on the new rules.

The attached Reviewing Officer recommendation is being circulated on an informational basis. A copy was also sent to the respondents in accordance with 11 C.F.R. § 111.36(f). The respondents may file with the Commission Secretary written responses within 10 days of transmittal of the recommendations.

After the 10 day period, the Reviewing Officer recommendations and the respondents' written response, if any, will be circulated to the Commission to make a final determination.

Attachment

27092614069



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

September 28, 2007

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

AF# 1740 – Bob McEwen for Congress Committee and Liz McEwen, as Treasurer (C00411652)

On July 12, 2007, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to file the 2007 April Quarterly Report and made a preliminary determination that the civil money penalty was \$6,500 based on the schedule of penalties at 11 C.F.R. § 111.43. They were notified by the Reports Analysis Division ("RAD") on July 16, 2007 of the Commission's RTB finding and civil money penalty. The letter, sent to the address of record, was returned to the Commission on July 24, 2007 and resent to 10935 Rice Field Place, Fairfax Station, VA 22039 on the same day.

**Respondents' Response**

On August 20, 2007, the Commission received the written response ("challenge") from the Candidate, Bob McEwen, and the Treasurer, respectfully requesting that the Commission vacate the fine. They state that they visited the Commission to seek assistance in filing the report and terminating the Committee, but were informed that the reports must be filed electronically using FECFile. They then made repeated efforts to electronically file the April Quarterly Report. They worked with the RAD Analyst to convert the Committee's electronic data to be compatible with FECFile, but the conversion efforts proved unsuccessful. With the help of the RAD Analyst and Electronic Filing Office, they later manually reconstructed the data and electronically filed the necessary reports to terminate the Committee. The respondents emphasize that the Committee had no financial activity during 2007.

The challenge included a copy of Page 3 of the RTB Letter as an attachment.

**Analysis**

The April Quarterly Report was filed on July 26, 2007, 102 days late.

The Federal Election Campaign Act ("Act") states that the treasurer of a principal campaign committee shall file a report for the quarter ending March 30 no later than April 15. 2 U.S.C. § 434(a)(2)(B) and 11 C.F.R. § 104.5(a)(1)(i). Political committees required to file reports with the Commission must file in an electronic format if they received or expect to receive contributions or made or expect to make expenditures in a calendar year aggregating in excess of \$50,000. The committee shall have reason to expect to exceed the threshold for two calendar years following the calendar year in which the threshold was exceeded. 2 U.S.C. § 434(a)(11) and 11 C.F.R. § 104.18(a).

The respondents were notified on two occasions after the April Quarterly Report's due date that the report had not been filed, but they failed to respond to either notice. No attempt was made to file the report until they contacted the RAD Analyst about terminating the Committee and were advised by him that they must file April Quarterly Report in addition to a Termination Report.

Their challenge focuses on their difficulties in electronically filing the report and that only an electronic filing, using FEC software, would be accepted. RAD's telecoms (written

records of conversations) show that they knew in July 2006, almost nine months before the April Quarterly Report was due, that they had to convert to the FECFile software since they were no longer going to use vendor software. During his conversation with them on July 25, 2006, the RAD Analyst explained to the Treasurer what she needed to do to convert the software. On the same day, the Treasurer downloaded the FECFile software and spoke with the Electronic Filing Office ("EFO") staff who advised her to contact their vendor for assistance in converting the data. Yet, the EFO logs indicate that they continued to use their vendor's software to file three reports between September 2006 and January 2007.

The respondents did not make any attempt to file the April Quarterly Report until they met with the RAD Analyst in late June – early July 2007 about terminating the Committee. They then worked with the RAD Analyst and the EFO staff to convert the report data from the vendor to the FECFile software and they successfully uploaded the report on July 26, 2007.

Their challenge fails to address any of the three valid excuses at 11 C.F.R. § 111.35(b). These are: (i) the RTB finding is based on factual errors; and/or (ii) the improper calculation of the civil money penalty; and/or (iii) they used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances that were beyond their control and they filed the report no later than 24 hours after the end of these circumstances. The Administrative Fine regulations specifically state that delays caused by negligence and the failure to use filing software properly do not constitute reasonably unforeseen circumstances. 11 C.F.R. § 111.35(d).

Because the report was not received at the time of the RTB finding, the Commission estimated the level of activity for the April Quarterly reporting period to be \$208,428, resulting in a \$6,500 civil money penalty. 11 C.F.R. § 111.43(a)(2)(ii) and (e)(1). The April Quarterly Report filed on July 26, 2007 discloses \$0 in receipts and \$0 in disbursements. Since the schedule of penalties at 11 C.F.R. § 111.43(a)(2)(iii) only provides for civil money penalties if the level of activity is \$1.00 or more, no civil money penalty should be assessed in this matter.

Therefore, the Reviewing Officer recommends that the Commission make a final determination that the respondents violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$0 (reduced from the RTB civil money penalty of \$6,500).

#### **OAR Recommendations**

- (1) Adopt the Reviewing Officer recommendation for AF# 1740 involving Bob McEwen for Congress and Liz McEwen, as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 1740 that Bob McEwen for Congress and Liz McEwen, as Treasurer, violated 2 U.S.C. § 434(a) and, based on the actual level of activity disclosed on the April Quarterly Report (\$0), assess a civil money penalty of \$0 (reduced from the RTB civil money penalty of \$6,500); and
- (3) Send the appropriate letter.

Reviewing Analyst: Jill I. Sugarman

#### Attachments

Attachment 1 – Challenge Received from Respondents

Attachment 2 –

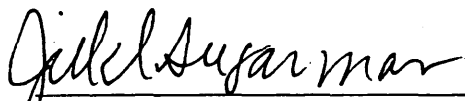
Attachment 3 – Declaration from RAD

Attachment 4 – Declaration from OAR

27092614071

**DECLARATION OF JILL I. SUGARMAN**

1. I am the Reviewing Analyst in the Office of Administrative Review for the Federal Election Commission ("Commission"). In my capacity as Reviewing Analyst, I conduct research with respect to all challenges submitted in accordance with the Administrative Fine program.
2. The 2007 April Quarterly Report is due April 15, 2007. If electronically filed, it must be received and validated by the Commission at or before 11:59 p.m., Eastern Standard/Daylight Time on April 15 to be timely filed.
3. I hereby certify that I have searched the Commission's public records and that the documents identified herein are true and accurate copies of Page 1 of the Summary Page and Page 4 of the Detailed Summary Page of the 2007 April Quarterly Report filed by the Bob McEwen for Congress Committee and Liz McEwen, as Treasurer. Lines 24 and 26 list \$0.00 in total receipts and total disbursements, respectively, for this period. According to Commission records, the Report covers the period from January 1 through March 31, 2007 and was received on July 26, 2007.
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 at Washington on the 28<sup>th</sup> of September, 2007.



Jill I. Sugarman  
Reviewing Analyst  
Office of Administrative Review  
Federal Election Commission

FEC  
FORM 3REPORT OF RECEIPTS  
AND DISBURSEMENTS

For An Authorized Committee

Office Use Only

1. NAME OF COMMITTEE (In full)      USE FEC MAILING LABEL OR TYPE OR PRINT      Example: If typing, type over the lines

BOB MCEWEN FOR CONGRESS COMMITTEE

ADDRESS (number and street)

PO Box 44009

Check if different  
than previously  
reported. (ACC)

Cincinnati

OH

45244

2. FEC IDENTIFICATION NUMBER

C00411652

CITY

STATE

ZIP CODE

STATE DISTRICT

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

OH

02

4. TYPE OF REPORT (Choose One)

(a) Quarterly Reports:

X April 15 Quarterly Report (Q1)

July 15 Quarterly Report (Q2)

October 15 Quarterly Report (Q3)

January 31 Year-End Report (YE)

Termination Report (TER)

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

Primary (12P)

General (12G)

Runoff (12R)

Convention (12C)

Special (12S)

Election on

In the  
State of

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

General (30G)

Runoff (30R)

Special (30S)

Election on

in the  
State of

5. Covering Period      D1      01      2007      through      03      31      2007

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer      Liz McEwen

Signature of Treasurer      Electronically Filed by      Liz McEwen

Date      07      13      2007

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

Office  
Use  
OnlyFEC FORM 3  
(Revised 03/2005)

27092614073

**DETAILED SUMMARY PAGE**  
of Disbursements

FEC Form 3 (Revised 02/2003)

Page 4

**II. DISBURSEMENTS**

**COLUMN A**  
Total This Period

**COLUMN B**  
Election Cycle-to-Date

17. OPERATING EXPENDITURES.....	0.00	0.00
18. TRANSFERS TO OTHER AUTHORIZED COMMITTEES.....	0.00	0.00
<hr/>		
19. LOAN REPAYMENTS:		
(a) Of Loans Made or Guaranteed by the Candidate.....	0.00	0.00
(b) Of all Other Loans.....	0.00	0.00
(c) TOTAL LOAN REPAYMENTS (add Lines 19(a) and (b)).....	0.00	0.00
<hr/>		
20. REFUNDS OF CONTRIBUTIONS TO:		
(a) Individuals/Persons Other Than Political Committees.....	0.00	0.00
(b) Political Party Committees.....	0.00	0.00
(c) Other Political Committees (such as PACs).....	0.00	0.00
(d) TOTAL CONTRIBUTION REFUNDS (add Lines 20(a), (b), and (c)).....	0.00	0.00
<hr/>		
21. OTHER DISBURSEMENTS.....	0.00	0.00
<hr/>		
22. TOTAL DISBURSEMENTS (add Lines 17, 18, 19(c), 20(d), and 21) ▶	0.00	0.00

**III. CASH SUMMARY**

23. CASH ON HAND AT BEGINNING OF REPORTING PERIOD.....	1408.81
24. TOTAL RECEIPTS THIS PERIOD (from Line 16, page 3).....	0.00
25. SUBTOTAL (add Line 23 and Line 24).....	1408.81
26. TOTAL DISBURSEMENTS THIS PERIOD (from Line 22).....	0.00
27. CASH ON HAND AT CLOSE OF REPORTING PERIOD (subtract Line 26 from Line 25).....	1408.81

27092614074





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

VIA OVERNIGHT DELIVERY

October 2, 2007

Liz McEwen, as Treasurer  
Bob McEwen for Congress Committee  
P.O. Box 44009  
Cincinnati, Ohio 45244

C00411652  
AF# 1740

Dear Ms. McEwen:

On July 12, 2007, the Federal Election Commission ("Commission") found reason to believe ("RTB") that Bob McEwen for Congress Committee and you, as Treasurer ("respondents"), violated 2 U.S.C. § 434(a) for failing to file the 2007 April Quarterly Report. The Commission also made a preliminary determination that the civil money penalty was \$6,500 based on the schedule of penalties at 11 C.F.R. § 111.43.

After reviewing the written response and any supplemental information submitted by you and Commission staff, the Reviewing Officer has recommended that the Commission make a final determination in this matter. A copy of the Reviewing Officer's recommendation is attached.

You may file with the Commission Secretary a written response to the recommendation within 10 days of the date of this letter. Your written response should be sent to the Commission Secretary, 999 E Street, NW, Washington, DC 20463. As a result of the anthrax threat in the Washington, DC area, US Postal Service mail delivery to federal agencies, including the Commission, has been interrupted. Until regular mail delivery resumes, you may also file your written response with the Commission Secretary via facsimile (202-208-3333) or by courier at the same address (if you use an overnight delivery service, please use zip code 20004 instead of zip code 20463). Please include the AF # in your response. Your response may not raise any arguments not raised in your original written response or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). The Commission will then make a final determination in this matter.

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

Sincerely,

*Jill I. Sugarman*

Jill I. Sugarman  
Reviewing Analyst  
Office of Administrative Review

Attachment

27092614075



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2007 OCT 12 P 12:53

October 12, 2007

**SENSITIVE**

**MEMORANDUM**

To: The Commission

Through: Patrina M. Clark *mc*  
Staff Director

From: John D. Gibson *JG*  
Chief Compliance Officer

Shawn Woodhead Werth *SW*  
Reviewing Officer  
Office of Administrative Review

By: Jill I. Sugarman *JS*  
Reviewing Analyst

Subject: Final Determination Recommendation in AF# 1740 – Bob McEwen for Congress Committee and Liz McEwen, as Treasurer (C00411652)

On July 12, 2007, the Commission found reason to believe that the respondents violated 2 U.S.C. § 434(a) for failing to file the 2007 April Quarterly Report. Because they had not filed the report, the Commission made a preliminary determination, using the estimated level of activity, that the civil money penalty was \$6,500 based on the schedule of penalties at 11 C.F.R. § 111.43.

On July 26, 2007, the respondents filed the April Quarterly Report, 102 days late. It discloses \$0 in total receipts and \$0 in total disbursements. Since the report indicates that the Committee had no activity during the 2007 April Quarterly reporting period and the schedule of penalties at 11 C.F.R. § 111.43(a)(2) only provides for civil money penalties if the level of activity is \$1.00 or more, no civil money penalty would have been assessed had the report been filed prior to the RTB finding.

On August 20, 2007, the Commission received the respondents' written response ("challenge"). After reviewing the challenge, the Reviewing Officer's recommendation dated September 28, 2007 was forwarded to the Commission, a copy was sent to the respondents, and is hereby incorporated by reference. The Reviewing Officer recommended that the Commission make a final determination that they violated 2 U.S.C. § 434(a) and based on the actual level of activity for the April Quarterly reporting period (\$0), assess a civil money penalty of \$0 because they submitted no evidence that the RTB finding was based on factual errors, that the civil money penalty was improperly calculated at RTB, or that they used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances that were beyond their

27092614076

control and they filed the report no later than 24 hours after the end of these circumstances.

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 the respondents' challenge or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). As of this date, a written response has not been received.

### **OAR Recommendations**

- (1) Adopt the Reviewing Officer recommendation for AF# 1740 involving Bob McEwen for Congress Committee and Liz McEwen, as Treasurer, in making a final determination;
- (2) Make a final determination in AF# 1740 that Bob McEwen for Congress Committee and Liz McEwen, as Treasurer, violated 2 U.S.C. § 434(a) and based on the actual level of activity disclosed on the April Quarterly Report (\$0), assess a civil money penalty of \$0 (reduced from the RTB civil money penalty of \$6,500); and
- (3) Send the appropriate letter.



FEDERAL ELECTION COMMISSION

Washington, DC 20463

**SENSITIVE**

DATE & TIME OF TRANSMITTAL: Friday, October 12, 2007 4:00

BALLOT DEADLINE: Wednesday, October 17, 2007 4:00

COMMISSIONER: LENHARD, MASON, von SPAKOVSKY, WALTHER, WEINTRAUB

SUBJECT: **Final Determination Recommendation in  
AF 1740 – Bob McEwen for Congress Committee  
and Liz McEwen, Treasurer (C00411652)  
Memorandum from the Chief Compliance Officer  
and the Reviewing Officer dated October 12, 2007.**

( ) I approve the recommendation(s)

( ) I object to the recommendation(s)

( ) I am recused from voting

( ) No vote by ballot

COMMENTS: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

A definite vote is required. All ballots must be signed and dated. Please return **ONLY THE BALLOT** to the Commission Secretary. Please return ballot no later than date and time shown above.

FROM THE OFFICE OF THE SECRETARY OF THE COMMISSION

27092614078

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Final Determination Recommendation: ) AF 1740  
Bob McEwen for Congress Committee )  
and Liz McEwen, Treasurer(C00411652) )

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby  
certify that on October 17, 2007, the Commission decided by a vote of 5-0 to take  
the following actions in AF 1740:

1. Adopt the Reviewing Officer recommendation for AF 1740  
involving Bob McEwen for Congress Committee and Liz McEwen,  
as Treasurer, in making a final determination.
2. Make a final determination in AF 1740 that Bob McEwen for  
Congress Committee and Liz McEwen, as Treasurer, violated 2  
U.S.C. § 434(a) and based on the actual level of activity disclosed  
on the April Quarterly Report (\$0), assess a civil money penalty of  
\$0 (reduced from the RTB civil money penalty of \$6,500).
3. Send the appropriate letter.

Commissioners Lenhard, Mason, von Spakovsky, Walther and Weintraub  
voted affirmatively for the decision.

Attest:

October 18, 2007  
Date

Mary W. Dove  
Mary W. Dove  
Secretary of the Commission

27092614979



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

October 22, 2007

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Liz McEwen, as Treasurer  
Bob McEwen for Congress Committee  
P.O. Box 44009  
Cincinnati, Ohio 45244

C00411652  
AF# 1740

Dear Ms. McEwen:

On July 12, 2007, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Bob McEwen for Congress Committee and you, as Treasurer, violated 2 U.S.C. § 434(a) for failing to file the 2007 April Quarterly Report. By letter dated July 16, 2007, the Commission sent you notification of the RTB finding that included a civil money penalty calculated at RTB of \$6,500 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On August 20, 2007, the Office of Administrative Review received your written response challenging the RTB civil money penalty.

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 reduce the RTB civil money penalty because it was calculated on an estimated level of activity, make a final determination that Bob McEwen for Congress Committee and you, as Treasurer, violated 2 U.S.C. § 434(a) and, based on the actual level of activity disclosed on the April Quarterly Report filed July 26, 2007 (\$0), assess a civil money penalty of \$0 in accordance with 11 C.F.R. § 111.43. The basis for the Reviewing Officer's recommendation was included in the Final Determination Report, a copy of which was sent to you on October 2, 2007.

On October 17, 2007, the Commission adopted the Reviewing Officer's recommendation, made a final determination that Bob McEwen for Congress Committee and you, as Treasurer, violated 2 U.S.C. § 434(a), and based on the actual level of activity on the April Quarterly Report (\$0) assessed a civil money penalty of \$0 (reduced from the RTB civil money penalty of \$6,500). It is based on the same factors used to calculate the RTB civil money penalty except that the actual rather than estimated level of activity was used. A copy of the final determination memorandum is attached.

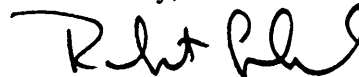
27092614080

27092614081

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. The file will be made a part of the public record pursuant to 11 C.F.R. § 111.42(b). Although the file must be placed on the public record within 30 days from the date of the Commission's notification, this could occur at any time following certification of the Commission's vote.

If you have any questions regarding this matter, please contact Jill Sugarman on our toll free number (800)424-9530 (press 0, then ext. 1660) or (202)694-1660.

Sincerely,



Robert D. Lenhard  
Chairman

Attachment



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 1740

DATE SCANNED 11-29-87

SCANNER NO. 2

SCAN OPERATOR JmH

27092614082