



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 1753

DATE SCANNED 12/1/08

SCANNER NO. 1

SCAN OPERATOR ESS

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED FOR
DEPARTMENT
SECRETARIAT

20 JUL -6 P 4: 57

July 6, 2007

SENSITIVE

MEMORANDUM

TO: THE COMMISSION

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

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

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

BY: PATRICIA CARMONA / RHIANNON RYAN *PK*
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.

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7/6/2007 10:01 AM

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			\$208,428 (est)	\$6,500
1741	C00411603	CHARLIE STUART FOR CONGRESS	STUART, CHARLES SAMUEL	JEFFREY S. BERGER	\$203,843	0			\$203,843 (est)	\$6,500
1742	C00416438	COMMITTEE TO ELECT OZ BENGUR	BENGUR, O. R. OZ	JOANNE M. RUBIN	\$171,072	0			\$171,072 (est)	\$5,500
1743	C00427328	DERRICK SHEPHERD CAMPAIGN COMMITTEE	SHEPHERD, DERRICK	BYRON LEE	\$243,579	0			\$243,579 (est)	\$6,500
1744	C00424978	DONZELLA JAMES FOR US CONGRESS CAMPAIGN 2006	JAMES, DONZELLA	ELMO JAMES	\$117,024	1			\$117,024 (est)	\$5,625
1745	C00428193	FRANK ENRIQUEZ FOR CONGRESS	ENRIQUEZ, FRANK	PRESTON E. HENRICHSON	\$203,635	0			\$203,635 (est)	\$6,500
1746	C00423210	FRIENDS TO ELECT VANCE W CHEEK JR	CHEEK, VANCE W. JR	FRANK LITTLE	\$210,081	1			\$210,081 (est)	\$8,125
1747	C00399055	GRAF FOR CONGRESS	GRAF, RANDALL RANDY	THOMAS E. LINN	\$246,372	0			\$246,372 (est)	\$6,500
1748	C00414102	JOE SULZER FOR CONGRESS COMMITTEE	SULZER, JOSEPH P.	ROBERT HITCHENS	\$143,057	0			\$143,057 (est)	\$4,500
1749	C00424655	MEJIAS FOR CONGRESS	MEJIAS, DAVID L.	MICHAEL G. NORMAN	\$304,091	0			\$304,091 (est)	\$8,000
1750	C00393090	PEOPLE FOR CARL ANDREWS COMMITTEE	ANDREWS, EMANUEL C.	STEPHEN R. BOKSER	\$128,627	0			\$128,627 (est)	\$4,500
1751	C00395822	SCHWARZ FOR CONGRESS	SCHWARZ, JOHN	ROBERT HANS SCHULER	\$329,678	0			\$329,678 (est)	\$8,000
1752	C00419820	SKINNER FOR CONGRESS 06	SKINNER, NANCY ANN	CHUCK SKINNER	\$118,016	0			\$118,016 (est)	\$4,500
1753	C00399113	TAN NGUYEN FOR CONGRESS	NGUYEN, TAN D.	TAN NGUYEN	\$121,690	0			\$121,690 (est)	\$4,500

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AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
1754	C00422360	TJ COX CONGRESSIONAL CAMPAIGN COMMITTEE	COX, TJ	SUSAN W. SEIDEN	\$253,181	0		Not Filed	\$253,181 (est)	\$8,000
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;)
STUART, CHARLES SAMUEL, and) AF# 1741
JEFFREY S. BERGER as treasurer;)
BENGUR, O R OZ, and JOANNE M) AF# 1742
RUBIN as treasurer;)
SHEPHERD, DERRICK, and BYRON LEE) AF# 1743
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;)
GRAF, RANDALL RANDY, and) AF# 1747
THOMAS E LINN as treasurer;)
SULZER, JOSEPH P, and ROBERT) AF# 1748
HITCHENS as treasurer;)
MEJIAS, DAVID L, and MICHAEL G) AF# 1749
NORMAN as treasurer;)
ANDREWS, EMANUEL C, and STEPHEN) AF# 1750
R BOKSER as treasurer;)
SCHWARZ, JOHN, and ROBERT HANS) AF# 1751
SCHULER as treasurer;)
NGUYEN, TAN D, and TAN NGUYEN as) AF# 1753
treasurer;)
COX, T J, and SUSAN W SEIDEN as) AF# 1754
treasurer;)
VAS, JOSEPH, and RAMOS, MELVIN as) AF# 1755
treasurer;)

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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#1741 Decided by a vote of 5-0 to: (1) find reason to believe that STUART, CHARLES SAMUEL, and JEFFREY S. BERGER 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#1743 Decided by a vote of 5-0 to: (1) find reason to believe that SHEPHERD, DERRICK, and BYRON LEE 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.

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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#1747 Decided by a vote of 5-0 to: (1) find reason to believe that GRAF, RANDALL RANDY, and THOMAS E LINN 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#1748 Decided by a vote of 5-0 to: (1) find reason to believe that SULZER, JOSEPH P, and ROBERT HITCHENS 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#1749 Decided by a vote of 5-0 to: (1) find reason to believe that MEJIAS, DAVID L, and MICHAEL G NORMAN 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#1750 Decided by a vote of 5-0 to: (1) find reason to believe that ANDREWS, EMANUEL C, and STEPHEN R BOKSER 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.

AF#1753 Decided by a vote of 5-0 to: (1) find reason to believe that NGUYEN, TAN D, and TAN NGUYEN 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

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

AF#1754 Decided by a vote of 5-0 to: (1) find reason to believe that COX, T J, and SUSAN W SEIDEN 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#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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 16, 2007

Tan Nguyen
Tan Nguyen for Congress
12955 Main Street
Garden Grove, CA 92840

C00399113
AF#: 1753

Dear Tan Nguyen:

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 Tan Nguyen for Congress 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 \$4,500. It is due by 8/21/2007 and is based on these factors:

Election Sensitivity of Report: Not Election Sensitive
Level of Activity: \$121,690
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

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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 Tan Nguyen for Congress 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. 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

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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 \$4,500 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: Tan Nguyen for Congress

FEC ID#: C00399113

AF#: 1753

PAYMENT DUE DATE: 8/21/2007

PAYMENT AMOUNT DUE: \$4,500

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TAN D. NGUYEN

2007 AUG 23 P 2:55

August 16, 2007

Mr. Robert Lenhard
FEC Office of Administrative Review
999 E Street NW
Washington, DC 20463
202-208-1574 fax

RE: AF# 1753; Tan Nguyen for Congress

Dear Mr. Robert Lenhard:

I am writing to request that you dismiss the fine imposed on our Campaign Committee for failing to file an April Quarterly Report of Receipts and Disbursements when it was due. We were faced with some very extraordinary circumstances that arose during the campaign and the months that followed.

As you may be aware, our campaign was caught in the middle of the controversy involving 14,000 letters that were sent out to registered voters. This led to the raids of my offices and home on October 20, 2006, less than three weeks prior to Election Day. Subsequently, all my computers, and many of my files, were seized by the State Police. Our campaign was handicapped during that time. We could not file our FEC reports or do anything that was computer related. The Treasurer's resignation was a direct result of the Attorney General's State Police raid on my campaign headquarters. His actions not only intimidated my Treasurer, but effectively prevented anyone from wanting to replace her. I could not, and cannot, file the reports because the Attorney General seized my computers and files which contained all my campaign data. Had Mr. Lockyer not invaded my home and office, the Treasurer would have not resigned and I would have been able to file the FEC reports on a timely manner. To this date, my files have not been returned.

The actions of the former Attorney General of California, Bill Lockyer, acting under the color of law, were designed to thwart and interfere with the federally protected right to conduct a political campaign.

The letter as a pretext

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When translating, if there are two or more possible meanings of a word, one must look to the body of the document to ascertain which would be the more proper. The State's translator did not.

Had he initially looked at the first sentence of the letter, his translation of "emigrado" would have be "émigré" or green card holder instead of immigrant. The State's translation makes no sense. It is also ludicrous to suggest that even the states faulty translation could have intimidated a citizen from voting based on the very first sentence of the letter.

Nevertheless, this contradictory, faulty, translation was used as a pretext to destroy the Tan Nguyen campaign for Congress.

This was done at the urging of his opponent Ms. Sanchez. Bill Lockyer, acting under color of law, allowed himself, and used his office to be a "political hit man" for Ms. Sanchez. Mr. Lockyer timed and planned all of his activities to do the maximum damage to the Tan Nguyen Campaign.

Some of Mr. Lockyer's more blatant use of the State Police as political shock troops is as follows.

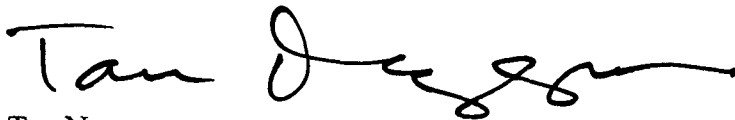
1. On October, 2006, Mr. Lockyer met privately with Ms. Loretta Sanchez, Tan's opponent. (*see exhibit A*)
2. He subsequently announced that there would be an accelerated "investigation," and that arrests would be made over a letter alleged by Ms. Sanchez to be a "Latino Intimidation Letter." (*see exhibit A*)
3. This Letter was alleged to have originated from the Tan Nguyen Campaign (Ms. Sanchez's opponent).
4. Mr. Lockyer did not reveal that he and his wife had a close relationship with Ms. Sanchez.
5. Mr. Lockyer then called the Republican Chairman of Orange County, Mr. Scott Baugh (who had previously had legal problems with State Election Laws), and warned him not to support the Republican Candidate, Tan Nguyen, as Tan Nguyen was involved with a "Latino Intimidation Letter."
6. As a result of that telephone call, the Republican Party Chairman repudiated the candidacy of Tan Nguyen.
7. On Wednesday, October 19, 2006, Tan voluntarily met with the chief assistant to Mr. Lockyer and announced a news conference for 2 PM the next day. The news media appeared en masse to cover the news conference. Minutes before the news conference, State Police appeared and invaded Tan's Campaign headquarters. A simultaneous raid was staged on Tan's residence and that of his only paid campaign worker. All of Tan's computers, mailing lists, files, and even his political signs were seized, effectively stopping his campaign dead in its tracks. (*see exhibit B*)

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8. Tan's lawyer requested the return of his computers so Tan could continue the campaign. Mr. Lockyer's office finally agreed and began to return the computers. However, when Tan issued a brochure which stated that the computers had been "wrongfully taken," and was a dirty trick in which Ms. Sanchez had participated in, Mr. Lockyer retaliated on Ms. Sanchez's behalf and refused to continue to return the computers. Mr. Lockyer even issued a statement to the media taking issue with Tan's political mailer. (*see exhibit C*)
 9. As a direct result of Mr. Lockyer's interference, Tan lost the election, had his credibility severely damaged, and lost over \$500,000 dollars of his own funds.
 10. It was reported that, on the day of the raid, Ms. Loretta Sanchez was present at the scene (Tan Nguyen's Campaign Headquarters). It is believed that she was tipped off by her good friend, Mr. Lockyer.

I hope that you'll understand our circumstance, and allow us 30 additional days, to file the April report. We are trying our very best to get all the reports filed.

Sincerely,



Tan Nguyen

p.s. In addition to exhibits A-C, I am also submitting the following documents to help you review our case in the proper context. (1) Chronology (2) News articles covering the hysteria (3) package sent to Senate and U.S. House warning of HR 1281 and SR 453 (4) brochures sent during the course of the campaign (5) O.C. Register May 16, 2007 article (6) Response to Attorney General's complaint to FEC (7) Complaint on California's former Attorney General, Bill Lockyer, for acting under the color of law, and interfere with the federally protected right to conduct a political campaign.

— Michael Doss, The Register

Exhibit A

Friday, October 20, 2006

Arrests pledged over Nguyen mailer

GOP congressional candidate is the center of state and federal probes over potential voter intimidation.

By MARTIN WISCKOL and DENA BUNIS
The Orange County Register

Condemnation of an intimidating mailer from congressional candidate Tan Nguyen's campaign swelled Thursday, as state investigators continued interviews in the county and the U.S. Justice Department joined the probe.

State Attorney General Bill Lockyer told Nguyen's opponent, Rep. Loretta Sanchez, D-Garden Grove, that details should become clearer in the next few days and that his office "would be making arrests," Sanchez said.

Nguyen, a Republican, said Thursday that a campaign worker helped put out the letter without his knowledge and that she had been fired. He called the letter, which targeted immigrant voters, "flawed and ill-conceived."

But Orange County Republican Party Chairman Scott Baugh didn't believe Nguyen's denial and continued to call for him to bow out of the race.

"I've learned that Mr. Nguyen was involved in expediting that mailer," Baugh said. "I've had conversations with the attorney general and folks involved with the mail house. He called the mail house himself and told them to expedite the mailing."

Nguyen, who said Thursday morning that he was scheduled to meet with investigators later in the day, did not return subsequent calls seeking response to Baugh. Lockyer's office declined to discuss further specifics of the case Thursday.

The letter, written in Spanish and sent to about 14,000 foreign-born Hispanic voters, said that immigrants voting in an election are committing a crime that "could result in jail time, and you will be deported for voting without a right to do so."

Immigrants who become U.S. citizens have the same voting rights as native-born citizens.

"If it is determined that this letter was directed to prevent a certain population from voting, then potentially there could have been a criminal act and there could be criminal charges," said Cynthia Magnuson of the U.S. Justice Department.

The letter also said a new federal computer system could verify the names of newly registered voters and that anti-immigration groups could access the information. Magnuson said there is no such system and no plans for one.

The mailer carried the letterhead of the Huntington Beach-based California Coalition for

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Immigration Reform. CCIR founder Barbara Coe condemned the letter and said her group had no part in it.

Gov. Arnold Schwarzenegger called the letter "a despicable act of political intimidation." Sen. Barbara Boxer called it "outrageous and reprehensible." Assemblyman Van Tran, R-Westminster, also condemned it.

Throughout the Vietnamese community, there was criticism of the campaign tactic. A coalition of Hispanic, Asian-American and Muslim groups will hold a joint news conference today to denounce the letter.

Nguyen said he would hold a news conference today to discuss whether he will remain in the race. If he pulls out, his name would remain on the ballot.

Orange County Democratic Party Chairman Frank Barbaro praised Baugh for calling on Nguyen to bow out. Barbaro also called on Registrar of Voters Neal Kelley to write voters who received the letter and encourage them to vote. Kelley said Thursday that he is not planning such a mailing.

Like Baugh, Barbaro doesn't believe Nguyen's denial of involvement with the controversy.

"All roads lead to Tan Nguyen," he said.

But Barbaro said that rather than hurt Democratic and Hispanic turnout, it could provide a boost. While Sanchez was already predicted to win easily, turnout will play a key role in the competitive match for state Senate between Democrat Lou Correa and Republican Lynn Daucher.

"The anger here is amazing," Barbaro said. "People are mobilizing. This is going to help elect Lou Correa."

Correa wasn't so sure.

"I'm getting phone calls from voters saying they're afraid to vote," he said.

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TALK ABOUT IT

JOIN THE DISCUSSION

To: Interested Reporters From: Nathan Barankin It has come to our attention that 47th congressional district candidate Tan Nguyen recently sent a mailer implying that he and his campaign have been exonerated because computers seized by agents from the California Attorney General's office were recently returned. Given the amount of misinformation being distributed by mail and otherwise about the AG's investigation into the threatening letter sent to lawfully registered Democratic Latino voters who were born outside of the United States in the 47th congressional district, I thought it would be helpful to publicly correct the record and state the facts to the extent I am permitted.

First, the seven computers seized by the California Attorney General's office during the execution of search warrants on October 21 have been returned. The computers were not "wrongly seized:" (as Mr. Nguyen's campaign mailer wrongly states): They were taken and examined pursuant to a court-approved search warrant obtained by our office only after a showing of probable cause that a crime had been committed. The computers were returned, as they routinely would be, just as soon as we had completed "imaging" the hard drive of each computer. With the imaged hard drives in our possession, we now have access to everything that was on each of those computers as of October 21; therefore, we had no need to retain the computers themselves. Further, the AG wanted to return Mr. Nguyen's campaign computers as quickly as possible to minimize any continuing impact on Mr. Nguyen's lawful campaign activities.

Our agents and prosecutors continue to pursue the investigation aggressively, and that includes - among a number of activities needed to complete our investigation - reviewing the entire contents of each of the computers we seized.

Mr. Nguyen's mailer also claims that the letter sent to Latino voters was "merely a warning that it is illegal for non-citizens to vote." If that was true, our office would not have requested search warrants and no judge would have authorized the AG's office to execute such warrants.

Finally, Mr. Nguyen's mailer claims that "The whole thing (was) a 'dirty trick'." It's unclear what the mailer means by the "whole thing", but if it refers to the Latino voter intimidation letter, Attorney General Bill Lockyer agrees. If it refers to the AG's investigation into the Latino voter intimidation letter, this mailer represents another effort to deceive the voters of Orange County.

You can attribute the following quote to Attorney General Bill Lockyer:

"The First Amendment to the U.S. Constitution grants extensive free speech protections to all of us, including candidates for public office. Unfortunately, it's not surprising or unusual that misleading information is distributed to voters in the last days of an election campaign. While the constitution generally protects misleading political speech, it does not protect speech that attempts to intimidate lawfully registered voters from exercising their right to vote. That is why our investigation will not be complete until we determine exactly who was responsible for distributing the Latino voter intimidation letter in Orange County, and who should be prosecuted for that offense."

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Nathan Barankin
Communications Director
Attorney General Bill Lockyer

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Chronology

In the weeks prior to September 2006, our campaign sent out a series of scathing mailers, revealing that the opponent incumbent, Ms. Loretta Sanchez, while on the Arms Services Committee was accepting money from Defense Contractors. Further, that she was linked to Vernon Jackson, convicted of bribing Congress Members.

In September of 2006, we learned through Public Opinion Strategies, a recognized, national polling service that we were ahead against Ms. Sanchez. This was released to the News Media.

On September 17, 2006, a letter was proposed, which was rejected by myself, to use as part of the campaign. The letter warned that it was a crime for voting illegally in a Federal Election.

Subsequently, the letter was translated into Spanish, paid for and mailed by persons other than myself or the campaign.

Then Attorney General, Bill Lockyer, friend and or supporter of my opponent, caused my home and campaign headquarters to be raided, seizing all my records and computers along with campaign materials.

This effectively stopped my campaign and deprived me of the ability to file financial reports. The treasurer quit, frightened by the raids, fearing she would be dragged into "illegal activities." No other qualified person was interested in replacing her. To this date, the Attorney General's Office has still NOT returned my financial records and files.

On May 17, 2007, the Attorney General's Office announced that the letter in question, which was used as a pretext for the raids, was not criminal in nature and, in fact, merely warned illegals that they couldn't vote. *Mr. Gary Schons, Senior Assistant Attorney General, said a key in the decision to close the case stemmed from the Spanish word "emigrado." He said the original draft of the letter – in English – warned those in the country illegally and those with green cards that they could face jail or deportation if they voted.*

Schons said "those with green cards" was translated into "emigrado," which can be interpreted as meaning noncitizens with work permits. However, when "emigrado" was translated back into English after the letters were mailed, it became "immigrant," which carries no connotation of being a noncitizen with a work permit.

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Oct 20, 2006 6:11 am US/Pacific

Justice Department Searches Tan Nguyen's Office

(AP) GARDEN GROVE, Calif. California Department of Justice agents Friday searched the campaign office of a Republican congressional candidate whose campaign mailed thousands of intimidating letters to Hispanic immigrant voters.

About 10 uniformed agents arrived with a search warrant and could be seen opening cabinets and packing up a computer inside the storefront campaign office of Tan Nguyen, a Vietnamese immigrant trying to unseat a popular Democratic incumbent.

Nguyen was not in the office when agents arrived. A volunteer told them that he planned to return for a mid-afternoon news conference.

Nguyen resisted calls Thursday from leaders in his own party to quit the race. He said he had no prior knowledge of the letter that wrongly told thousands of Orange County immigrants they could be jailed if they voted.

"I did not do this. I did not approve of any letter," Nguyen told The Associated Press in a telephone interview. He said he has since fired his campaign's office manager, who he said helped produce the mailer.

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County Republican Chairman Scott Baugh said that after speaking with state investigators and the company that distributed the mailer, he believes Nguyen had direct knowledge of the "obnoxious and reprehensible" letter. He said the party's executive committee voted unanimously to urge Nguyen to drop out of the race against Democratic U.S. Rep. Loretta Sanchez.

"I learned information that allows me to draw the conclusion that not only was Mr. Nguyen's campaign involved in this, but that Mr. Nguyen was personally involved in expediting the mailer," Baugh said in a telephone interview.

State and federal officials were investigating the mailing for possible violations of election law. Investigators met with Nguyen for two hours Thursday, said his attorney David Wiechert, who declined to elaborate.

"Mr. Nguyen has no intention of dropping out of the race. He would do the public a disservice if he dropped out," Wiechert said.

The letter, written in Spanish, was mailed to an estimated 14,000 Democratic voters in central Orange County. It warns, "You are advised that if your residence in this country is illegal or you are an immigrant, voting in a federal election is a crime that could result in jail time."

Immigrants who are adult naturalized citizens are eligible to vote.

Numerous political leaders denounced the letter, including Gov. Arnold Schwarzenegger, who called it "a despicable act of political intimidation and a hate crime."

In neighboring Santa Ana Friday, Hispanic and Vietnamese leaders condemned the letter and said it should not become a wedge that drives their communities apart. They urged the Secretary of State to send a letter to homes that received the mailing to clear up any questions about voter rights.

"This letter reminds us of what we were running away from in Vietnam, where people can't vote the way they want. This act brings shame on our community," said Xuyen Dong, who heads the Orange County chapter of the Vietnamese Professional Society.

Illegal immigration has been a centerpiece of Nguyen's campaign to oust Sanchez, a five-term congresswoman who said she hasn't spoken to Nguyen and never saw him as a threat to her re-election.

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"If it is in fact this guy (who sent the letter), the most disgusting and saddest thing about it is that it comes from another immigrant," said Sanchez, who was born in the U.S. to Mexican parents. "These communities have spent years trying to get naturalized immigrants to vote."

Nguyen's campaign Web site says he was born in 1973 in Vietnam, where his family fled the communist regime.

In 2004, he unsuccessfully ran in the Democratic primary to challenge GOP Rep. Dana Rohrabacher in a heavily Republican coastal district. He later changed his party affiliation and declared his bid to upset Sanchez.

Orange County for years has been a battleground on immigration issues.

One founder of the Minuteman civilian border patrol group ran for Congress here and cities have debated issues such as the value of public centers for day laborers and the use of local police to arrest illegal immigrants.

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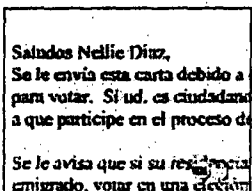
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The letter telling immigrants not to vote, which was written in Spanish, has been linked to Nguyen.

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ANDERSON COOPER 360 DEGREES

White House Welcomes Radio Talk Show Hosts;
Do Democrats Have Post-Election Plan?;
California Congressional Candidate Under
Investigation For Voter Intimidation

Aired October 24, 2006 - 22:00 ET

THIS IS A RUSH TRANSCRIPT. THIS COPY MAY
NOT BE IN ITS FINAL FORM AND MAY BE
UPDATED.

JOHN KING, CNN ANCHOR: And good evening,
everyone.

Just two weeks to go until Election Day – seems like
it's getting uglier every minute – so, tonight, dirty
tricks and outrages, including Rush Limbaugh
mocking a disabled man. But, in the end, all of it may
be small change next to Iraq.

(BEGIN VIDEOTAPE)

ANNOUNCER: Changing the tune, getting real.

GENERAL PETER PACE, CHAIRMAN, JOINT
CHIEFS OF STAFF: This is a time of difficulty.
There's no doubt about it.

ANNOUNCER: From the Pentagon to the White
House to Baghdad, a new dose of reality, because
Americans are dying, and American voters care.

Campaign trickery.

UNIDENTIFIED MALE: I went to Harvard University. I'm an elected official.

ANNOUNCER: He got a letter in the mail telling him it's a crime to vote. Sound outrageous? Wait until you see who the
letters are targeting.

He's got Parkinson's.

(BEGIN VIDEO CLIP, AD)

MICHAEL J. FOX, ACTOR: Senate Talent even wanted to criminalize the science that gives us a chance for hope.

(END VIDEO CLIP)

ANNOUNCER: Michael J. Fox, now Rush Limbaugh says he's milking it for votes, even faking it for votes.

And soldiers in Warren Jeffs' polygamist army march into a courtroom.

(END VIDEOTAPE)

ANNOUNCER: Across the country and around the world, this is ANDERSON COOPER 360.

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(END VIDEO CLIP)

KING: He's running for Congress, and facing allegations of voter intimidation — coming up, the threatening letter investigators say they have linked to his campaign.

Plus: Rush Limbaugh lobs a potshot at actor and stem cell activist Michael J. Fox.

The political ad that everyone is talking about tonight — when 360 continues.

(COMMERCIAL BREAK)

KING: In California: a criminal investigation into charges of voter intimidation, just two weeks from Election Day — the target, Hispanic voters. What was in the letter they received?

360 next.

(COMMERCIAL BREAK)

KING: Immigration is an important issue in many midterm election contests. In one, in California, it has taken an ugly twist. A Republican congressional candidate is under investigation, accused of intimidating thousands of Hispanic voters.

Here's CNN's Thelma Gutierrez.

(BEGIN VIDEOTAPE)

UNIDENTIFIED FEMALE: Police with a search warrant, demanding entry. Come open the door now, now, now, now.

THELMA GUTIERREZ, CNN CORRESPONDENT (voice-over): It's a raid that has rocked California politics. A dozen state agents, guns drawn, search documents and seize computers at the campaign headquarters of Republican congressional candidate Tan Nguyen. Nguyen is running against heavily favored Democratic incumbent Loretta Sanchez.

TAN NGUYEN (R), CALIFORNIA CONGRESSIONAL CANDIDATE: I'm innocent. And there is no way in hell I'm going to withdraw.

GUTIERREZ: It's a criminal investigation into whether a letter sent to 14,000 immigrant families here was meant to intimidate and mislead voters, which would violate California's Voting Rights Act. It's also an investigation into who sent that letter to families like the Garcias (ph), who came from Mexico...

UNIDENTIFIED FEMALE: It insult me.

GUTIERREZ: ... and Jose Solario, the son of migrant workers, also from Mexico.

JOSE SOLARIO, CALIFORNIA VOTER: It is just shocking. It is — it's outrageous. And it's very condescending.

GUTIERREZ: The letter, translated from Spanish, warns that — quote — "If your residency in this country is illegal, or, if you're an immigrant, to vote in a federal election is a crime that can result in incarceration, or you will be deported."

But that information is very misleading.

It's completely legal for any immigrant who's not born in this country but becomes a naturalized citizen to vote in any election.

UNIDENTIFIED MALE: This letter is about confusing voters, intimidating them and really suppressing Latino voter turnout.

GUTIERREZ: Jose Solario (ph) is a naturalized citizen. He is also a city councilman running for state assembly.

UNIDENTIFIED MALE: I went to Harvard University. I'm an elected official.

GUTIERREZ: Damien Garcia (ph) said the letter was a slap in the face.

UNIDENTIFIED MALE: I'm a supply sergeant for the United States Army. For someone to come out and tell us that we can't vote because we're naturalized citizens, that's just — it's something you'd expect in some other country but not in this United States.

GUTIERREZ: So who is behind the letter? The California attorney general's office tells CNN it has traced the letter to the Nguyen campaign.

Now some of California's Republican leaders have called on Nguyen to pull out of the race. And Republican Governor Arnold Schwarzenegger says sending the letter exclusively to immigrants with Hispanic surnames was a hate crime.

GOV. ARNOLD SCHWARZENEGGER (R), CALIFORNIA: I think it was one of the grossest letter that anyone could



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send out, and I think those kind of tactics are illegal. This is hate crime.

GUTIERREZ: An attorney for the campaign says there was no threat intended in the letter. He explained a campaign volunteer drafted it in English, and another volunteer, quote, "incorrectly translated it into Spanish."

The English version, he says, never targeted naturalized citizens allowed to vote, only illegal immigrants and green card holders, not eligible to vote.

TAN NGUYEN (R), CALIFORNIA CONGRESSIONAL CANDIDATE: The whole hysteria and nonsense about there being a crime, it's just a big fat lie. **GUTIERREZ:** The attorney says that Nguyen himself did not approve the letter. However, a source close to the case says that at least an English language version of the letter was e-mailed directly to the candidate and that investigators are trying to determine whether Nguyen himself had a role in changing the letter so that it threatened immigrants registered to vote.

Nguyen's attorney declined to comment on that but did say...

DAVID WEICHERT, NGUYEN'S ATTORNEY: I am very concerned about the level of rumor that has accompanied this investigation.

GUTIERREZ: The attorney general's office says the issue is not about innuendo or translations. It's about the letter that ended up in the hands of Damien Garcia (ph) and 14,000 others.

As for candidate Nguyen, in case you're wondering, yes, he, too, is an immigrant.

Thelma Gutierrez, CNN, Los Angeles.

(END VIDEOTAPE)

KING: Fascinating story.

And next, is it right wing assault or a valid argument? Rush Limbaugh takes on Michael J. Fox, saying he exploited his disease, even exaggerated his symptoms, for partisan politics. That's coming up.

And later, polygamy on trial. A follower of Warren Jeffs faces a judge and a star witness with a shocking story to tell when 360 continues.

(COMMERCIAL BREAK)

KING: Look on the campaign trail and you will see Democrats repackaging themselves as new and improved. And with the midterm elections just days away from now, the beleaguered party is fighting back, vowing to win using history to make their case.

(BEGIN VIDEO CLIP)

HARRY DEAN, CHAIRMAN, DEMOCRATIC PARTY: You have to be tough and smart. And that is the Democratic tradition. Who is tough and smart? Franklin Delano Roosevelt. Who is tough and smart on defense? Harry Truman, Jack Kennedy.

(END VIDEO CLIP)

KING: Question is, do Democrats have what it takes this time? Join us in the next hour as the best political team on television investigates America's "Broken Government" with a look at the Democrats' "Two Left Feet". That's at 11 p.m. Eastern right here, only on CNN. He's outspoken and controversial, but some are saying that Rush Limbaugh has gone too far this time in an attack on actor Michael J. Fox.

Fox, who has Parkinson's Disease, is appearing in TV ads for candidates who support stem cell research. The conservative talk show host says Fox is only fooling the voters and exploiting his illness.

More now from CNN's Tom Foreman.

(BEGIN VIDEOTAPE)

TOM FOREMAN, CNN CORRESPONDENT (voice-over): In Missouri's furious Senate battle, a Democratic has picked up a famous ally to try to help her knock off Republican incumbent Jim Talent.

MICHAEL J. FOX, ACTOR/ACTIVIST: They say all politics is local. But it's not always the case.

FOREMAN: Actor Michael J. Fox is now quite visibly suffering from Parkinson's Disease, and he is campaigning for a number of Democrats who support stem cell research, aimed at finding a cure for Parkinson's and other disorders.

FOX: Unfortunately, Senator Jim Talent opposes expanding stem cell research. Senator Talent even wanted to criminalize the science that gives us a chance for hope.

FOREMAN: But now radio host Rush Limbaugh is accusing the ailing actor of faking it.

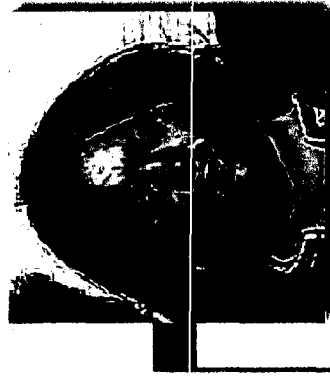
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HR 1281

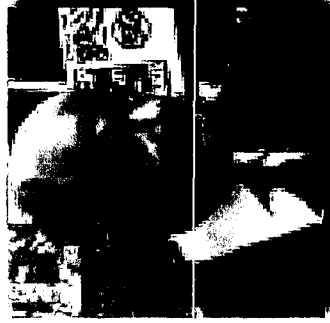
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STATE POLICE RAID
on Tan's Home and
Campaign Headquarters?*



Rep. Linda Sanchez



Rep. William Jefferson



Rep. Loretta Sanchez

WHAT DO THESE 3 POLITICIANS HAVE IN COMMON?

These are the *only* three Representatives who received money from Vernon Jackson, who has pled guilty to bribing a member of Congress.



Linda Sanchez received \$8,000 from Mr. and Mrs. Vernon Jackson.



William Jefferson received \$11,000 from Mr. and Mrs. Vernon Jackson. The FBI found \$80,000 in his refrigerator ("cold cash, frozen assets").



*Loretta Sanchez received \$16,000 from Mr. and Mrs. Vernon Jackson.

Why did Vernon Jackson, owner of a defense contracting firm who admitted bribing Congressman Jefferson, also give money to the Sanchez sisters?

What did he expect in return??

*Representative Sanchez is on the House Armed Services Committee.

Tan is not afraid to tell it like it is.

TAN NGUYEN

for Mrs.

Read the Tan Nguyen story ●

“WIN, LOSE... or JAIL”

*and see if you can recognize
the danger in HR 1281* ●

Dear Representative,

How would you feel if your home and offices were raided by the State Police 3 weeks before Election Day?



How would you feel if the raids were timed to pre-empt a news conference you had scheduled, so that video of the State Police raiding your campaign headquarters could be seen on the evening news?

How would you feel if you found out that your opponent met with the State Attorney General in the days immediately preceding the raids?

It happened to Tan - it could happen to you.

Please read the attached, "WIN, LOSE... or JAIL".

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Win, Lose... or Jail?

THE TAN NGUYEN STORY

The American Dream was turned into the American Nightmare when one corrupt politician, and many mindless ones fell all over themselves in a stampede to be politically correct.

The year was 2006. Tan Nguyen (pronounced win) had captured the Republican nomination for Congress in California's 47th District. Running a populist self funded campaign, the 32 year old novice was doing what no one thought possible, he was taking on the most powerful Latina Congresswoman in the US House of Representatives.

Tan, a Vietnamese Immigrant and former boat person, started his residence in America working alongside his parents at the age of eight as farm workers in Gilroy California. Tan worked his way through school and ended up a successful businessman.

Tan was smitten by the idea that in America nothing was impossible, and politics was the vehicle that could be used to make the world a better place.

Tan's opponent, Ms. Sanchez (a 10-year Congresswoman) had managed to retain her seat via a coalition of Hispanics and Vietnamese. Ms. Sanchez was a frequent guest on TV news shows such as Face the Nation whenever the Latino perspective was desired on a particular issue. Tan noted that for the 10 years Ms. Sanchez had been in Congress, there was no improvement to his district. Tan also noted that Ms. Sanchez was very successful in raising lots of money in campaign contributions, even though she hadn't had a serious challenge since getting elected. It was a mystery to Tan where all the money went as very little was ever spent campaigning.

Tan presented a campaign based on issues, which were important to the community. These issues included Illegal Immigration, Opposition to the Iraq War (Tan called for the partitioning of Iraq into 3 separate countries, and an immediate withdrawal of US troops). Tan also presented a populist program which included, programs to aid the elderly and to provide incentives to keep American jobs in America.

Tan also made Political Corruption a main issue, and exposed the fact that Sanchez, while seated on the powerful Armed Services Committee accepted campaign contributions from would-be Defense contractors. Some of the same folks who contributed to jailed Congressman Randy "Duke" Cunningham also contributed to Sanchez. Ms. Sanchez and her sister, along with Congressman Jefferson were the ONLY Representatives who accepted money from Vernon Jackson (pled guilty to bribing a Congressman and is now in prison.)

Tan's political brochures were scathing. Little by little, Tan began to gain ground.¹

On September 20, 2006, a poll conducted by the polling company sanctioned by the National Republican Party was released which showed Tan had pulled ahead of Ms. Sanchez.

Ms. Sanchez who had a history of being accused of getting illegal aliens to vote, was believed to be mobilizing illegal voters.

Tan met with the an Election worker who told Tan that many people had registered to vote with Caucasian names such as "Tom Smith" who spoke no English and could only speak Spanish. Tan then met with the Registrar of Voters who explained there was little which could be done to prevent illegal aliens from voting.

Some of Tan's friends met and decided to send out on their own a warning letter in Spanish to those who were registered to vote but were born in a foreign country. The letter stated, "If you are a citizen you should vote, but if you are a green card holder or illegal, it is a crime to vote."

Since the mailing was to be paid for by Tan's friends, under the Election laws, Tan could not be aware of its contents or it could be considered a campaign contribution.

The letter went out.

When Sanchez received a copy of the letter she immediately went to the California Attorney General claiming it was an anti Latino letter. California Attorney General Bill Lockyer, met with Sanchez and announced there would be an "accelerated investigation" and that arrests would be made.

¹ Ms. Sanchez has affiliated herself with CAIR (Council on American Islamic Relations). A number of CAIR's top officials have been found guilty or pled guilty to giving aid to terrorist groups like Hamas (Washington Times dateline July 24, 2004). Please see: www.anti-cair-net.org

The Governor announced (even though he hadn't read the actual letter) that whoever wrote the letter should be charged with a hate crime.

The California Attorney General called the county Republican Chairman to urge him not to support Tan because Tan was involved in a "Latino Intimidation letter". The Republican Party then repudiated Tan.

On Thursday October 19, 2006 Tan voluntarily met with the chief Assistant State Attorney General, explained that he wasn't involved with the letter, but provided a copy of the original letter in English which he had obtained and which intimidated no one.

By now the story of an "intimidation letter" had made national news.

Tan called a news conference for the next day at 2PM so that he could present the facts to the world.

A large contingent of television and print media gathered in front of Tan's office at the appointed time. Just before the news conference began, State Police appeared with a search warrant (they had obtained the day before), and demanded entry into Tan's office. The TV crews filmed them as they raided Tan's office and carted off all his computers, his mailing lists, and even some election signs. Simultaneously Tan's home was also raided.

That evening the raid on Tan's office was the lead news story across California, and was featured on national news as well. Everyone who watched TV that night figured Tan was a criminal... or why else would the police have raided his office?

Some supporters were shocked at the Police. Some folks left flowers in front of Tan's locked offices.

Two days later Tan finally had his news conference. However, despite calls for him to withdraw from the race from just about everybody, Tan fired out, "I'M INNOCENT AND THERE'S NO WAY IN HELL I AM GOING TO WITHDRAW!"

Tan didn't quit. Instead he fought back. He issued a brochure explaining that the whole thing was a dirty trick. The California Attorney General took the unprecedented step of answering the brochure!

A song was written to the tune of Stand By Your Man, called STAND BY OUR TAN. Tan put the song, the lyrics, as well as his speeches and brochures on his website www.TanforCongress.com (The web site is still up.)

A Demonstration was held by Tan's supporters

Tan kept campaigning. When the dust had settled, 38% of the Voters ignored the Governor, The Secretary of State, The Attorney General, the Republican Party, the Democratic Party, and the news media and they voted for Tan.

No charges were ever filed. No arrests were ever made. No Intimidation letter had ever been sent.

Just the power of the State was used to crush a guy who believed that in America, nothing is impossible.

TAN WILL RUN AGAIN IN 2008.

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RE: HR 1281 "VOTER INTIMIDATION LETTER" NEVER EXISTED!
A SHAM AND A PRETEXT FOR A POLITICAL LYNCHING.

Dear Representative:

I am writing to ask that you please consider voting against HR1281, in its current form. As a former Congressional Candidate for California's 47th District, I, too, want nothing less but the best and fairest electoral process; one that protects and encourages all citizens to exercise their right to vote.

I get disgusted whenever I see news reports of blatant deceptive campaign practices that aim to silence our citizens' voice. However, I am as equally appalled when "dirty tricks" are employed by candidates and organizations, using racial politics and ethnic pandering, to create divisions and hysteria in our communities to harm one particular candidate, or ethnic community, and benefit another candidate, or ethnic community.

When I decided to enter the 2006 Congressional Election, I entered with all my very best hopes and dreams for our country. America has always been "The Greatest Nation on Earth" for me. I held this belief even at 7 ½ years old, escaping a Communist regime on a small boat, when my family was in a refugee camp in Hong Kong hoping to get admitted into America. I continued to hold this belief during those early days of living the American Dream while working on the farms of Gilroy, California, picking chilies and other fruits and vegetables.

That strong belief was briefly shaken when armed policemen raided my home and offices, less than three weeks prior to the General Election of 2006. My family was terrorized; my volunteers were terrorized. Images of the raid were televised and printed around the world. What for? What facts did California Attorney General Bill Lockyer, base his decision on, leading him to use such excessive force and authority to cause such a nightmare for my family and volunteers? Mr. Lockyer couldn't possibly have thought that such actions wouldn't affect the outcome of the election. As reported by the Orange County Register, Mr. Lockyer was meeting with my opponent, Ms. Loretta Sanchez, the evening prior, discussing his intent to raid my campaign offices and home, and promising that "arrests will come." All this happened because no one cared to read "the letter", which was disseminated without my authorization or approval.

28092620966

28092620967

The original letter¹ was written in English, then translated back to Spanish and mailed..(see attached: The Letter.). It was then translated back into English by my opponent or her supporters, distorting its original message which was designed to dissuade illegals and other non qualified from voting fraudulently. This is now, and has been a problem in Orange County, California. Sadly, the problem of unqualified and or fraudulent voting is all but ignored by law enforcement.

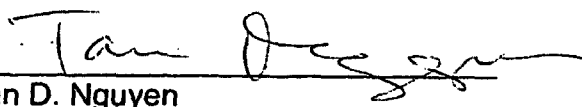
The same California Attorney General's Office which raided my home and raided my office has now announced that no voter intimidation letter ever existed and that I am "cleared".(see attached "TAN NGUYEN CLEARED" O.C. Register May 17, 2007)

So now, HR 1281 is a cure for a problem that does not exist!

I do not wish that nightmare on anyone, especially on political candidates who just want to serve their community and country. The HR 1281, in its current form, goes out of its way to protect even ineligible voters, but fails to address the rights of legal voters to choose their candidates without the interference by state authority. More importantly, it fails to protect our most sacred constitutional rights, the freedom of speech.

I was not permitted to testify during the Senate Judiciary Committee's hearing of S453 (the Senate version of HR 1281) , nor was I permitted to submit the actual original letter into the record. I am therefore sending you this package in the hope that all sides may be considered.

Please do not let what happened to me happen to anyone else.


Tan D. Nguyen

¹ The original letter was prepared by a person of the Jewish faith who is married to an Afro-Latina. The author's mother was an acquaintance of the late Dr. Martin Luther King, Jr. The letter was translated into Spanish by a person of the Muslim faith who is certified to teach Spanish in California and who continues to stand by the use of the word "emigrado" as the correct translation of a green card holder. The letter was signed by a Mexican-American fluent in Spanish.

THE "LETTER"

Tan did not approve, authorize, or send the "letter," but we have obtained the original. You decide if this letter intimidates voters:

You are receiving this letter because you recently registered to vote. If you are a citizen of the U.S. we encourage you to participate in the democratic process.

However, if you are here illegally or are just a resident with a green card, you should be advised that voting in any Federal Election is a crime and may result in imprisonment, and WILL result in deportation.

In fact, the U.S. Government is in the process of installing a new computer system which will be used to check and verify all new registrants who vote in the October/November elections. Private anti-immigration organizations may also bring a law suit to have access to this new computer system.

Unlike Mexico , there is NO BENEFIT to voting. There is no VOTER CARD in the USA . It is therefore very stupid to vote in any election if you are not a citizen.

Do not pay attention to any politician who tells you anything contrary. They have THEIR OWN INTERESTS. They just want to win elections. They do not care what happens to you.

28092620968

HR 1281

TAN NGUYEN CLEARED

By state Attorney General

(Excerpts from Orange County Register
Dateline Thursday, May 17, 2007)



By MARTIN WISCKOL

A state investigation has found that Tan Nguyen's congressional campaign committed no crime last year when it mailed 14,000 letters telling immigrants they could be jailed for voting, the Attorney General's Office said Wednesday...

"I'm very happy," Nguyen said of the state case's being closed. Asked if he might run for office again, he said, "You can bet on it."

Nguyen, a Republican nominee subsequently denounced by party leaders, tried unsuccessfully to upset Rep. Loretta Sanchez, D-Garden Grove, in the heavily Hispanic central county district.

The Spanish-language letters, sent to foreign-born Hispanic Democrats, warned recipients that if "you are an immigrant, voting in a federal election is a crime that could result in jail time" or deportation, according to the widely circulated English translation.

Senior Assistant Attorney General Gary Schons said no criminal intent could be proven.

"We could not prove that there was an intent to intimidate lawfully registered voters," Schons said. "There's no doubt there was an intent to intimidate unlawfully registered voters."

Schons pointed to a line in the letter that said, "If you are a citizen of the United States, we ask that you participate in the democratic process of voting." He also said that when Sanchez beat incumbent Bob Dornan in 1996, illegally registered voters casting ballots, a factor that may have provided a legitimate motive for the Nguyen letter...

Schons said a key in the decision to close the case stemmed from the Spanish word "emigrado." He said the original draft of the letter – in English – warned those in the country illegally and those with green cards that they could face jail or deportation if they voted.

Schons said "those with green cards" was translated into "emigrado," which can be interpreted as meaning noncitizens with work permits. However, when "emigrado" was translated back into English after the letters were mailed, it became "immigrant," which carries no connotation of being a noncitizen with a work permit.

28092620969

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Garden Grove, CA 92840
www.tanforcongress.com
(714) 530-1612

28092620970

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Rep. Linda Sanchez



Rep. William Jefferson



Rep. Loretta Sanchez

WHAT DO THESE 3 POLITICIANS HAVE IN COMMON?

These are the *only* three Representatives who received money from Vernon Jackson, who has pled guilty to bribing a member of Congress.



Linda Sanchez received \$8,000 from Mr. and Mrs. Vernon Jackson.



William Jefferson received \$11,000 from Mr. and Mrs. Vernon Jackson. The FBI found \$90,000 in his refrigerator ("cold cash, frozen assets").



**Loretta Sanchez received \$16,000 from Mr. and Mrs. Vernon Jackson.*

Why did Vernon Jackson, owner of a defense contracting firm who admitted bribing Congressman Jefferson, also give money to the Sanchez sisters?

What did he expect in return???

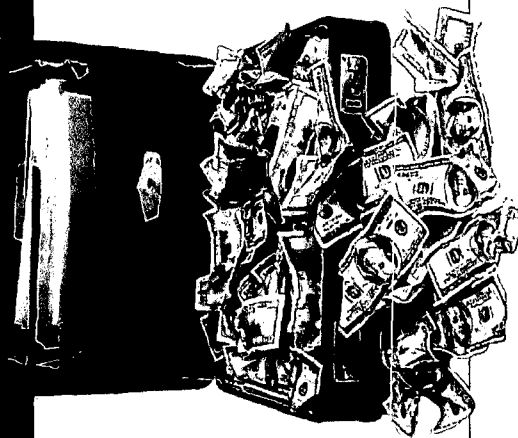
**Representative Sanchez is on the House Armed Services Committee.*

Tan is not afraid to tell it like it is.

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FOLLOW THE MONEY!



Why Would Someone Living in Oakton, Virginia Give Money to California Politicians ???

The Following People Gave Thousands of Dollars to Both.



Rep. Randy "Duke" Cunningham
Sentenced to 8yrs, 4mos for Corruption



Rep. Loretta Sanchez

Daniel Alspach
John Boyle
Morgan Campbell Jr
Richard Carroll
David Chatfield
William Ferguson Jr
George Finley III
Bernard Gauf
Kaylene Green
Lynnette Jacquez
Richard Ladd
Charmayne Macon
Nancy Magliocchetti
Paul Magliocchetti
Kenneth Markstein

La Jolla, CA
Woodbridge, VA
Corpus Christi, TX
Oakton, VA
Upland, CA
Arlington, VA
Corpus Christi, TX
Clifton, VA
Oakton, VA
Dunn Loring, VA
Washington, DC
Alexandria, VA
Fairfax, VA
Fairfax, VA
Rancho Santa Fe, CA

TAN NGUYEN

CALIFORNIA CONGRESSIONAL 47TH DISTRICT
2006

28092620973

¡Seleccione a la persona que piensa como Ud!

Tan apoya a nuestros hombres y mujeres valientes que arriesgan sus vidas en el campo de batalla a diario en Irak y Afganistán.



La sra. Sánchez* se desligó del partido demócrata y votó en contra de: (Votación 64 HR 557) que reconoció la labor de nuestras fuerzas en Irak (HR 5683) que permitió al gobierno federal aceptar y conservar el memorial para veteranos en el Monte Soledad en San Diego.



*La sra. Sánchez también se desligó del partido demócrata y rehuso condenar al Hezbollah como organización terrorista (aunque el Hezbollah fue responsable por las muertes de 241 marinos norteamericanos (23 de octubre, 1983) (HR 921).

*La sra. Sánchez ha aceptado el apoyo del consejo de Relaciones Americanas Islámicas, y además ha sido presentada como invitada especial en muchísimos eventos auspiciados por esta organización (vea el portal de internet www.anti-cair-net.org).

Choose the person who thinks like you!



Tan supports our brave men and women who lay their lives on the line each day in Iraq and Afghanistan.



Ms. Sanchez* broke with the Democratic Party and voted against: (Vote 64 HR 557) which commended our valiant troops in Iraq. (HR 5683) which allowed the Federal Government to accept and preserve the San Diego Veterans Memorial at Mountain Soledad.



*Ms. Sanchez also broke with the Democratic Party and refused to condemn Hezbollah as a terrorist organization (even though Hezbollah was responsible for murdering U.S. Marines on Oct. 23, 1983) (HR 921).

*Ms. Sanchez has accepted the support of the Council on American-Islamic Relations and appeared as a special guest at numerous events sponsored by this organization (see www.anti-cair-net.org).

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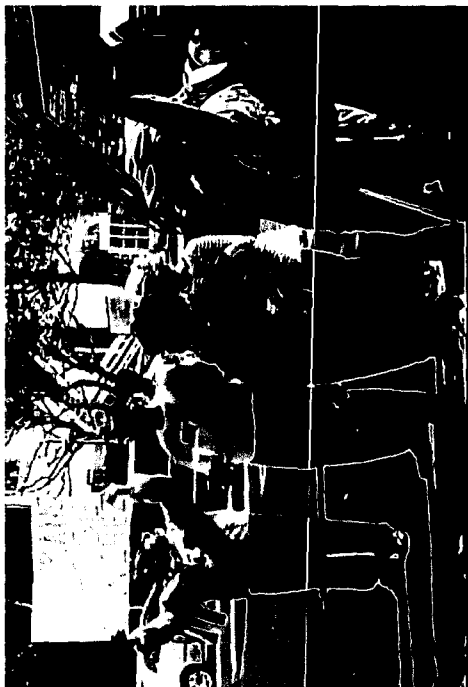
"Los hispanos están siendo sacrificados en la defensa de nuestro país en números altamente desproporcionados al porcentaje de hispanos en la población. Cuando tantos de nuestros hijos y seres queridos a diario arriesgan sus vidas en Irak y Afganistán, es verdaderamente molesto que la congresista Sánchez rehúsa apoyar a nuestras fuerzas militares, y en vez, acepta el apoyo de los árabes."

Salvador G. Luján
Sgt. Salvador Lujan
Veterano combatiente condecorado



Veteranos protestan en contra de la sra. Sánchez en Anaheim, CA.

Veterans protest against Ms. Sanchez in Anaheim, CA.



Decorated Combat Veteran

Salvador G. Luján
Sgt. Salvador Lujan

"Hispanics are sacrificing themselves for our country in disproportionate numbers. When so many of our sons and loved ones are risking their lives each day in Iraq and Afghanistan. It is shocking that Rep. Sanchez refuses to support our troops and instead accepts the support of the Arabs."

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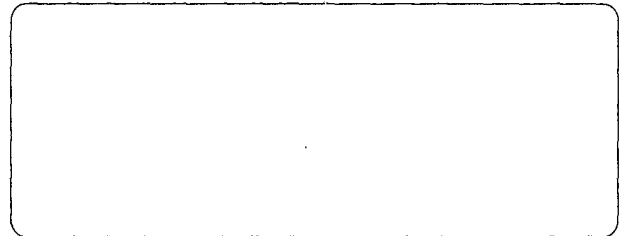
Bag of money

Fat Cat

Un gato que es un

Pez Gordo

Bolsa de dinero



28092620976

No expiando de decir las cosas tal como son

Tan apoya:

Proteger a los ciudadanos de la tercer edad

permitiendo nuevamente la importación de medicamentos

Proteger al trabajador norteamericano

para que los empleos permanezcan en los Estados Unidos

Proteger las pensiones de los trabajadores

para que los trabajadores puedan confiar en recibir sus pensiones como acordado

Un presupuesto justo con menos desperdicio gubernamental

para que podamos vivir dentro de nuestros planes

¡ Elija la persona que más se parece a ud !



La congresista de los \$10 millones



Ms. Sanchez

A partir del 30 de junio, la sra. Sánchez reportó tener \$960,000.00 en efectivo a la mano.
En el transcurso de los últimos 10 años ha aceptado \$9,911,652.00
En los últimos 60 meses, la sra. Sánchez aceptó 43 viajes pagados por terceros.*

* Ésto incluye viajes adicionales costeados por impuestos públicos.



Tan no ha aceptado ningún dinero de parte de grupos representando intereses especiales.

Tan estima que es deshonesto aceptar dinero de personas/organizaciones que esperan algo a cambio.

Tan ha hecho todos su viajes en su automóvil modelo 1999 pagando la gasolina de su propio bolsillo.

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Garden Grove, CA 92840
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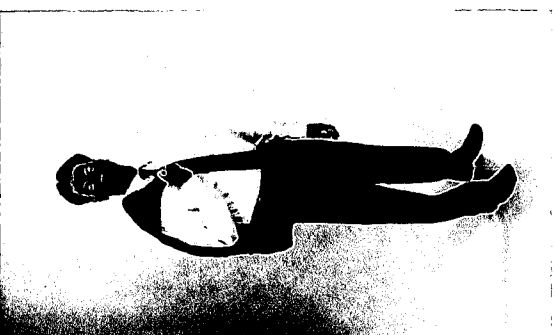
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"Comparte con Tan el Sueño Americano... Mandando a Tan a Washington como Nuestro Representante"



Tan nos Representará a todos - los hispanos, hispanos, asiáticos, afro-americanos, cristianos, musulmanes, budistas, judíos, católicos, y a todo el pueblo que vive en el Distrito 47 que no ha sido en este día.

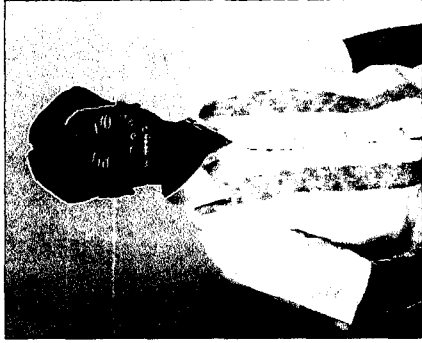
"Share the AMERICAN DREAM with Tan... Send Tan to Washington, as OUR representative"



Tan will represent all of us. That means Caucasians, Hispanics, Asians, Afro-Americans, Protestants, Muslims, Buddhists, Jews, Catholics, and all other peoples, not specifically designated who live in District 47.

28092620978

Escaping from Vietnam with his family as "boat people," Tan followed the inspiring example set by his mother and father.



Tan knows what it's like to start at the bottom. At the age of eight, Tan picked chilies alongside his parents in Gilroy, California.



Tan with his son Evan Viet Nguyen
(age 8 Months)

Tan worked his way through school to a successful business career.

Tan will represent all the people in our district with the same care and diligence that he has applied to his life. Tan has the energy and enthusiasm to make a difference.

Tan y su familia escaparon de Vietnam entre los conocidos "gente de barco". Tan siguió una trayectoria inspiradora encabezada por su madre y padre.



Tan experimentó lo que es empezar desde abajo. A la edad de ocho años, Tan piscaba chiles junto con sus padres es Gilroy, California.

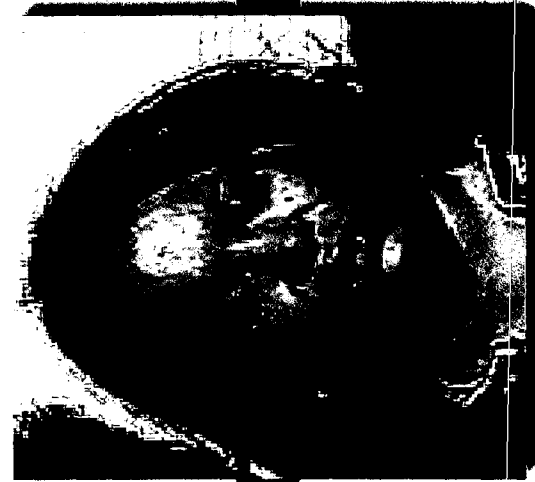


Tan con su hijo Evan Viet Nguyen
(de 8 meses)

Tan representará a todos en nuestro distrito con el mismo empeño y determinación que el ha seguido a lo largo de su vida. Tan posee la energía y entusiasmo para traer un cambio.

Paid for by Tan Nguyen for Congress
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Garden Grove, CA 92840
www.tanforcongress.com
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Rep. Linda Sanchez



Rep. William Jefferson



Rep. Loretta Sanchez

¿Qué tienen en común estos tres políticos?

Estos son los únicos congresistas que recibieron dinero de Vernon Jackson quien ya admitió su culpabilidad por sobornar a un integrante del Congreso.



Linda Sánchez recibió \$8,000 dolares de parte del sr. y sra. Vernon Jackson.



William Jefferson recibió \$11,000 dolares del sr. y sra. Vernon Jackson. El FBI encontró \$90,000 dolares en su refrigerador ("dinero en efectivo frío, bienes congelados").



Loretta Sánchez recibió \$16,000 de parte del sr. y sra. Vernon Jackson.*

Vernon Jackson, propietario de un negocio contratista de equipo para la defensa admitió haber sobornado al congresista Jefferson, y a la vez contribuido fondos a las hermanas Sánchez ¿Por qué lo hizo? ¿Qué esperaba en recompensa?

***La congresista Sánchez es integrante del Comité del los Servicios Armados en la Casa de Representativos.**

Tan no tiene miedo decir las cosas cómo son.

This is a printer-friendly version. The navigation and other unnecessary elements have been removed.

Wednesday, May 16, 2007

Tan Nguyen's 'Don't vote' letter no crime

State will not file charges against Tan Nguyen, whose campaign sent letters warning Hispanic immigrants.

The Associated Press

GARDEN GROVE – The state Attorney General's Office said today that it will not file criminal charges against a former congressional candidate whose campaign mailed letters warning immigrants against voting.

Tan Nguyen, a Vietnamese immigrant, was trying to unseat Democratic Rep. Loretta Sanchez last year when his campaign sent out 14,000 letters to Hispanic immigrants claiming they could be deported or jailed for voting. The controversy erupted just three weeks before the Nov. 2 election.

Sanchez beat Nguyen, a Republican, by nearly 24 percentage points to earn her sixth term representing the Orange County district. Investigators searched Nguyen's headquarters, his home and the home of one of his staffers and seized computers, papers, political signs and other items, then conducted numerous interviews.

But they could find no criminal intent, Senior Assistant Attorney General Gary Schons told The Associated Press in a telephone interview.

"We had to prove that they intended to intimidate lawfully registered voters. We found no evidence that they intended to intimidate lawfully registered voters. In fact, the first line of the letter said, 'If you're a lawfully registered voter, we encourage you to vote.' A lot of people missed that," Schons said.

The state turned its case file over to the voting section of the U.S. Department of Justice's civil rights division in February, but has not had a response, Schons said. A spokeswoman from the voting section did not immediately return a call. Nguyen did not immediately return a call for comment.

His attorney also did not return a call for comment. The letter, written in Spanish, was mailed to Democratic voters in Orange County. It said: "You are advised that if your residence in this country is illegal or you are an immigrant, voting in a federal election is a crime that could result in jail time."

Immigrants who have become naturalized U.S. citizens are eligible to vote.

As the case unfolded, Nguyen offered differing accounts of how the letters reached immigrant voters. At first, he said an employee in his office might have used his campaign's voter

database to send the letter without his knowledge. Nguyen refused to identify the office manager or the third party who he said mailed the letters.

Later, Nguyen told the Associated Press that he purchased a database of 14,000 Hispanic voters from a Burbank-based political database company called Political Data Inc. so he could send Spanish-language fliers to voters.

Nguyen said his campaign sent four fliers using the database before his office manager forwarded the names to an outside party. He also blamed his opponent, Sanchez, for "fueling this hysteria" during an emotional news conference outside his Garden Grove campaign headquarters.

On another occasion, his attorney blamed the media for mistranslating the Spanish-language letter into English.

The Orange County Republican Party called for Nguyen's resignation and he was criticized by Gov. Arnold Schwarzenegger and other local candidates and politicians.

28092620983



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Via First Class Mail

August 28, 2007

Tan Nguyen, as Treasurer
Tan Nguyen for Congress
12955 Main Street
Garden Grove, California 92840

C00399113
AF# 1753

Dear Mr. Nguyen:

On August 17, 2007, the Commission received the written response and supporting documentation ("challenge") from you which is being reviewed by the Office of Administrative Review. If you have any questions regarding your challenge, please contact this Office on our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

Sincerely,

A handwritten signature in black ink that reads "Shawn Woodhead Werth". The signature is written in a cursive, flowing style.

Shawn Woodhead Werth
Reviewing Officer
Office of Administrative Review

cc: Tien Nguyen, as Treasurer

28092620984

Date: August 28, 2007

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

AF#: 1753

Committee Name: Tan Nguyen for Congress

Committee ID#: C00399113

Committee Address (if different than in RTB letter):

Carlsbad, CA 92009

Treasurer Name (if different than in RTB finding):

Tien Nguyen

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):Y

Attachment #: 1 (sent to alternate address as listed above)

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.

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

-RTB Letter, dated July 16, 2007.

Attachment #: 3

Other RAD Information: (Y/N): Y - Returned RTB Letter sent to address of record.

Attachment #: 4

28092620985

SENDER: COMPLETE THIS SECTION

COMPLETE THIS SECTION ON DELIVERY

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

A. Signature

X

Tan

☐ Agent☒ Addressee

B. Received by (Printed Name)

TAN

C. Date of Delivery

8-1-07

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

1. Article Addressed to:

Tan Nguyen
Tan Nguyen For Congress
2771 Palmetto Dr.
Carlsbad, CA 92009

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label)

7005 1820 0002 8465 9972

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

28092620986

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 Tan Nguyen for Congress:
 - A) Prior Notice, dated March 22, 2007 , referencing the 2007 April Quarterly Report
(sent via electronic mail to: ejtello@cox.net);
 - 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 Tan Nguyen for Congress filed the 2007 April Quarterly Report with the Commission on August 27, 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 28th day of August, 2007.



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

28092620987



APRIL QUARTERLY REPORT NOTICE

FEDERAL ELECTION COMMISSION

CONGRESSIONAL COMMITTEES

March 22, 2007

CURRENT REPORT DUE:

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

REPORTING SCHEDULE FOR REMAINDER OF 2007:

REPORT	REPORTING PERIOD ¹	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
July Quarterly	04/01/07 - 06/30/07	07/15/07	07/15/07 ²
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.

¹These 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.

²Notice 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 candidates³ (including unopposed candidates and candidates whose names do not appear on the ballot) must file Quarterly Reports.⁴ 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.

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.

³Generally, 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).

⁴If 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.

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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.

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).⁵ For additional information, visit the FEC website at 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."⁶

⁵ 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.

⁶ See *Millionaires' Amendment* brochure on the FEC website at www.fec.gov/pages/brochures/millionaire.shtml.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 30, 2007

RQ-7

Tello, Emilee, Treasurer
Tan Nguyen For Congress
12955 Main Street
Garden Grove, CA 92840

IDENTIFICATION NUMBER: C00399113

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.

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", is written over a horizontal line.

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



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

October 4, 2007

Tan Nguyen, as Treasurer
Tan Nguyen for Congress
12955 Main Street
Garden Grove, CA 92840

C00399113
AF# 1753

Dear Mr. Nguyen:

On July 12, 2007, the Federal Election Commission ("the Commission") found reason to believe that Tan Nguyen for Congress and you, as Treasurer, violated 2 U.S.C. § 434(a) for failing to file the 2007 April Quarterly Report. On August 23, 2007 the Commission received your written response and supporting documentation ("challenge").

In the challenge, you state that a campaign controversy "led to ... raids of my offices and home on October 20, 2006" and that "all my computers, and many of my files, were seized by the State Police." You say that "[o]ur campaign was handicapped during that time" and that "[w]e could not file our FEC reports or do anything that was computer related." To date, you say that the files have not been returned.

You also assert that "[t]he Treasurer's resignation was a direct result of the ... raid on my campaign headquarters." Submitted with the challenge are copies of eight Property Receipts from the Law Enforcement Division of California's Department of Justice ("property receipts") dated October 20, 2006.

In order for the Office of Administrative Review ("OAR") to complete its review of the challenge, please answer the following questions and provide the following information:

- Please describe what campaign related activity was contained on the eight seized computers identified in the property receipts, and provide the dates on which they were returned.
- Commission records show that the 12 Day Pre-General Report, disclosing activity between October 1 and 18 and electronically signed by "TAN D

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NGUYEN," was filed on October 31, 2006. Please explain how someone was able to able to electronically file this report which discloses activity for the reporting period and election cycle, if all the computers and many of the files were seized in the October 20 raid and there was no treasurer?

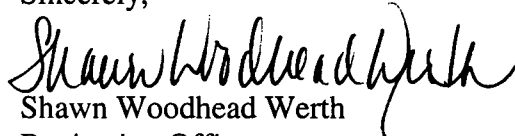
- What files, computers, or other materials were not available on April 15, 2007 and prevented the filing of the April Quarterly Report on time?

The Commission strongly encourages that documents be submitted in the form of affidavits or declarations. 11 C.F.R. § 111.36(c). Failure to provide the supplemental information entitles the Reviewing Officer to assume that the Commission's factual allegations are true. 11 C.F.R. § 111.36(b).

Your written response should be sent to OAR at the Federal Election Commission, 999 E Street, NW, Washington, DC 20463 by October 19, 2007. 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 OAR via facsimile (202-219-0613) or by courier at the same address (if you use an overnight delivery service, please use zip code 20004 instead of zip code 20463).

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,



Shawn Woodhead Werth
Reviewing Officer
Office of Administrative Review

cc: Tien Nguyen, as Treasurer

AL

2007 OCT 17 A 11:38

TAN D. NGUYEN

October 17, 2007

Ms. Shawn Woodhead Werth
Reviewing Officer
Office of Administrative Review
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

RE: AF # 1682 and AF # 1753

Dear Ms. Werth:

Thank you for reviewing our challenge and allowing us the opportunity to explain the hysteria that occurred and the extremely difficult situation that we were faced with during the last few days of the 2006 General Election.

The following are answers to your questions:

1. The two computers that were returned prior to Election Day were my laptop and one of the computers seized at the Campaign Headquarters. There were a total of five computers taken, including my laptop. Most campaign related materials and records were stored on the "main" computer, which was returned along with my laptop. However, data such as donor list and other records were sometimes backed up and kept on other computers in the office as well as at my home. We don't have the exact date when the two computers were returned, but we believe it was after the 25th of October 2006. The "main" computer can only be accessed by the office manager.
2. We were able to file the 12 Day Pre-General Report on October 31, 2006 with the help of a staff member who had been helping Emilee Tello, the treasurer who resigned, and the "main" computer that was returned. The staff member had familiarized herself with the filing process while helping Ms. Tello. However, she stopped helping after that report, fearing that her involvement with the campaign would "get her in trouble." During this time, there was still an ongoing investigation. We tried our best with what we had on the computers that were returned and the files that weren't seized.
3. As of December 7, 2006, we still did not get the remaining computers that were seized

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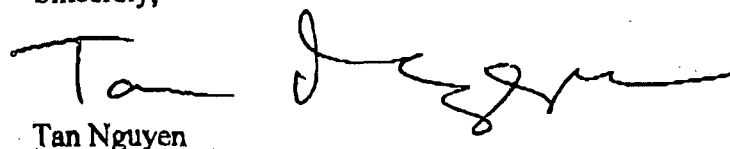
from the Campaign Headquarters and two other computers that were seized from my home. As of today, we have not received the following items which we believe could help us make the necessary corrections to our reports: (1) manila folder labeled "AMEX", (2) manila folder "Campaign Volunteer", (3) manila envelope "receipts (10/1-10/18)".

We have tried our best to file all the reports, with the files and records available, but it is inevitable that mistakes were made. We are amending reports as we retrieve records from various sources. Please understand, too, that we did not understand that filing "incomplete" reports on time and amending them later would have helped us. This is due to a lack of knowledge about the filing process caused by not having a treasurer to advise us. Also, only the office manager was familiar with all the records, files, and what was on the "main" computer because she was the only one who operated on it. Without her help, it was a difficult and lengthy process in trying to retrieve all the necessary records for the proper filings.

At this point, there is still a minor discrepancy between our cash on hand (shown as a negative on of reports) and what's actually in our bank account (a slight positive). We believe that those envelopes and folders seized will help us make the necessary corrections.

Again, thank you for your attention to this matter.

Sincerely,


Tan Nguyen

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

2008 JAN 23 P 3:43

January 23, 2008

MEMORANDUM

SENSITIVE

To: The Commission

Through: Patrina M. Clark *mc*
Staff Director

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

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

By: Jill I. Sugarman *JS*
Reviewing Analyst

Subject: AF# 1753 – Tan Nguyen for Congress and Tan Nguyen, as Treasurer
(C00399113)

The respondents' challenge for this case was due August 21, 2007, 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.

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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 a written response within 10 days of transmittal of the recommendation.

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

Attachment



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 23, 2008

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

AF# 1753 – Tan Nguyen for Congress and Tan Nguyen, as Treasurer (C00399113)

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 \$4,500 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 19, 2007; however, the copy of the letter sent to the alternate address provided by the respondents, was received on August 1, 2007.

Respondents' Response

On August 23, 2007, the Commission received the written response and supporting documentation ("challenge") from Mr. Nguyen who asks for an additional 30 days in filing the report due to extraordinary circumstances. They were caught up in a controversy involving 14,000 letters sent to registered voters, which lead to a raid of the candidate's offices and home on October 20, 2006. Consequently, the State Police seized "all ... computers, mailing lists, files, and even ... political signs." From that time, they could not file reports or do anything computer related. The raid, which he blames on the Attorney General of California, caused the Treasurer to resign and prevented anyone else from wanting to replace her. Some computers were returned, but soon after, the authorities refused to return the rest of the seized items. As of August 16, their files have not been returned. The Candidate then describes the contents of the letter sent to voters and subsequent actions of the Attorney General of California, who he says improperly interfered in the conduct of the campaign.

The Candidate submitted various documents with the challenge which include copies of eight Property Receipts from the California Department of Justice's ("CDOJ") Division of Law Enforcement dated October 20, 2006 for property received from the Committee's address of record and campaign worker, Hanh Lam; an on-line news article dated May 16, 2007 which discusses the status of CDOJ's investigation; and two notarized letters dated August 13, 2007 from the Candidate to the Commission's Thomasenia Duncan and Jeff Jordan. In the letter to Mr. Jordan, he states "I could not, and cannot, file the reports because the Attorney General seized my computers and files which contained all my campaign data," and "[t]o this date, my files have not been returned."

Analysis of Challenge

The April Quarterly Report was filed on August 27, 2007, 134 days late. The respondents amended it twice, on September 25 and December 7, 2007.

The Federal Election Campaign Act ("Act") requires that a report for the quarter ending March 31, 2007 be filed by the treasurer no later than April 15th. 2 U.S.C. § 434(a)(2)(B) and 11 C.F.R. § 104.5(a)(1)(i). Reports filed electronically must be

received and validated at or before 11:59 p.m. Eastern Standard/Daylight Time on April 15, 2007 to be timely filed. 11 C.F.R. §§ 104.5(e) and 100.19(c). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

Between October 20 when campaign records were seized, and April 15, when the April Quarterly Report was due, Commission records show that the 12 Day Pre-General Report covering the period between October 1 and 18 was electronically filed on October 31. OAR, therefore, sent a supplemental request to the respondents on October 4, 2007 and asked that they answer or clarify the following:

- describe what campaign related activity was contained on the eight seized computers and provide the dates on which they were returned;
- explain how someone was able to electronically file the 12 Day Pre-General Report, if all the computers and many of the files were seized in the October 20 raid, there was no treasurer, and no one understood the filing process; and
- describe what files, computers, or other materials were not available on April 15, 2007 and prevented the timely filing of the April Quarterly Report.

In his October 17th response, the Candidate says that:

- the two computers returned were his laptop and the "main" computer from the Campaign Headquarters. Most of the campaign material and records were stored on the "main" computer which could only be accessed by the office manager; however, donor lists and other records were sometimes backed-up and kept on other computers in the office or in the Candidate's home. He thinks that the computers were returned after October 25, but he does not know the exact date;
- once the "main" computer was returned, they were able to file the 12 Day Pre-General Report on October 31 with the help of a staff member who was familiar with the filing process and had assisted the Treasurer before she resigned. They tried their best to file using the data from the returned computers and the files that had not been seized. Once the report was filed, the staff member stopped helping because she feared that her involvement with the campaign would get her in trouble; and
- on December 7, they did not have the remaining computers seized on October 20 nor did they have, and are still without, records they needed to make corrections to their reports. These include three manila folders labeled "AMEX," "Campaign Volunteer," and "receipts (10/1-10/18)."

The RAD telecoms [written records of telephone conversations] show that on May 9, 2007, the Candidate told the RAD Analyst that the report could not be filed without the seized items. When he called again on May 21, he said that the computers had just been returned. On July 11, he said that the report could be filed with the information available to him, but it would be incomplete. According to Commission records, the 2006 Year End and 2007 July Quarterly Reports were filed on July 12 and 16 respectively. On those same dates, the Candidate filed electronic amendments in which he states that they tried their best to file the reports with the information they currently have on hand. He says that some seized materials were not returned and that they will amend the reports as more "files, receipts, documents, etc." are retrieved. On August 3 and 23, the Analyst advised the Candidate to file the report for the April Quarterly reporting period.

The Candidate asserts that extraordinary circumstances prevented the timely filing of the report. The extraordinary circumstances defense has been supplanted with the best efforts

defense, under which the Commission may decide that no violation occurred because the respondents used their best efforts to file on time. 11 C.F.R. § 111.35(b)(3) and (c).

The best efforts defense is a two-part test. The first part consists of the respondents demonstrating that they were prevented from filing on time by reasonably unforeseen circumstances that were beyond their control. In its Explanation and Justification for the new rules, the Commission says that this part requires a strict causal relationship between the circumstances and respondents' inability to file on time: the circumstance must cause the respondents to be unable to file in a timely and proper manner, despite them attempting to use all available methods to file. For the second part of the test, the respondents must show that the report was properly filed within 24 hours after the resolution of the circumstances that prevented the report's timely filing.

According to the respondents' challenge and supplemental response, Commission records and RAD's telecoms, the Committee's computers, mailing lists, and files were seized from its office on October 20, 2006 by the CDOJ. Committee records were kept on its "main" computer and other Committee computers stored records such as donor lists. Among the other material seized were three folders labeled "AMEX,... Campaign Volunteer, [and] receipts (10/1-10/18)."

By October 31, only the main computer and the Candidate's laptop computer had been returned to them. Although the Treasurer had resigned and only the office manager could access the main computer, a staff member who had worked with the Treasurer and was familiar with the filing process filed the 12 Day Pre-General Report that same day. She did not provide any more help because she thought her involvement "would get her in trouble" as a result of the continuing CDOJ investigation.

To file a complete and accurate April Quarterly Report by April 15, they needed financial records for the current and prior reporting periods. They may have been able to reconstruct the Committee's data file for prior reporting periods to determine aggregate totals (as the RAD analyst suggested in an earlier telephone conversation); however, they still would not have had all the information they needed since the other computers and records had not been returned by the CDOJ. Therefore, the Reviewing Officer concludes that the October 20 raid and seizure of Committee computers and files constitutes reasonably unforeseen circumstances beyond the respondents' control and that they meet the first part of the best efforts test.

The second part of the test consists of them demonstrating that they filed the report no later than 24 hours after the reasonably unforeseen circumstances ended. In other words, when did these circumstances end? The CDOJ returned two of the seized computers to them in late October 2006 and the rest in mid May 2007. In his July 11, 2007 phone call with the Analyst and July 12, 2007 submission, the Candidate said they could now file the report with the information they have although it would not be complete and would amend it as more material was obtained. As of August 16, 2007, the date the Candidate submitted the challenge, he says that the files have not been returned. As of October 17, 2007, the date of the Candidate's response to OAR's request, it appears that the CDOJ had not yet returned the three folders. The Reviewing Officer, therefore, concludes that these circumstances continued until at least that date and that they meet the second part of the best efforts test.

The Reviewing Officer believes that they have demonstrated that the seizure of the Committee's records by the California Department of Justice constitutes reasonably

unforeseen circumstances that were beyond their control. The Reviewing Officer also believes that, although these circumstances continue to persist as of October 17, 2007, they were able to file the April Quarterly Report on August 27, 2007, which they later amended in September and December.

The Reviewing Officer concludes that the respondents meet the two-part best efforts defense and, therefore, recommends that the Commission find that they did not violate 2 U.S.C. § 434(a) and close the file.

OAR Recommendations

- (1) Adopt the Reviewing Officer recommendation for AF# 1753 involving Tan Nguyen for Congress and Tan Nguyen, as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 1753 that Tan Nguyen for Congress and Tan Nguyen, as Treasurer, did not violate 2 U.S.C. § 434(a) because they demonstrated that they used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances beyond their control and that the circumstances persist until at least October 17, 2007;
- (3) Close the file; and
- (4) Send the appropriate letter.

Reviewing Analyst: Jill I. Sugarman

Attachments

Attachment 1 – Challenge Received from Respondents

Attachment 2 – Supplemental Request Sent to and Response Received from Respondents

Attachment 3 – Declaration from RAD, Returned Envelope, and
Certified Mail Green Card

Attachment 4 – Federal Register Notice, Vol. 72, No. 60, dated March 29, 2007,
Pages 14662 - 14668

Attachment 5 – Declaration from OAR

extensively to the stabilization of producer prices, which prior to 1980 experienced wide fluctuations from year-to-year. National Agricultural Statistics Service records show that the average price paid for both classes of spearmint oil ranged from \$4.00 per pound to \$11.10 per pound during the period between 1968 and 1980. Prices have been consistently more stable since the marketing order's inception in 1980, with an average price for the period from 1980 to 2005 of \$12.72 per pound for Scotch spearmint oil and \$9.84 per pound for Native spearmint oil.

During the period of 1998 through 2005, however, large production and carry-in inventories have contributed to prices below the 26-year average, despite the Committee's efforts to balance available supplies with demand. Prices have ranged from \$8.00 to \$11.00 per pound for Scotch spearmint oil and between \$9.10 and \$10.00 per pound for Native spearmint oil. The 2005 Native price exceeded the 26-year average by \$0.16. Producers stated, however, that fuel cost increases more than offset the price increase.

According to the Committee, the recommended salable quantities and allotment percentages are expected to achieve the goals of market and price stability.

As previously stated, annual salable quantities and allotment percentages have been issued for both classes of spearmint oil since the order's inception. Accordingly, this action will not impose any additional reporting or recordkeeping requirements on either small or large spearmint oil producers or handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

In addition, the Committee's meeting was widely publicized throughout the spearmint oil industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the October 4, 2006, meeting was a public meeting and

all entities, both large and small, were able to express views on this issue.

A proposed rule concerning this action was published in the **Federal Register** on January 22, 2007 (71 FR 2639). Copies of the rule were provided to Committee staff, which in turn made it available to spearmint oil producers, handlers, and other interested person. Finally, the rule was made available through the Internet by the Office of the Federal Register and USDA. A 30-day comment period ending February 21, 2007, was provided to allow interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

■ For the reasons set forth in the preamble, 7 CFR part 985 is amended as follows:

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

■ 1. The authority citation for 7 CFR part 985 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. A new § 985.226 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 985.226 Salable quantities and allotment percentages—2007–2008 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year beginning on June 1, 2007, shall be as follows:

(a) *Class 1 (Scotch) oil*—a salable quantity of 886,667 pounds and an allotment percentage of 45 percent.

(b) *Class 3 (Native) oil*—a salable quantity of 1,062,336 pounds and an allotment percentage of 48 percent.

Dated: March 23, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–5811 Filed 3–28–07; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL ELECTION COMMISSION

11 CFR Part 111

[Notice 2007–7]

Best Efforts in Administrative Fines Challenges

AGENCY: Federal Election Commission.

ACTION: Final Rules and Transmittal of Rules to Congress.

SUMMARY: The Federal Election Commission is revising its regulations to amend four aspects of its Administrative Fines Program (“AFP”), a streamlined process through which the Commission assesses civil money penalties for late filers and non-filers under the Federal Election Campaign Act of 1971, as amended (“FECA”). First, the Commission is revising its rules regarding the permissible grounds for challenging a proposed civil money penalty by clarifying the scope of the defense based on factual errors. Second, the Commission is incorporating a defense for political committees that demonstrate that they used their best efforts to file reports timely. Third, the Commission is revising its rules regarding its final determinations to clarify when the Commission finds that no violation has occurred. Lastly, the rules are being amended to explain that the Commission’s statement of reasons for its final decision in an AFP matter usually consists of the reasons set forth by the Commission’s reviewing officer as adopted by the Commission. The supplementary information that follows provides further information.

EFFECTIVE DATE: April 30, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. J. Duane Pugh Jr., Acting Assistant General Counsel, or Ms. Margaret G. Perl, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: Through the AFP, the Commission may assess a civil money penalty for a violation of the reporting requirements of 2 U.S.C. 434(a) (such as not filing or filing late) without using the traditional enforcement procedures reserved for more serious violations under 2 U.S.C.

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437g. See 2 U.S.C. 437g(a)(4)(C).¹ Congress intended the Commission to process these straightforward violations through a "simplified procedure" that would ease the enforcement burden on the Commission. See H.R. Rep. No. 106-295, at 11-12 (1999). The rules governing the AFP create a streamlined procedure that balances the respondent's rights to notice and opportunity to be heard with the need to operate the AFP in an expeditious manner without undue administrative burden. See Explanation and Justification for Final Rule on Administrative Fines, 65 FR 31787, 31788 (May 19, 2000) ("*Admin Fines E&J*").²

When the Commission finds reason to believe ("RTB") that a political committee and its treasurer ("respondents") violated the reporting requirements, the respondents may challenge the finding and the proposed civil money penalty only for certain specified reasons. See revised 11 CFR 111.35. The Commission's reviewing officer considers the challenge and forwards a recommendation to the Commission. See 11 CFR 111.36(e). After considering the challenge, the reviewing officer's recommendation, and any subsequent comments from the respondent regarding the recommendation, the Commission makes a final determination. See revised 11 CFR 111.37. The Commission assesses civil money penalties based on published penalty schedules set forth in 11 CFR 111.43. Respondents may challenge the Commission's final determination in U.S. District Court. See 2 U.S.C. 437g(a)(4)(C)(iii); 11 CFR 111.38.

In *Lovely v. FEC*, 307 F. Supp. 2d 294 (D. Mass. 2004), a political committee challenged a civil money penalty assessed by the Commission through the AFP. The political committee argued that it had used its best efforts to file the report in question and that this constituted a valid and complete defense under FECA's "best efforts" provision in 2 U.S.C. 432(i). See *Lovely*, 307 F. Supp. 2d at 299. Section 432(i) provides that "[w]hen the treasurer of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by this Act for the political

committee, any report or any records of such committee shall be considered in compliance with [FECA]." 2 U.S.C. 432(i).³ The *Lovely* court concluded that the plain language of FECA requires the Commission to consider the "best efforts" defense in the AFP, and that the record in the *Lovely* case did not establish whether the Commission had considered that defense. See *Lovely*, 307 F. Supp. 2d at 300-01. The court remanded the case to the Commission for further proceedings. See *id.* at 301. On remand, the Commission determined that the political committee had failed to show it used best efforts to file timely and confirmed the earlier imposition of the civil money penalty. See *Statement of Reasons in Administrative Fines Case 549* (Oct. 4, 2005), available at http://www.fec.gov/law/law_rulemakings.shtml under the heading "Best Efforts in Administrative Fines Challenges."

Although the *Lovely* decision did not directly challenge the AFP rules, and did not affect the validity of 11 CFR 111.35 or the Commission's consideration of any other AFP matters, the Commission opted to open a rulemaking by publishing a Notice of Proposed Rulemaking on December 8, 2006, to seek public comment on proposed revisions to the AFP based on the court's concerns. See *Notice of Proposed Rulemaking for Best Efforts in Administrative Fines Challenges*, 71 FR 71093 (Dec. 8, 2006) ("*NPRM*"). The Commission received two comments, which are available at http://www.fec.gov/law/law_rulemakings.shtml under the heading "Best Efforts in Administrative Fines Challenges."⁴ One comment made several recommendations as to how the Commission could further clarify the "best efforts" defense by incorporating the business management concept of "best practices" regarding corporate operation, financial controls, risk prevention and risk assessment, while

the other comment was not relevant to this rulemaking.

After consideration of the relevant comment, the Commission has decided to revise its rules governing the AFP in four ways, as described below: (1) Clarifying the scope of the "factual errors" defense; (2) incorporating a "best efforts" defense for challenges to RTB findings; (3) clarifying when the Commission may find that no violation has occurred in an AFP matter; and (4) explaining the procedure for issuing Commission statements of reasons for AFP final determinations. These changes address the concerns raised by the *Lovely* court and provide greater clarity regarding permissible grounds for challenging an RTB finding. The revisions are substantially similar to those proposed in the *NPRM*.

Under the Administrative Procedure Act, 5 U.S.C. 553(d), and the Congressional Review of Agency Rulemaking Act, 5 U.S.C. 801(a)(1), agencies must submit final rules to the Speaker of the House of Representatives and the President of the Senate and publish them in the *Federal Register* at least 30 calendar days before they take effect. The final rules that follow were transmitted to Congress on March 23, 2007.

Explanation And Justification

I. Revised 11 CFR 111.35—Respondent Challenges to Reason To Believe Finding or Proposed Civil Money Penalty

Revised section 111.35 sets forth the requirements for AFP respondents' challenges to RTB findings and proposed civil money penalties. Revised section 111.35(a) is clarified so that it applies only to respondents that seek to challenge an RTB finding or proposed civil money penalty.⁵ The Commission is reorganizing and clarifying section 111.35 so that respondents may easily identify the basis for challenges in the AFP. See revised 11 CFR 111.35(b).

A. Revised 11 CFR 111.35(b)(1)—Changes to the "Factual Errors" Defense

The *NPRM* sought comment on proposed clarifications to the "factual errors" defense and asked whether the regulation should include examples of the types of factual errors that would suffice as grounds for challenging an RTB finding. See *NPRM*, 71 FR at 71094. The comment did not address this issue. The Commission has decided to revise

¹ The AFP applies to violations of the reporting requirements by political committees and their treasurers. See 11 CFR 111.30.

² The AFP is set to expire on December 31, 2008. See Pub. L. No. 109-115, sec. 721, 119 Stat. 2396, 2493-94 (2005); *Final Rule on Extension of Administrative Fines Program*, 70 FR 75717 (Dec. 21, 2005) (extending the sunset date in 11 CFR 111.30 to Dec. 31, 2008).

³ The Commission had long interpreted the "best efforts" safe harbor to be limited to political committees' obligation to report certain substantive information that may be beyond the control of the committees to obtain. See 11 CFR 104.7 (defining "best efforts" for purposes of obtaining and submitting contributor information). The Commission is currently considering in a separate proceeding whether to revise its application of this provision in enforcement matters outside the scope of the AFP. See *Proposed Statement of Policy Regarding Treasurer's Best Efforts to Obtain, Maintain, and Submit Information as Required by the Federal Election Campaign Act*, 71 FR 71084 (Dec. 8, 2006). The Commission anticipates issuing a final policy statement this year.

⁴ The Internal Revenue Service did not comment on the *NPRM*.

⁵ The revisions to section 111.35(a) did not alter the basic timing requirement that a respondent must file a challenge with the Commission within forty (40) days of when the Commission issues its reason to believe finding. See revised 111.35(a); *Admin Fines E&J*, 65 FR at 31789.

the rule regarding the "factual errors" defense as proposed in the *NPRM*, except for stylistic changes. The revised rule states that the facts alleged to be in error must be facts upon which the Commission relied in its RTB finding. See revised 11 CFR 111.35(b)(1). Thus, a respondent may not challenge an RTB finding based on factual errors that are irrelevant to the Commission's actual RTB finding, such as errors in the RTB finding regarding individual names or titles of committee staff.

The revised rule provides two examples of the type of factual errors that would properly support a challenge: the respondent was not required to file the report in question, and the respondent did in fact timely file as described in 11 CFR 100.19. See revised 11 CFR 111.35(b)(1). For example, a political committee that is not subject to electronic filing requirements could challenge an RTB finding and proposed civil money penalty under section 111.35(b)(1) by showing that the paper copy was filed on time and the Commission relied on the factual error that the committee was required instead to file electronically. See 11 CFR 104.18(a). As referenced in the rule's second example, Commission rules currently state that certain reports are "timely filed" if they are deposited as registered or certified mail with the U.S. Post Office, as Priority Mail or Express Mail through the U.S. Post Office, or with an overnight delivery service to be delivered the next business day with a postmark no later than 11:59 p.m. EST on the filing date. See 11 CFR 100.19(b). Thus, a respondent who is not required to file electronically could challenge an RTB finding based on evidence that it deposited the report in the proper manner pursuant to section 100.19(b) on the filing date, even if the Commission did not receive the report because of a delivery failure by the U.S. Post Office or other delivery service. The Commission emphasizes that the revisions to section 111.35(b)(1) do not create any new "factual errors" defenses, but simply recognize the types of errors that the Commission has accepted previously as a defense in the AFP.

B. Revised 11 CFR 111.35(b)(3)—"Best Efforts" Defense

The *NPRM* also sought comment on whether to replace the "extraordinary circumstances" defense in the prior rule with a "best efforts" defense for challenging an RTB finding based upon 2 U.S.C. 432(i). See *NPRM*, 71 FR at 71094–95 and former 11 CFR 111.35(b)(1)(iii). The comment generally supported the idea of a "best efforts"

defense. The Commission has decided to adopt the *Lovely* court's interpretation of 2 U.S.C. 432(i) and to incorporate a "best efforts" defense into the AFP. It appears in revised 11 CFR 111.35(b)(3) and is the same as the proposed rule, except for the changes noted below. The "best efforts" defense in the revised rule completely replaces the prior "extraordinary circumstances" defense because the two defenses are largely coextensive. The Commission reiterates its policy determination, as stated in the initial rulemaking for the AFP, that respondents' defenses in the AFP should be limited because the complete and timely disclosure of the political committee's financial activity is a "cornerstone of campaign finance law." See *Admin Fines E&J*, 65 FR at 31789.

The *Lovely* court recognized that the Commission could "refine by regulation what best efforts means in the context of submitting a report." *Lovely*, 307 F. Supp. 2d at 300. In exercising its authority to interpret how to incorporate a "best efforts" defense into the AFP rules, the Commission is mindful of the statutory terms chosen by Congress. As also explained by the Commission in its statement of reasons in the *Lovely* case after remand, section 432(i) creates a safe harbor for treasurers who demonstrate that best efforts have been used to submit reports required by FECA. "Best" is an adjective of the superlative degree. Therefore, best efforts requires more than "some" or "good" efforts. Section 432(i)'s use of the phrase "best efforts," instead of a "good faith" standard, means that an AFP respondent cannot rely upon the state of mind of the committee's treasurer or staff to claim this defense.⁶ Instead, the Commission's revised rule at 11 CFR 111.35(b)(3), which sets forth the "best efforts" defense, focuses on actions taken by the respondent committee or treasurer to comply with reporting deadlines.

The "best efforts" defense is described in the revised rule as a two-part test. The AFP respondent must demonstrate that: (1) The respondent was prevented from filing in a timely manner by "reasonably unforeseen circumstances that were beyond the control" of the respondent; and (2) the respondent filed the report in question no later than 24 hours after the end of the reasonably unforeseen circumstances preventing the timely filing. See revised 11 CFR 111.35(b)(3). The Commission believes this test is straightforward and should be easy for

respondents to understand and document in their written responses. The final rule differs slightly from the proposed rule, which would have stated that the respondent must be prevented from filing in a timely manner by "unforeseen" circumstances. The Commission is making this change to emphasize that the "best efforts" defense is an objective test, which uses a reasonable person standard and does not depend upon the committee's treasurer or staff's subjective ability to foresee a particular circumstance. The examples included in the rule in 11 CFR 111.35(c) and (d), described below, illustrate how this defense operates as an objective test.

Under the first part of the defense, the respondent bears the burden of showing that the reasonably unforeseen circumstances in fact prevented the timely and proper filing of the required report. The *NPRM* requested public comment regarding whether the Commission should apply a "but for" or "contributing factor" test for determining whether a respondent was prevented from timely filing under the rule. See *NPRM*, 71 FR at 71095. The comment did not address this issue. The Commission has decided that this rule requires a strict causal relationship between the circumstances described in the challenge (such as a natural disaster) and the respondent's inability to file the report timely. It is not sufficient for reasonably unforeseen circumstances to make it merely more difficult than usual for the respondent to file on time. The circumstance must cause the respondent to be unable to file in a timely and proper manner, despite the respondent attempting to use all available methods of filing. "Best efforts" is a high standard set by FECA, and the Commission reminds respondents that there are multiple ways for a committee to file required reports properly and timely. See, e.g., 11 CFR 100.19(b) (political committees not required to file electronically may file on paper by hand delivery, first class, registered, certified, Priority or Express U.S. Mail, or overnight delivery service); 11 CFR 104.18 (mandatory electronic filings accepted through the Commission's filing system via internet, modem, or by submission of diskette or CD). If the respondent is prevented from using one method of filing by a problem (such as a technical problem with the Commission's modems), the respondent cannot claim the "best efforts" defense if it did not attempt to use other available methods to file timely (such as

⁶ See *Statement of Reasons in Administrative Fines Case 549* (Oct. 4, 2005).

submission on a diskette or CD).⁷ Therefore, to satisfy the "best efforts" defense, a respondent must demonstrate that it attempted to use all available methods to file, but that timely filing by each method was prevented by the reasonably unforeseen circumstances beyond the control of the respondent.

The direct causal link between the reasonably unforeseen circumstances and the ability of the respondent to file the report also underlies the second part of the test for the "best efforts" defense. A respondent must show that the report was properly filed no later than 24 hours after the resolution of the circumstances preventing the timely filing. When the situation (such as a problem with Commission computers) is resolved, the Act's high standard of "best efforts" requires that the respondent file the report within a reasonably short period of time. The *NPRM* requested public comment regarding whether the 24-hour period in the proposed rule was appropriate for the "best efforts" defense. See *NPRM*, 71 FR at 71095. The comment did not address this issue. The Commission has determined that a 24-hour period best serves the interest in disclosure of the information as soon as practicable after the circumstances preventing the timely disclosure are resolved.

C. Examples of Circumstances Under the "Best Efforts" Defense

To provide further guidance to respondents regarding the scope of the "best efforts" defense, the revised rule includes examples of circumstances that will be considered "reasonably unforeseen and beyond the control of the respondent," and examples of circumstances that will not be considered "reasonably unforeseen and beyond the control of the respondent." See revised 11 CFR 111.35(c) and (d). The comment argued that the rule should not be limited to examples of defenses that would be unacceptable under the new "best efforts" defense, but should also include examples of defenses that would meet the new defense to provide guidance to

committees and treasurers. The revised rule provides such illustrations. The examples of defenses in the revised rule are the same as proposed in the *NPRM*, except as noted otherwise below. Both sets of examples in revised section 111.35(c) and (d) are non-exhaustive lists and should not be read to override the general requirements of the defense in revised section 111.35(b)(3) as discussed above.

1. Revised 11 CFR 111.35(c)—Reasonably Unforeseen Circumstances Beyond Respondents' Control

Revised section 111.35(c) provides three examples of circumstances that the Commission will consider "reasonably unforeseen and beyond the control" of the respondent under a "best efforts" defense. The first example is that a failure of Commission computers or Commission-provided software, despite the respondent seeking technical assistance, caused the respondent's untimely electronic filing. See revised 11 CFR 111.35(c)(1). This example is similar to the example in the prior rules, in which a failure of Commission computers satisfied the "extraordinary circumstances" defense. See former 11 CFR 111.35(b)(4)(iv); *Admin Fines E&F*, 65 FR at 31790 ("Any failure of the Commission's system that prevents committees from filing their reports when due would be recognized as an extraordinary circumstance beyond the respondents' control.").⁸ The revised rule differs from the proposed rule by including the respondent's seeking technical assistance as part of the example. Consistent with the prior defense based on Commission computer failures, the revised example clarifies that political committees must use all Commission resources available to aid with electronic filing, such as technical support manuals and personnel, before a respondent will be considered "prevented" from timely filing by Commission computer or software failures. Thus, any failure of Commission computers, servers, filing system or Commission-provided software of sufficient severity that it results in a respondent being unable to file, despite the respondent seeking assistance from the Commission's technical support personnel, is a

reasonably unforeseen circumstance beyond the respondent's control.

The second example in revised section 111.35(c)(2) is 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." This example covers circumstances in which technological problems at a third-party hub or information transfer location, rather than the Commission's or respondent's computer systems, caused widespread communication failures on the Internet that left the respondent unable to send, or the Commission unable to receive, an electronically filed report. This failure to transmit information must occur irrespective of any failures of the Commission's or respondent's computer systems or Internet service providers. If a respondent demonstrates such a widespread disruption of information transmissions occurred, the Commission will consider it "reasonably unforeseen circumstances that were beyond the control" of the respondent. As with all the examples in revised section 111.35(c)(2), the respondent bears the burden of showing that these reasonably unforeseen circumstances *in fact prevented* the respondent from filing timely, despite attempts to file by any available alternative methods permitted under Commission regulations.⁹ This example has been refined from the proposed rule to clarify the types of transmission failures contemplated.

The final example in the rule states that a "[s]evere weather or other disaster-related incident" is a reasonably unforeseen circumstance beyond the control of the respondent. See revised 11 CFR 111.35(c)(3). Under the prior rule, the Commission deemed certain weather conditions (lasting more than 48 hours) met the "extraordinary circumstances" test, explaining that "natural disasters where a committee's office is located in the disaster area and the committee cannot timely file a report because of lack of electricity or flooding or destruction of committee records" would satisfy the defense. See previous 11 CFR 111.35(b)(1)(iii); *Admin Fines E&F*, 65 FR at 31790. The revised rule permits such severe weather-related events occurring at the respondent's or Commission's location

⁷ The Commission's guidance and instructions to political committees required to file electronically makes clear that if a report is successfully uploaded and accepted by the Commission, a confirmation receipt (including a validation number) is immediately sent to the committee via e-mail, fax or both. If a committee does not receive such a receipt, the committee should not assume the filing was received and should contact the Commission's technical support personnel. See, e.g., "Frequently Asked Questions About Electronic Filing," available at http://www.fec.gov/support/faq_filing.shtml (last visited Mar. 16, 2007); "Common Electronic Filing Mistakes," available at <http://www.fec.gov/elecfil/mistakes.shtml> (last visited Mar. 16, 2007).

⁸ In order to satisfy the prior "extraordinary circumstances" defense, the failure of Commission computers had to last at least 48 hours. See former 11 CFR 111.35(b)(1)(iii). The new "best efforts" defense does not contain any minimum time period for the "reasonably unforeseen circumstances that were beyond the control" of the respondent. See revised 11 CFR 111.35(b)(3).

⁹ The Commission's electronic filing manuals detail step-by-step instructions for the various methods of acceptable electronic filing via the Internet, modem, or by saving the report to a diskette or CD. See, e.g., "FECFile User Manual for Candidate Committees," available at http://www.fec.gov/elecfil/authorized_manual/manual.shtml (last visited Mar. 16, 2007).

to form the basis for a "best efforts" defense. The Commission is not defining with specificity the level of severity for weather or other disaster-related incidents in revised section 111.35(c)(3) because a respondent's challenge must show that the weather or disaster-related incident *in fact prevented* the respondent from filing timely. Given that the effects upon the respondent of each weather or disaster-related incident will vary, the Commission will evaluate the particular facts contained in individual challenges, instead of mandating such details in a rule of general application.

2. Revised 11 CFR 111.35(d)—Circumstances That Are Not Reasonably Unforeseen or Beyond Respondents' Control

Revised section 111.35(d) includes a non-exhaustive list of circumstances that are *not* considered "reasonably unforeseen and beyond the control" of the respondent, and will not support a "best efforts" finding. See revised 11 CFR 111.35(d)(1) through (6). All but two of these examples are drawn from the list of events that did not constitute "extraordinary circumstances" under the Commission's prior rule: Negligence; delays caused by committee vendors or contractors; illness, inexperience or unavailability (including death) of the treasurer or other staff; and committee computer, software or Internet service provider failures. Compare revised 11 CFR 111.35(d)(1) through (4) with former 11 CFR 111.35(b)(4). One example concerns Internet service provider failures. See revised 11 CFR 111.35(d)(4). The proposed rule described this example as failures of committee computers or software. The final rule also includes Internet service provider failures. Because many Internet service providers are available, a failure limited to one provider is not a defense for late filing or not filing. The revised rule adds two examples to this list based upon the Commission's experience with respondent challenges in the AFP: A failure to know filing dates and a failure to use Commission software properly. See revised 11 CFR 111.35(d)(5) and (6).

Under the revised rule, a respondent's challenge will not succeed if its "best efforts" defense is based on any of these circumstances as the cause of the failure to file timely. The Commission notes that the examples in revised section 111.35(d) are not exhaustive, but are illustrative of the types of situations that are not reasonably unforeseen and beyond the respondent's control. The Commission strongly encourages all political committees to name assistant treasurers and have additional staff

available so that their ability to file reports on time will not be compromised due to the unavailability or inexperience of the treasurer or other staff. See *Final Rules on Administrative Fines*, 68 FR 12572, 12573 (Mar. 17, 2003) (adding staff "inexperience" and "unavailability" as examples of circumstances that will not be considered "extraordinary" under former 11 CFR 111.35(b)(4)(iii)).

The Commission's implementation of the "best efforts" defense set forth in this revised rule serves as a proxy for the factual investigation of a respondent's internal practices regarding filing of reports that would ordinarily be necessary to determine whether such practices were sufficient to constitute best efforts. The comment argued that the Commission should conduct a full examination of the business models and management procedures of each committee to determine whether the committee implemented proper back-up systems and other measures reflecting management "best practices" in the relevant industry to reduce the risk of a late filing. However, such an investigation would be resource-intensive for the Commission, burdensome for the respondent, and inappropriate in the AFP, which is a streamlined procedure created by Congress to alleviate the Commission's enforcement burden for routine and minor filing violations. Absent reasonably unforeseen circumstances that were beyond the control of the respondent, the Commission sees no reason why political committees cannot file reports on time.¹⁰ Thus, the Commission's implementation of the "best efforts" defense appropriately incorporates a statutory "best efforts" standard, while taking into account the unique streamlined nature of the AFP.

D. Revised 11 CFR 111.35(e)—Factual Basis for Challenge

The Commission is adding paragraph (e) to 11 CFR 111.35 to require that the respondent's written response must detail the factual basis supporting its challenge. Furthermore, respondents must provide supporting documentation for their challenges. The comment did not address this provision, which is identical to the proposed rule.

The three defenses specified in sections 111.35(b)(1) through (3) (factual

¹⁰ See *Admin Fines E&F*, 65 FR at 31790 (stating that political committees should be aware of their reporting duties and noting that the Commission makes efforts to send reminders of deadlines and political committees have ample time from the end of the reporting period to the filing deadline to prepare and file reports).

error, miscalculation of civil money penalty, and best efforts) are the only permissible grounds for challenging the Commission's RTB finding or proposed civil money penalty, and a respondent's written response must be based on one of these grounds to be considered by the reviewing officer and the Commission. Respondents bear the burden of showing that a permissible defense is satisfied.¹¹

II. Revised 11 CFR 111.37—Commission Review of Respondent's Challenge and Reviewing Officer's Recommendation

A. Revised 11 CFR 111.37(b)—Commission Finding That No Violation Has Occurred

Revised section 111.37 sets forth procedures regarding the Commission's final determination for AFP matters upon receipt of the respondent's challenge and the reviewing officer's recommendation. See revised 11 CFR 111.37(a) through (d). The NPRM sought comment on proposed revisions to section 111.37(b) regarding Commission determinations that no violation has occurred where the RTB finding is based on a factual error, and where the respondent demonstrated it used best efforts to file timely. See NPRM, 71 FR at 71095. The comment did not address these rules. The Commission is revising section 111.37(b) to clarify that the existence of factual errors or a finding of best efforts are complete defenses. Thus, if one of these defenses is satisfied, the Commission will conclude that no violation of FECA has occurred. Please note that the defense based on an incorrect basis for calculating the civil money penalty (section 111.35(b)(2)) is a defense only as to the amount of the civil money penalty and does not serve as a basis for a finding of no violation under the AFP.

B. Revised 11 CFR 111.37(d)—Commission Statement of Reasons in AFP Final Determinations

The NPRM sought comment on proposed revisions to section 111.37(d) to make clear that the reasons for the reviewing officer's recommendation regarding the challenge, unless modified or rejected by the Commission, will serve as the Commission's statement of reasons regarding the final determination in the AFP matter.¹² See NPRM, 71 FR at 71095. This proposed

¹¹ The Commission considers affidavits more persuasive evidence than unsworn statements submitted in support of the respondent's challenge.

¹² These revisions do not affect any statements of reasons the Commissioners may issue in enforcement matters under review.

revision addresses the *Lovely* court's concerns that it was unclear what constituted the statement of reasons for the Commission's final determination in that matter. The comment did not address this issue.

The Commission is revising section 111.37(d) to indicate that, unless otherwise indicated by the Commission, the statement of reasons for the Commission's final determination in an AFP matter consists of the reasons provided by the reviewing officer for the recommendation, if approved by the Commission. *See Lovely*, 307 F. Supp. 2d at 301 (stating that the Commission's "adoption of a reviewing officer's recommendation may suffice in some circumstances"). Statements setting forth additional or different reasons may also be issued. The revised rule also recognizes that the Commission may modify or reject the reviewing officer's recommendation in whole or in part. *See* 11 CFR 111.37(d). In such cases, the Commission will indicate the grounds for its action and it or individual Commissioners may issue one or more statements of reasons.

Former section 111.37(d) provided that the Commission could determine that a violation of 2 U.S.C. 434(a) had occurred, but waive the civil money penalty because the respondent demonstrated the existence of "extraordinary circumstances" under former section 111.35(b)(1)(iii). *See* former 11 CFR 111.37(d). As discussed above, the Commission is removing the "extraordinary circumstances" defense and replacing it with a "best efforts" defense in revised section 111.35(b)(3). Under 2 U.S.C. 432(i), if the Commission determines that the treasurer used best efforts in compliance with this rule, there is no violation of FECA and the Commission will so notify the respondent pursuant to revised section 111.37(b). *See* revised 11 CFR 111.37(b). Therefore, the Commission need not retain the former section 111.37(d).

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

The Commission certifies that the attached final rules will not have a significant economic impact on a substantial number of small entities. The basis for this certification is that any individuals and not-for-profit entities affected by these rules are not "small entities" under 5 U.S.C. 601(6). The definition of "small entity" does not include individuals, and classifies a not-for-profit enterprise as a "small organization" if it is independently owned and operated and not dominant

in its field. 5 U.S.C. 601(4). The rules apply to all types of political committees and their treasurers. State political party committees are not independently owned and operated because they are not financed and controlled by a small identifiable group of individuals, and they are affiliated with the larger national political party organizations. In addition, the State political party committees representing the Democratic and Republican parties have a major controlling influence within the political arena of their State and are thus dominant in their field. District and local party committees are generally considered affiliated with the State committees and need not be considered separately. To the extent that any State party committees representing minor political parties or any other political committees might be considered "small organizations," the number that would be affected by this rule is not substantial.

Furthermore, any separate segregated funds affected by these rules are not-for-profit political committees that do not meet the definition of "small organization" because they are financed by a combination of individual contributions and financial support for certain expenses from corporations, labor organizations, membership organizations, or trade associations, and therefore are not independently owned and operated. Most of the other political committees affected by these rules are not-for-profit committees that do not meet the definition of "small organization." Most political committees are not independently owned and operated because they are not financed by a small identifiable group of individuals. Most political committees rely on contributions from a large number of individuals to fund the committees' operations and activities.

The final rules also do not impose any additional restrictions or increase the costs of compliance for respondents within the AFP. Instead, the final rules provide additional defenses available to political committees and their treasurers, thereby potentially increasing the number of situations in which the Commission assesses no civil money penalty. Moreover, these rules apply only in the AFP, where penalties are proportionate to the amount of a political committee's financial activity. Any political committee meeting the definition of "small entity" would be subject to lower fines than larger committees with more financial activity. Therefore, the final rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 11 CFR Part 111

Administrative practice and procedures, Elections, Law enforcement.

■ For the reasons set out in the preamble, the Federal Election Commission is amending subchapter A of chapter I of Title 11 of the *Code of Federal Regulations* as follows:

PART 111—COMPLIANCE PROCEDURE (2 U.S.C. 437g, 437d(a))

■ 1. The authority citation for part 111 is revised to read as follows:

Authority: 2 U.S.C. 432(i), 437g, 437d(a), 438(a)(8); 28 U.S.C. 2461 nt.

■ 2. Section 111.35 is revised to read as follows:

§ 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.

■ 3. In section 111.37, paragraphs (b) and (d) are revised to read as follows:

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

* * * * *

(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.

* * * * *

(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.

Dated: March 22, 2007.

Robert D. Lenhard,
Chairman, Federal Election Commission.
[FR Doc. E7-5730 Filed 3-28-07; 8:45 am]
BILLING CODE 6715-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 13

[Docket No. FAA-2006-26477]

FAA Civil Penalty Adjudication Web Site

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: The FAA has a Web site that provides access to many documents relating to the agency's administrative adjudication of civil penalty cases. Currently, the address provided in the regulations for the civil penalty adjudication Web site is incorrect. In this rulemaking, we are amending the regulations to substitute the correct Web site address.

DATES: This rule is effective on March 29, 2007.

FOR FURTHER INFORMATION CONTACT: Sheila Skojec, Office of the Chief Counsel, Adjudication Branch, 800 Independence Avenue, SW., Washington, DC, 20591; telephone 202/385-8228.

SUPPLEMENTARY INFORMATION:

Background

The FAA assesses civil penalties for violations of certain provisions of the Federal aviation statute and the Federal hazardous materials transportation statute. The rules of practice in 14 CFR 13.16 and 14 CFR part 13, subpart G (14 CFR 13.201-13.235) govern these proceedings involving the adjudication of civil penalties.

The agency has a Web site containing documents relating to the agency's adjudication of civil penalties. These documents include decisions and orders issued by the Administrator, indexes of decisions, contact information for the Hearing Docket and the administrative law judges, the rules of practice, and other information.

We recently discovered that the address for the Web site set forth in 14 CFR 13.210 is incorrect. As a result, we are amending the rules to correct this problem.

This Rulemaking

FAA Civil Penalty Adjudication Web Site. We are amending section 13.210 to correct the Web site address for the FAA civil penalty adjudication Web site. The correct address is: http://www.faa.gov/about/office_org/headquarters_offices/agc/pol_adjudication/AGC400/Civil_Penalty.

Procedural Matters

In general, under the Administrative Procedure Act (APA), 5 U.S.C. 553, agencies must publish regulations for public comment and give the public at least 30 days notice before adopting regulations. There is an exception to these requirements if the agency for good cause finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. In this case, the FAA finds that notice and comment requirements are unnecessary due to the administrative nature of the change. It is in the public interest for the Rules of Practice to provide the correct address for the civil penalty adjudication Web site as soon as possible.

List of Subjects in 14 CFR Part 13

Administrative practice and procedure, Air transportation, Aviation safety, Hazardous materials transportation, Investigations, Law enforcement, Penalties.

The Amendments

■ Accordingly, the Federal Aviation Administration amends part 13 of the Federal Aviation Regulations as follows:

PART 13—INVESTIGATIVE AND ENFORCEMENT PROCEDURES

■ 1. The authority section for part 13 continues to read as follows:

Authority: 18 U.S.C. 6002; 28 U.S.C. 2461 (note); 49 U.S.C. 106(g), 5121-5128, 40113-40114, 44103-44106, 44702-44703, 44709-44710, 44713, 46101-46111, 46301, 46302 (for a violation of 49 U.S.C. 46504), 46304-46316, 46318, 46501-46502, 46504-46507, 47106, 47107, 47111, 47122, 47306, 47531-47532; 49 CFR 1.47.

■ 2. Amend § 13.210 by revising paragraphs (e)(2) to read as follows:

§ 13.210 Filing of documents.

* * * * *

(e) * * *

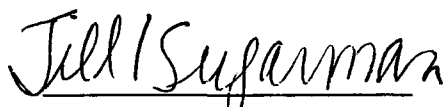
(1) * * *

(2) Decisions and orders issued by the Administrator in civil penalty cases, indexes of decisions, contact information for the FAA Hearing Docket and the administrative law judges, the rules of practice, and other information are available on the FAA civil penalty adjudication Web site at: http://www.faa.gov/about/office_org/headquarters_offices/agc/pol_adjudication/AGC400/Civil_Penalty.

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 the:
 - a) electronic submission filed by Tan Nguyen for Congress and Emilee Tello, as Treasurer. According to Commission records, the letter was received on October 24, 2006 and states that "the candidate and his campaign staff have come under investigation regarding a mailing. According to news reports, the California Department of Justice has seized the computers from campaign headquarters;"
 - b) Page 1 of the Summary Page for the 2006 12 Day Pre-General Report filed electronically by Tan Nguyen for Congress. According to Commission records, the report covers the period from October 1 through October 18, 2006 and was received on October 31, 2006. The Signature of Treasurer line says "Electronically Filed by TAN D NGUYEN;"
 - c) Page 1 of the Summary Page for the 2006 Year End Report filed electronically by Tan Nguyen for Congress. According to Commission records, the report covers the period from October 19 through December 31, 2006 and was received on July 12, 2007. The Signature of Treasurer line says "Electronically Filed by Tien Nguyen;"
 - d) electronic submission filed by Tan Nguyen for Congress. According to Commission records, the letter was received on July 12, 2007, signed by "Tan," and states that "we did our best to file the Year End Report with the information that we currently have. Due to the circumstances in our last election ..., there are still seized material that have not been returned. We will amend and modify the report as we retrieve more files, receipts, documents, etc.;"
 - e) Page 1 of the Summary Page for the 2007 July Quarterly Report filed electronically by Tan Nguyen for Congress and Tien Nguyen, as Treasurer. According to Commission records, the report covers the period from April 1 through June 30, 2007 and was received on July 16, 2007;
 - f) electronic submission filed by Tan Nguyen for Congress and Tien Nguyen, as Treasurer. According to Commission records, the unsigned letter was received on July 16, 2007 and states that "[n]ot all of the seized files have been returned. We are doing our best to comply with reporting deadlines, however, ... we do not have all the material with us. We will amend the report as information becomes available;"
 - g) Page 1 of the Summary Page for the 2007 April Quarterly Report filed electronically by Tan Nguyen for Congress and Tien Nguyen, as Treasurer. According to Commission records, the report covers the period from January 1 through March 31, 2007 and was received on August 27, 2007;

- h) Page 1 of the Summary Page for the amended 2007 April Quarterly Reports filed electronically by Tan Nguyen for Congress and Tien Nguyen, as Treasurer. According to Commission records, the reports cover the period from January 1 through March 31, 2007 and were received on September 25 and December 7, 2007; and
 - i) electronic submission filed by Tan Nguyen for Congress and Tien Nguyen, as Treasurer. According to Commission records, the unsigned letter was filed on December 7, 2007 and states that "we tried our best to file the reports and hope to make amendments later as we get gather [sic] the missing information."
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 23rd of January, 2008.



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

ETEXT ATTACHMENT

10/24/2006 13:29

I am unable to file the pre-general campaign report for the period 10/1/06 to 10/18/06 because I have not been given access to the records.

I last spoke with the campaign on 10/9/06. At that time I set up an appointment to meet on 10/23/06 to prepare this campaign report.

Since that time the candidate and his campaign staff have come under investigation regarding a mailing. According to news reports, the California Department of Justice has seized the computers from campaign headquarters.

I have been trying to contact the campaign (the office manager and candidate) to remind them of the report deadline and the appointment we had for 10/23/06. Neither has returned my emails. My calls to the campaign office (the only number I have) go to a message saying the mailbox is full. On 10/23/06 I drove to the campaign office at the time of our appointment. It was locked up and no one was inside.

28092621011

**FEC
FORM 3****REPORT OF RECEIPTS
AND DISBURSEMENTS**

For An Authorized Committee

Office Use Only

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

Tan Nguyen for Congress

ADDRESS (number and street)

12955 Main Street

Check if different
than previously
reported. (ACC)

Garden Grove

CA

92840

2. FEC IDENTIFICATION NUMBER

CITY

STATE

ZIP CODE

STATE DISTRICT

C00399113

3. IS THIS
REPORT

X

NEW
(N)

OR

AMENDED
(A)

CA

47

4. TYPE OF REPORT (Choose One)

(a) Quarterly Reports:

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)

X

General (12G)

Runoff (12R)

Convention (12C)

Special (12S)

Election on 11 07 2006

In the
State of CA

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

General (30G)

Runoff (30R)

Special (30S)

Election on

in the
State of

5. Covering Period

10

01

2006

through

10

18

2006

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

TAN D NGUYEN

Signature of Treasurer

Electronically Filed by TAN D NGUYEN

Date

10

31

2006

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
Only**FEC FORM 3**
(Revised 02/2005)

28092621012

**FEC
FORM 3****REPORT 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

Tan Nguyen for Congress

ADDRESS (number and street) 12955 Main Street

Check if different
than previously
reported. (ACC)

Garden Grove CA 92840

2. FEC IDENTIFICATION NUMBER CITY STATE ZIP CODE
C00399113

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

STATE DISTRICT
CA 47

4. TYPE OF REPORT (Choose One)

(a) Quarterly Reports:

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 10 19 2006 through 12 31 2006

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 Tien Nguyen

Signature of Treasurer Electronically Filed by Tien Nguyen

Date 11 07 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
Only

FEC FORM 3
(Revised 02/2005)

28092621013

ETEXT ATTACHMENT

07/12/2007 14:00

Dear Reanan,

Per our telephone conversation, we did our best to file the Year End Report with the information that we currently have. Due to the circumstances in our last election (the raid of my offices and home), there are still seized material that have not been returned. We will amend and modify the report as we retrieve more files, receipts, documents, etc.

Thank you,

Tan

28092621014

FEC FORM 3

REPORT 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

Ten Nguyen for Congress

ADDRESS (number and street) 12955 Main Street

X Check if different than previously reported. (ACC)

Garden Grove CA 92840

2. FEC IDENTIFICATION NUMBER C00399113

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

CITY A STATE A ZIP CODE A STATE A DISTRICT

CA 47

4. TYPE OF REPORT (Choose One)

(a) Quarterly Reports:

April 15 Quarterly Report (Q1)

X 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:

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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 04 01 2007 through 06 30 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 Tien Nguyen

Signature of Treasurer Electronically Filed by Tien Nguyen

Date 07 15 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
Only

FEC FORM 3
(Revised 02/2005)

28092621015

ETEXT ATTACHMENT

07/16/2007 01:36

Please note that this report is, at this point, incomplete due to information still missing from the events that occurred three weeks prior to the 2006 General Election. State police raided the candidate's home and offices and seized various files that are needed to complete this report. Not all the seized files have been returned. We are doing our best to comply with reporting deadlines, however, please understand that we do not have all the material with us. We will amend the report as information becomes available.

Thank you.

28092621016

08/27/2007 17:22

**FEC
FORM 3****REPORT OF RECEIPTS
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For An Authorized Committee

Office Use Only

1. NAME OF
COMMITTEE (in full)USE FEC MAILING LABEL
OR TYPE OR PRINTExample: If typing, type
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Tan Nguyen for Congress

ADDRESS (number and street)

12955 Main Street

Check if different
than previously
reported. (ACC)

Garden Grove

CA

92840

2. FEC IDENTIFICATION NUMBER

CITY

STATE

ZIP CODE

STATE DISTRICT

C00398113

3. IS THIS
REPORT

X

NEW
(N)

OR

AMENDED
(A)

CA

47

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)

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Termination Report (TER)

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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

01

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

Tien Nguyen

Signature of Treasurer

Electronically Filed by Tien Nguyen

Date

08

27

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
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(Revised 02/2006)

28092621017

**FEC
FORM 3****REPORT OF RECEIPTS
AND DISBURSEMENTS**

For An Authorized Committee

Office Use Only

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

Tan Nguyen for Congress

ADDRESS (number and street)

12955 Main Street

Check if different
than previously
reported. (ACC)

Garden Grove

CA

92840

2. FEC IDENTIFICATION NUMBER

C00399113

CITY

STATE

ZIP CODE

STATE DISTRICT

3. IS THIS
REPORTNEW
(N)

OR

X

AMENDED
(A)

CA

47

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

01

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

Tien Nguyen

Signature of Treasurer

Electronically Filed by Tien Nguyen

Date

09

25

2007

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. 1336

Office
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Only**FEC FORM 3**
(Revised 02/2009)

28092621018

**FEC
FORM 3****REPORT 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

Tan Nguyen for Congress

ADDRESS (number and street)

12855 Main Street

Check if different
than previously
reported. (ACC)

Garden Grove

CA

92840

- 2.
- FEC IDENTIFICATION NUMBER**

C00399113

CITY

STATE

ZIP CODE

STATE DISTRICT

3. IS THIS
REPORTNEW
(N) ORX AMENDED
(A)

CA

47

- 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**
- 01 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 Tien Nguyen

Signature of Treasurer Electronically Filed by Tien Nguyen

Date 12 04 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
Only**FEC FORM 3**
(Revised 02/2009)

28092621019

ETEXT ATTACHMENT

12/07/2007 17:28

On the year end report filed 7/12/07, the amount entered for The Gas Company (dated 11/20/2006) in the amount of 27,031.00 was a clerica error. It should have been 27.31.

On the year end report filed 7/12/07, an entry in Schedule B dated 10/31/2006 in the amount of 10,576.69 was actually payment for invoices for Mailing Pros Inc. dated 10/12/06, 10/11/06, and 10/17/06. Therefore, it was deleted in the amended report on 9/25/07 and moved to the amended report for Pre General dated 9/25/07.

The two debts on schedule D of amended year end report filed 9/25/07 appeared on this report and not on the year end report filed on 7/12/07 because: (a) we did not know how to report a balance owed to a vendor or credit card when we haven't made the entire payment until we spoke to one of the analysts and got the appropriate help. (b) we did not have the detail breakdown of all the expenses made on the AMEX, so we had to request for new statements. As we mentioned in previous reports, we tried our best to file the reports and hope to make amendments later as we get gather the missing information.

28092621020



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA OVERNIGHT DELIVERY

January 28, 2008

Tan Nguyen, as Treasurer
Tan Nguyen for Congress

Garden Grove, CA 92840

C00399113
AF# 1753

Dear Mr. Nguyen:

On July 12, 2007, the Federal Election Commission ("Commission") found reason to believe ("RTB") that Tan Nguyen for Congress 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 \$4,500 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

cc: Tien Nguyen

28092621021



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 12, 2008

MEMORANDUM

To: The Commission

Through: Patrina M. Clark
Staff Director

From: John D. Gibson
Chief Compliance Officer

Shawn Woodhead Werts
Reviewing Officer
Office of Administrative Review

By: Jill I. Sugarman
Reviewing Analyst

Subject: Final Determination Recommendation in AF# 1753 – Tan Nguyen for Congress and Tan Nguyen, as Treasurer (C00399113)

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 \$4,500 based on the schedule of penalties at 11 C.F.R. § 111.43.

On August 23, 2007, the Commission received the respondents' written response ("challenge"). After reviewing the challenge, the Reviewing Officer's recommendation dated January 23, 2008 was forwarded to the Commission, a copy was sent to the respondents, and is hereby incorporated by reference. According to the evidence provided in the challenge, the Committee's computers and files were seized by the California Department of Justice on October 20, 2006. Some items were returned at the end of October; however, the respondents were not able to file an accurate and complete April Quarterly Report because they were still missing most of their computers and records on the April 15 filing deadline. Other computers and records were returned to them in May and they were able to file the April Quarterly Report on August 27, 2007, with the data they had at that time. They noted that the report was incomplete and that they would amend it as more records were retrieved. As of October 17, three folders containing pertinent records had not been returned to them.

28092621022

The Reviewing Officer believes that the seizure of computers and files on October 20, 2006 constitutes reasonably unforeseen circumstances beyond the respondents' control and caused their failure to timely file the report. The Reviewing Officer also believes that, although these circumstances continued through October 17, 2007, they were able to file the April Quarterly Report on August 27, 2007, which they later amended in September and December. Therefore, the Reviewing Officer recommended that the Commission make a final determination that they did not violate 2 U.S.C. § 434(a) because they demonstrated that they used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances that were beyond their control and that the circumstances persisted until at least October 17, 2007.

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's recommendation for AF# 1753 involving Tan Nguyen for Congress and Tan Nguyen, as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 1753 that Tan Nguyen for Congress and Tan Nguyen, as Treasurer, did not violate 2 U.S.C. § 434(a) because they demonstrated that they used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances beyond their control and that the circumstances persisted until at least October 17, 2007;
- (3) Close the file; and
- (4) Send the appropriate letter.



FEDERAL ELECTION COMMISSION
Washington, DC 20463

SENSITIVE

DATE & TIME OF TRANSMITTAL: Wednesday, February 13, 2008 4:00

BALLOT DEADLINE: Tuesday, February 19, 2008 4:00

COMMISSIONER: MASON, WEINTRAUB

SUBJECT: **Final Determination Recommendation
in AF 1753 – Tan Nguyen for Congress
and Tan Nguyen, as Treasurer (C00399113)
Memorandum from the Chief Compliance
Officer and the Reviewing Officer dated
February 12, 2008**

() 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

28092621024

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Final Determination Recommendation:) AF 1753
Tan Nguyen for Congress and Tan)
Nguyen, as Treasurer (C00399113))

CERTIFICATION

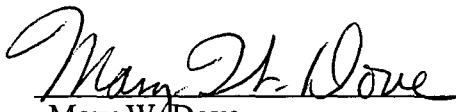
I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby
certify that on September 24, 2008, the Commission decided by a vote of 6-0 to
take the following actions in AF 1753:

1. Adopt the Reviewing Officer's recommendation for AF 1753 involving Tan Nguyen for Congress and Tan Nguyen, as Treasurer, in making the final determination.
2. Make a final determination in AF 1753 that Nguyen for Congress and Tan Nguyen, as Treasurer, did not violate 2 U.S.C. § 434(a) because they demonstrated that they used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances beyond their control and the circumstances persisted until at least October 17, 2007.
3. Close the file.
4. Send the appropriate letter.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and
Weintraub voted affirmatively for the decision.

Attest:

September 25, 2008
Date


Mary W. Dove
Secretary of the Commission

28092621025



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 9, 2008

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Tan Nguyen, as Treasurer
Tan Nguyen for Congress

Garden Grove, CA 92840

ID# C00399113
AF# 1753

Dear Mr. Nguyen:

On July 12, 2007, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Tan Nguyen for Congress 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 \$4,500 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On August 23, 2007, the Office of Administrative Review received the written response from you challenging the RTB civil money penalty.

The Reviewing Officer reviewed the Commission's RTB finding with its supporting documentation and the challenge. Based on this review, the Reviewing Officer recommended that the Commission make a final determination that the respondents did not violate 2 U.S.C. § 434(a) because they demonstrated that they used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances that were beyond their control and that the circumstances persisted until at least October 17, 2007. The basis for the Reviewing Officer's recommendation was included in the Final Determination Report, a copy of which was sent to you on January 28, 2008.

On September 24, 2008, the Commission adopted the Reviewing Officer's recommendation that the respondents did not violate 2 U.S.C. § 434(a) because they demonstrated best efforts. A copy of the final determination memorandum is attached.

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.

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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,

A handwritten signature in black ink, appearing to read 'D. McGahn II', written in a cursive style.

Donald F. McGahn II
Chairman

Attachment

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FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 1753

DATE SCANNED 12/1/08

SCANNER NO. 1

SCAN OPERATOR ΣΕΣ

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