



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 1887

DATE SCANNED 6/5/09

SCANNER NO. 2

SCAN OPERATOR IMP

29092630412



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

DEC 8 - 8 P 1:59

December 8, 2008

MEMORANDUM

SENSITIVE

TO: THE COMMISSION

THROUGH: JOSEPH F. STOLTZ *[Signature]*  
ACTING STAFF DIRECTOR

FROM: JOHN D. GIBSON *[Signature]*  
CHIEF COMPLIANCE OFFICER

PATRICIA CARMONA *[Signature]*  
ASSISTANT STAFF DIRECTOR  
REPORTS ANALYSIS DIVISION

BY: *aru* NATALIYA IOFFE/*RM* RIIANNON MAGRUDER/CHRIS RITCHIE *CP*  
COMPLIANCE BRANCH

SUBJECT: REASON TO BELIEVE RECOMMENDATION – 2008 OCTOBER  
QUARTERLY REPORT (ELECTION SENSITIVE) FOR THE  
ADMINISTRATIVE FINE PROGRAM

Attached is a list of political committees and their treasurers who failed to file the 2008 October Quarterly Report in accordance with 2 U.S.C. 434(a). The October Quarterly Report was due on October 15, 2008.

Under the Administrative Fine Program, the October Quarterly Report is considered an election-sensitive filing for authorized committees supporting candidates involved in the general election as well as all unauthorized committees. For the committees listed on the attached RTB Circulation Report, the October Quarterly Report was an election-sensitive filing. The committees either filed the report more than five (5) days after the due date, failed to file the report or failed to file the report prior to four (4) days before the general election (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 included on the attached report.

29092630413

### **Recommendation**

1. Find reason to believe that the 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.

29092630414

Federal Election Commission  
Reason to Believe Circulation Report  
2008 OCTOBER QUARTERLY Election Sensitive 10/15/2008 H\_S\_P\_UNAUTH

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
1887	C00135525	AMERICAN NATIONAL INSURANCE COMPANY EMPLOYEE POLITICAL ACTION COMMITTEE		JOHN MARK FLIPPIN	\$179,504	0	11/10/2008	Not Filed	\$58,118	\$3,000
1888	C00034645	AMERICAN SOCIETY FOR CLINICAL LABORATORY SCIENCE POLITICAL ACTION COMMITTEE (FKA ASMT/PAC)		LINDA HICKOK	\$109,237	0	11/6/2008	Not Filed	\$18,167	\$900
1889	C00439042	AMERICANS UNITED FOR FREEDOM (AUF) PAC	PAUL, RON	BRANDON S. LLOYD	\$164,826	0		Not Filed	\$54,942 (est)	\$3,000
1890	C00395988	ARGON ST PAC		GABRIELLE CARRUTH	\$109,550	0	11/12/2008	Not Filed	\$11,600	\$900

1892	C00030593	CONSUMER DATA INDUSTRY ASSOCIATION INC POLITICAL ACTION COMMITTEE OR CDIA PAC		JOSEPH RUBIN	\$130,781	0	11/6/2008	Not Filed	\$9,165	\$600
------	-----------	---	--	--------------	-----------	---	-----------	-----------	---------	-------

1894	C00448241	DOUG TUDOR FOR CONGRESS	TUDOR, DOUGLAS DAVID	JON P. TUDOR	\$175,068	0	10/29/2008	14	\$49,075	\$650
------	-----------	-------------------------	----------------------	--------------	-----------	---	------------	----	----------	-------

1897	C00421008	METAL LATHERS LOCAL 46 PAC		ROBERT LEDWITH	\$256,590	0	10/23/2008	8	\$35,396	\$500
------	-----------	----------------------------	--	----------------	-----------	---	------------	---	----------	-------

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
1899	C00363812	RECREATIONAL FISHING ALLIANCE, PAC		TONI STEFANO	\$104,392	1		Not Filed	\$26,098 (est)	\$1,750
1900	C00437871	SALAZAR COMISIONADO 2008	SALAZAR, ALFREDO	LUIS SALAZAR	\$710,846	1	10/26/2008	11	\$353,807	\$6,500
1901	C00189266	SHEET METAL WORKERS LOCAL 100 POLITICAL ACTION COMMITTEE (100 PAC)		JOHN R. SHIELDS, JR.	\$120,048	0	11/17/2008	Not Filed	\$10,976	\$900
1902	C00153379	SIERRA PACIFIC EMPLOYEES POLITICAL ACTION COMMITTEE		JOHN VINSKI	\$127,020	0	10/21/2008	6	\$31,925	\$450
1903	C00421962	SOLAR ENERGY INDUSTRIES ASSOCIATION PAC		RHONE RESCH	\$135,255	0	10/27/2008	12	\$23,382	\$270
1904	C00148155	ST LOUISIANS FOR BETTER GOVERNMENT		BERNARD PASTERNAK	\$112,276	0	10/26/2008	11	\$3,752	\$160
1905	C00139867	UGI CORPORATION POLITICAL ACTION COMMITTEE (UGI/PAC)		GREGORY MICHAEL BUCKS	\$206,865	0	12/4/2008	Not Filed	\$30,127	\$1,400
1906	C00377549	USAFARMWORKERPAC		STUART J. MITCHELL	\$103,719	0	11/19/2008	Not Filed	\$34,398	\$1,400

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
)  
Reason To Believe Recommendation - 2008 )  
October Quarterly Report (Election )  
Sensitive) for the Administrative Fine )  
Program: )  
AMERICAN NATIONAL INSURANCE ) AF# 1887  
COMPANY EMPLOYEE POLITICAL )  
ACTION COMMITTEE, and JOHN )  
MARK FLIPPIN as treasurer; )  
AMERICAN SOCIETY FOR CLINICAL ) AF# 1888  
LABORATORY SCIENCE POLITICAL )  
ACTION COMMITTEE (FKA )  
ASMT/PAC), and LINDA HICKOK as )  
treasurer; )  
AMERICANS UNITED FOR FREEDOM ) AF# 1889  
(AUF) PAC, and BRANDON S LLOYD as )  
treasurer; )  
ARGON ST PAC, and GABRIELLE ) AF# 1890  
CARRUTH as treasurer; )

\_\_\_\_\_  
CONSUMER DATA INDUSTRY ) AF# 1892  
ASSOCIATION INC POLITICAL )  
ACTION COMMITTEE OR CDIA PAC, )  
and JOSEPH RUBIN as treasurer; )

\_\_\_\_\_  
DOUG TUDOR FOR CONGRESS, and ) AF# 1894  
JON P TUDOR as treasurer; )

\_\_\_\_\_  
METAL LATHERS LOCAL 46 PAC, and ) AF# 1897  
ROBERT LEDWITH as treasurer; )

29092630417

RECREATIONAL FISHING ALLIANCE, ) AF# 1899  
PAC, and TONI STEFANO as treasurer; )  
SALAZAR COMISIONADO 2008, and ) AF# 1900  
LUIS SALAZAR as treasurer; )  
SHEET METAL WORKERS LOCAL 100 ) AF# 1901  
POLITICAL ACTION COMMITTEE (100 )  
PAC), and JOHN R SHIELDS JR as )  
treasurer; )  
SIERRA PACIFIC EMPLOYEES ) AF# 1902  
POLITICAL ACTION COMMITTEE, and )  
VINSKI, JOHN as treasurer; )  
SOLAR ENERGY INDUSTRIES ) AF# 1903  
ASSOCIATION PAC, and RHONE )  
RESCH as treasurer; )  
ST LOUISIANS FOR BETTER ) AF# 1904  
GOVERNMENT, and BERNARD )  
PASTERNAK as treasurer; )  
UGI CORPORATION POLITICAL ) AF# 1905  
ACTION COMMITTEE (UGI/PAC), and )  
GREGORY MICHAEL BUCKS as )  
treasurer; )  
USAFARMWORKERPAC, and STUART J ) AF# 1906  
MITCHELL as treasurer; )

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby  
certify that on December 10, 2008 the Commission took the following actions on the  
Reason To Believe Recommendation - 2008 October Quarterly Report (Election  
Sensitive) for the Administrative Fine Program as recommended in the Reports Analysis  
Division's Memorandum dated December 08, 2008, on the following committees:

AF#1887 Decided by a vote of 6-0 to: (1) find reason to believe that AMERICAN  
NATIONAL INSURANCE COMPANY EMPLOYEE POLITICAL ACTION

29092630418

COMMITTEE, and JOHN MARK FLIPPIN 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1888 Decided by a vote of 6-0 to: (1) find reason to believe that AMERICAN SOCIETY FOR CLINICAL LABORATORY SCIENCE POLITICAL ACTION COMMITTEE (FKA ASMT/PAC), and LINDA HICKOK 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1889 Decided by a vote of 6-0 to: (1) find reason to believe that AMERICANS UNITED FOR FREEDOM (AUF) PAC, and BRANDON S LLOYD 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1890 Decided by a vote of 6-0 to: (1) find reason to believe that ARGON ST PAC, and GABRIELLE CARRUTH 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

---

AF#1892 Decided by a vote of 6-0 to: (1) find reason to believe that CONSUMER DATA INDUSTRY ASSOCIATION INC POLITICAL ACTION COMMITTEE OR CDIA PAC, and JOSEPH 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

29092630419

---

AF#1894 Decided by a vote of 6-0 to: (1) find reason to believe that DOUG TUDOR FOR CONGRESS, and JON P TUDOR 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

---

AF#1897 Decided by a vote of 6-0 to: (1) find reason to believe that METAL LATHERS LOCAL 46 PAC, and ROBERT LEDWITH 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

---

AF#1899 Decided by a vote of 6-0 to: (1) find reason to believe that RECREATIONAL FISHING ALLIANCE, PAC, and TONI STEFANO 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

---

AF#1900 Decided by a vote of 6-0 to: (1) find reason to believe that SALAZAR COMISIONADO 2008, and LUIS SALAZAR as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount

29092630420

indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1901 Decided by a vote of 6-0 to: (1) find reason to believe that SHEET METAL WORKERS LOCAL 100 POLITICAL ACTION COMMITTEE (100 PAC), and JOHN R SHIELDS JR 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1902 Decided by a vote of 6-0 to: (1) find reason to believe that SIERRA PACIFIC EMPLOYEES POLITICAL ACTION COMMITTEE, and VINSKI, JOHN 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1903 Decided by a vote of 6-0 to: (1) find reason to believe that SOLAR ENERGY INDUSTRIES ASSOCIATION PAC, and RHONE RESCH 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1904 Decided by a vote of 6-0 to: (1) find reason to believe that ST LOUISIANS FOR BETTER GOVERNMENT, and BERNARD PASTERNAK 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1905 Decided by a vote of 6-0 to: (1) find reason to believe that UGI CORPORATION POLITICAL ACTION COMMITTEE (UGI/PAC), and GREGORY MICHAEL BUCKS 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#1906 Decided by a vote of 6-0 to: (1) find reason to believe that USAFARMWORKERPAC, and STUART J MITCHELL 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 Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

29092630421

Federal Election Commission  
Certification for Administrative Fines  
December 10, 2008

Page 6

Attest:

December 10, 2008  
Date

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

29092630422



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 11, 2008

John Mark Flippin  
American National Insurance Company  
Employee Political Action Committee  
One Moody Plaza  
Galveston, TX 77550

C00135525  
AF#: 1887

Dear John Mark Flippin:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file an October Quarterly Report of Receipts and Disbursements in a calendar year during which there is a regularly scheduled election. This report, covering the period through September 30th, shall be filed no later than October 15th. 2 U.S.C. 434(a). Records at the Federal Election Commission ("FEC") indicate that this report was not filed within (30) days of the due date. You should file the October Quarterly 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 12/10/2008, the FEC found that there is reason to believe ("RTB") that American National Insurance Company Employee Political Action Committee and you, as treasurer, violated 2 U.S.C. 434(a) by failing to file timely this report on or before October 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 \$3,000. It is due by 1/19/2009 and is based on these factors:

Election Sensitivity of Report: Election Sensitive  
Level of Activity: \$58,118  
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 4. Upon receipt of your payment, the FEC will send you a final determination letter.

29092630423

**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 1/19/2009. 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 in the RTB finding; miscalculation of the calculated civil money penalty by the FEC; or your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to, a failure of Commission computers or Commission-provided software despite you seeking technical assistance from Commission personnel and resources; a widespread disruption of information transmissions over the Internet that is not caused by the Commission's or your computer systems or Internet service provider; and severe weather or other disaster-related incident. **Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to, negligence; delays caused by vendors or contractors; treasurer and staff illness, inexperience or unavailability; committee computer, software, or internet service provider failures; failure to know filing dates; and failure to use filing software properly.** Your response must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 C.F.R. 111.35.

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 American National Insurance Company Employee Political Action Committee and you, as treasurer, violated 2 U.S.C. 434(a) and assess a civil money penalty.

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

29092630424

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

Additional information on the FEC's administrative fine program, including the final regulations, is located at the FEC's website at [www.FEC.gov](http://www.FEC.gov). If you have questions regarding the payment of the calculated civil money penalty, please contact Rhiannon Magruder 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,

A handwritten signature in black ink, appearing to read "DFM II", with a stylized flourish at the end.

Donald F. McGahn II  
Chairman

29092630425

-----  
**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 \$3,000 for the 2008 October 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 1/19/2009. 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: American National Insurance Company Employee Political Action Committee

FEC ID#: C00135525

AF#: 1887

PAYMENT DUE DATE: 1/19/2009

PAYMENT AMOUNT DUE: \$3,000

29092630426



FEC OFFICE OF  
ADMIN REVIEW

2009 JAN 12 A 11:55

9 January 2009

SENT VIA EXPRESS MAIL

Federal Election Commission  
Office of Administrative Review  
999 E. Street, N.W.  
Washington, D.C. 20463

RE: American National Insurance Company Employee Political Action Committee  
("EMPAC") AF#1887

Dear Madam or Sir:

Please accept this letter and the enclosed affidavit and exhibit as the written challenge of the American National Insurance Company Employee Political Action Committee ("EMPAC") and its treasurer, John Mark Flippin (collectively "Respondents"), to the civil monetary penalty assessed by the Federal Election Commission ("Commission") on December 15, 2008 (as revised by fax received December 17) for failure to timely file an October Quarterly Report ("Report").

The civil penalty imposed by the Commission should be excused pursuant to 11 C.F.R. 111.35(b)(1) because the assessment was based on the mistaken assumption that the Report was not timely filed, and in addition, extraordinary circumstances were present that were beyond the Respondents' control and contributed to the loss of the Report by the United States Postal Service ("USPS").

A. The Report was Timely Filed as of October 14, 2008.

According to 11 C.F.R. 100.19(b), a document required to be filed pursuant to 11 C.F.R. part 104 is "timely filed" if deposited as registered or certified mail in an established U.S. Post Office. The Commission will find a true copy of a Certified Mail Receipt attached to the enclosed Affidavit of J. Mark Flippin postmarked October 14, 2008 that shows the Report was deposited with the USPS to be sent to the Public Records Office of the Commission. The postmark is clearly dated before the fifteen days preceding the date of the 2008 Presidential Election. Accordingly, the Report was timely filed in accordance with 11 C.F.R. 100.19.

In light of these additional facts, Respondents request that the Commission rescind the penalty. 11 C.F.R. 111.35(b)(1).

29092630427



**B. USPS Failed to Deliver the Report to the Commission Due to Disruptions Caused by Hurricane Ike.**

In addition, Respondents believe that the Commission failed to receive the Report by the October 15 deadline due to disruptions caused by a natural disaster – Hurricane Ike. As the Commission is aware, Hurricane Ike caused extensive damage to the southeastern coast of Texas. Galveston Island, where EMPAC's records are located, was especially hard hit. President George W. Bush and Governor Rick Perry declared the island and the affected region a disaster area.

As the affidavit shows, Mr. Flippin made every reasonable effort to ensure that the Report was completed and sent to the Commission's office in advance of the deadline. Unfortunately, the Post Office in Galveston was not in operation during the week of October 10. Consequently, American National Insurance Company's mail department staff sent the Report overnight to the company's disaster recovery facility in San Antonio, where the Report was deposited with USPS for delivery. The Certified Mail Receipt together with the tracking slip shows that the Report was in the possession of the USPS no later than October 14.

The disruptions caused by Ike were beyond anyone's control. Ike shut down Galveston Island for weeks, and its disruptions emanated throughout the State of Texas. No doubt the administrative burdens of re-routing mail due to the closure of Post Offices in the affected area as a result of Ike's devastation were a significant factor that contributed to the loss of the package by the USPS. However, in light of Mr. Flippin's prudent attention to EMPAC's filing obligations, Respondents should not be held accountable for the missing Report.

In view of the considerable disruption caused by this natural disaster, and EMPAC's long record of filing such reports in a timely fashion, Respondents respectfully request that the Commission sees fit not to penalize them for these unfortunate circumstances.

Sincerely,

Dwain A. Akins,  
Secretary

American National Insurance Company Employee Political Action Committee

29092630428

**BEFORE THE FEDERAL ELECTION COMMISSION  
OFFICE OF ADMINISTRATIVE REVIEW**

**J. MARK FLIPPIN, As Treasurer for the     §  
American National Insurance Company     §  
Employee Political Action Committee     §**

**RE: AF #1887**

Before me appeared J. Mark Flippin, who, upon oath duly administered, declared the following:

1. My name is J. Mark Flippin. I am over 21 years of age, have never been convicted of a felony or crime involving moral turpitude, am otherwise competent to make this affidavit, and have personal knowledge of the facts stated in this affidavit.

2. I am Treasurer for the American National Insurance Company Employee Political Action Committee ("EMPAC"), and I am familiar with the reports filed by EMPAC in accordance with the Federal Election Campaign Act of 1971.

3. On December 15, 2008, I received a letter from the Federal Election Commission ("Commission") (revised by fax received December 17), which alleged that EMPAC failed to timely file an October Quarterly Report of Receipts and Disbursements ("Report") and assessed a civil monetary penalty of \$3,000.

4. All of EMPAC's records are located at my office in Galveston, Texas, which rests on a low-lying barrier island off the southeastern coast of the state. On September 13, 2008, Hurricane Ike struck Galveston rendering the island inaccessible for several days.

5. I was unable to return to my office until the week of October 6, 2008. Upon my return, I ensured that the Quarterly Report was completed and delivered to our mail department personnel on October 10 with instructions for delivery to the Commission by certified mail.

29092630429

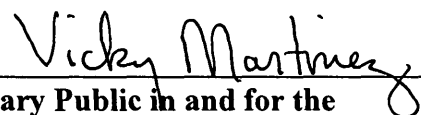
29092630430

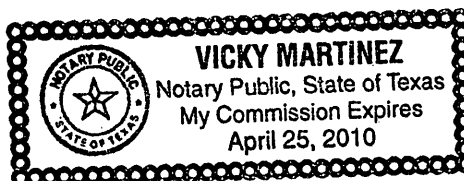
6. As the Galveston Post Office was still closed due to Ike, American National Insurance Company's mail department transported the Report by truck to the company's disaster recovery facility in San Antonio, Texas, which deposited the Report with USPS for delivery. USPS has been unable to track the delivery, but the postmark on our Certified Mail Receipt, a true copy of which is annexed to this affidavit as Exhibit "A," shows the San Antonio Post Office received the Report on October 14 (due to the intervening weekend).

7. On November 10, I received a letter from Patricia Carmona notifying me that the Commission had not received the Report. I immediately contacted the Commission and in accordance with instructions from the staff sent a duplicate report on November 11 *via* overnight delivery.

  
J. Mark Flippin

**SWORN** and **SUBSCRIBED** to before me by J. Mark Flippin on this 9<sup>th</sup> day of January, 2009.

  
Notary Public in and for the  
State of Texas



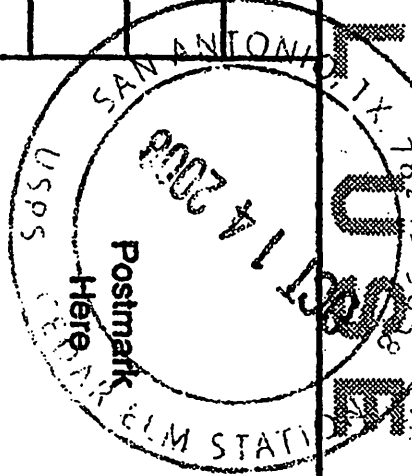
7008 1300 0002 2521 0777

**U.S. Postal Service™**  
**CERTIFIED MAIL™ RECEIPT**  
*(Domestic Mail Only; No Insurance Coverage Provided)*

For delivery information visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL MAIL**

Postage	\$ 4.80
Certified Fee	2.70
Return Receipt Fee (Endorsement Required)	2.20
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 9.70



Send To  
**Public Records Off. Fed. Elec. Comm**  
Street, P.O. Box  
**99 E. St., N.W.**  
City, State, ZIP+4  
**Washington, D.C. 20463**

PS Form 3800, August 2006 See Reverse for Instructions

Exhibit A

15705926062



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

First Class Mail

January 13, 2009

John Mark Flippin, Treasurer  
American National Insurance Company Employee Political Action Committee  
One Moody Plaza  
Galveston, TX 77550

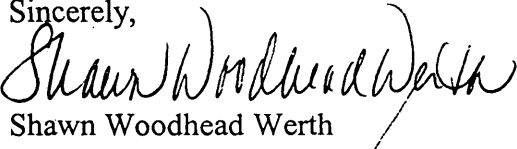
C00135525  
AF# 1887

Dear Mr. Flippin:

On January 12, 2009, the Commission received a written response ("challenge") from Dwain A. Akins which is being reviewed by the Office of Administrative Review. Please note that if your intent is to be represented by counsel, 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. A Designation of Counsel form is included for your convenience.

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,

  
Shawn Woodhead Werth  
Reviewing Officer  
Office of Administrative Review

Enclosure

29092630432

Date: January 16, 2009

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

AF#: 1887

Committee Name: American National Insurance Company Employee Political Action Committee

Committee ID#: C00135525

Committee Address (if different than in RTB letter): N/A

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

**Attachments:**

Copy of RTB Circulation Report, dated December 8, 2008 and RTB Certification, dated December 10, 2008: Previously Forwarded

Attachment #: N/A

Certified Return Receipt (Y/N): Y

Attachment #: 1

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

Attachment #: N/A

RAD Staff Declaration (Y/N): Y

-2008 October Quarterly Report Prior Notice, dated September 21, 2008.

-Non-Filer Letter, dated November 3, 2008.

-Original RTB Letter, dated December 11, 2008.

-Corrected RTB Letter, faxed December 17, 2008.

Attachment #: 3

Other RAD Information: (Y/N): Y – Memo to File, Fax Transmittal

Attachment#: 4

29092630433

29092630434

**SENDER: COMPLETE THIS SECTION**

- 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.

## 1. Article Addressed to:

John Mark Flippin  
 American National Insurance Company  
 Employee Political Action Committee  
 One Moody Plaza  
 Galveston, TX 77550

## 2. Article Number

(Transfer from service label)

7005 1820 0001 7501 3710

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

**COMPLETE THIS SECTION ON DELIVERY**

## A. Signature

X

☐ Agent☐ Addressee

## B. Received by (Printed Name)

Steven Morera

Date of Delivery

DEC 15 2003

## D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

## 3. Service Type

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

## 4. Restricted Delivery? (Extra Fee)

☐ Yes

UNITED STATES POSTAL SERVICE



First-Class Mail  
 Postage & Fees Paid  
 USPS  
 Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Federal Election Commission

RAD - Compliance - AF# 1887

999 E. Street, NW

Washington, DC 20463

RTB



## DECLARATION OF NATALIYA IOFFE

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 American National Insurance Company Employee Political Action Committee:
  - A) Prior Notice, dated September 21, 2008, referencing the 2008 October Quarterly Report (sent via electronic mail to: MARK.FLIPPIN@ANICO.COM),
  - B) Non-Filer Letter, dated November 3, 2008, referencing the 2008 October Quarterly Report;
  - C) Original Reason-to-Believe Letter, dated December 11, 2008, referencing the 2008 October Quarterly Report,
  - D) Corrected Reason-to-Believe Letter, sent via facsimile December 17, 2008, referencing the 2008 October Quarterly Report.
3. I hereby certify that I have searched the Commission's public records and find that American National Insurance Company Employee Political Action Committee filed the 2008 October Quarterly Report with the Commission on November 10, 2008.
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 16<sup>th</sup> day of January, 2009.



Nataliya Ioffe  
Chief, Compliance Branch  
Reports Analysis Division  
Federal Election Commission



# OCTOBER QUARTERLY REPORT NOTICE

FEDERAL ELECTION COMMISSION

PARTIES AND PACS

September 21, 2008

## CURRENT REPORT DUE

### REPORTING DATES

REPORT	REPORTING PERIOD <sup>1</sup>	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
October Quarterly	07/01/08 - 09/30/08	10/15/08	10/15/08

### PRE-ELECTION REPORTING

Committees that make contributions or expenditures (including independent expenditures) in connection with an election must also file a Pre-Election Report, if the activity was not previously reported. For the pre-election reporting guidelines, see the January 2008 Record, which can be found on the FEC web site at [www.fec.gov/pdf/record/2008/jan08.pdf](http://www.fec.gov/pdf/record/2008/jan08.pdf).

Supplemental Filing Information available on pages 3 and 4 of this notice.

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

29092630436

## REPORTING SCHEDULE FOR REMAINDER OF 2008

### REPORTING DATES

REPORT	REPORTING PERIOD <sup>1</sup>	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
Pre-General <sup>2</sup>	10/01/08 - 10/15/08	10/20/08	10/23/08
Post-General	10/16/08 - 11/24/08	12/04/08	12/04/08
Year-End	11/25/08 - 12/31/08	01/31/09	01/31/09 <sup>3</sup>

### PRE-ELECTION REPORTING

Committees that make contributions or expenditures (including independent expenditures) in connection with an election must also file a Pre-Election Report, if the activity was not previously reported. For the pre-election reporting guidelines, see the January 2008 Record, which can be found on the FEC web site at [www.fec.gov/pdf/record/2008/jan08.pdf](http://www.fec.gov/pdf/record/2008/jan08.pdf).

Supplemental Filing Information available on pages 3 and 4 of this notice.

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

<sup>2</sup>Required only if committee makes contributions or expenditures in connection with the general election during the reporting period.

<sup>3</sup>Notice that this filing deadline 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 for committees supporting only Senate candidates, 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

All Party Committees and PACs (Nonconnected Committees and Separate Segregated Funds) filing on a quarterly basis must file an October Quarterly Report by October 15, 2008. 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

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

Under the Commission's mandatory electronic filing regulations, political committees that receive contributions or make expenditures, including independent expenditures, in excess of \$50,000 in a calendar year, or that have reason to expect to do so, must file all reports with the FEC electronically. Other 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.

#### Registered & Certified Mail

Quarterly 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. Please 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.

#### Overnight Mail

Quarterly 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

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

Forms are available for downloading and printing at the FEC website at [www.fec.gov/info/forms.shtml](http://www.fec.gov/info/forms.shtml).

## COMPLIANCE

**Treasurer Responsibility.** Treasurers of political committees are responsible for both the timeliness and the accuracy of all reports. They may be subject to monetary penalties if reports are inaccurate or are not filed on time. For additional information, see the Commission's *Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings* on the web site at [www.fec.gov/law/policy/2004/notice2004-20.pdf](http://www.fec.gov/law/policy/2004/notice2004-20.pdf)

**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). For additional information, visit the FEC website at [www.fec.gov/af/af.shtml](http://www.fec.gov/af/af.shtml).

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

**Electronic Filers Must File Electronically.** Electronic filers who instead file on paper, or who submit an electronic report (either by direct transmission, 3.5" diskette or CD) that does not pass the validation program by the 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).

## 48- AND 24-HOUR REPORTS OF INDEPENDENT EXPENDITURES

Any PAC or Party Committee that makes independent expenditures at any time during the calendar year—up to and including the 20th day before an election (including a special election)—are required to disclose this activity within 48 hours each time that the expenditures aggregate \$10,000 or more in connection with that election. This reporting requirement is in addition to the requirement to file 24-hour reports of independent expenditures each time disbursements for independent expenditures in connection with that election aggregate or exceed \$1,000 during the last 20 days—up to 24 hours—before an election. PACs and Party Committees must report independent expenditures that do not trigger the 48- or 24-hour reporting thresholds on their regularly-scheduled disclosure reports. See 11 CFR 104.4.

These reports are not required when a Party Committee or PAC makes a contribution directly to a candidate. For a chart of 2008 48- and 24-hour reporting periods for independent expenditures, consult the FEC website at [www.fec.gov/info/charts\\_ie\\_dates\\_pres.shtml](http://www.fec.gov/info/charts_ie_dates_pres.shtml).

## CHANGE IN FILING FREQUENCY

Committees able to change their reporting schedule (for example, from monthly to quarterly) who wish to do so must notify the Commission in writing when filing a report under the committee's current schedule. All reports filed after providing such a notice of change in filing frequency must follow the new filing schedule. Electronic filers must file this request electronically. Committees may change their filing frequency no more than once per calendar year.

---

FOR INFORMATION, CALL: (800) 424-9530 or (202) 694-1100



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 3, 2008

RQ-7

JOHN MARK FLIPPIN, TREASURER  
AMERICAN NATIONAL INSURANCE COMPANY EMPLOYEE POLITICAL ACTION COMMITTEE  
ONE MOODY PLAZA  
GALVESTON, TX 77550

IDENTIFICATION NUMBER: C00135525

REFERENCE: OCTOBER QUARTERLY REPORT 7/1/2008 - 9/30/2008

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.

IT IS IMPORTANT THAT YOU FILE THIS REPORT IMMEDIATELY WITH THE FEDERAL ELECTION COMMISSION, 999 E STREET, N.W., WASHINGTON, D.C., 20463. PLEASE NOTE THAT ELECTRONIC FILERS MUST SUBMIT THEIR REPORTS ELECTRONICALLY, AS PER 11 CFR §104.18. A COPY OF THE REPORT OR RELEVANT PORTIONS MUST ALSO BE FILED WITH THE SECRETARY OF THE 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 SARI PICKERALL AT OUR TOLL FREE NUMBER (800)424-9530. OUR DIRECT LOCAL NUMBER IS (202)694-1130.

SINCERELY,

A handwritten signature in cursive script that reads "Patricia Carmona".

PATRICIA CARMONA  
ASSISTANT STAFF DIRECTOR  
REPORTS ANALYSIS DIVISION (RAD)

20092630440

2009 JAN 30 A 9:13

January 27, 2009

Ms. Shawn Woodhead Werth  
Reviewing Officer  
Office of Administrative Review  
Federal Election Commission  
999 E. Street, N.W.  
Washington DC 20463

Dear Ms. Werth:

This is in response to your January 13, 2009 letter.

I have completed the form you provided to me, and it is enclosed.

Sincerely,



J. Mark Flippin

cc: Dwain Akins  
Sean Monticello

29092630441

STATEMENT OF DESIGNATION OF COUNSEL

AF #: 1887

NAME OF COUNSEL: Sean Monticello

FIRM: Greer, Herz & Adams, L.L.P.

ADDRESS: One Moody Plaza, 18th Floor

Galveston, TX 77550-7998

TELEPHONE: ( 409 ) 797-3200

FAX: ( 409 ) 766-6424

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission in the matter of the aforementioned Administrative Fine.

January 27, 2009  
Date

  
Signature

RESPONDENT'S NAME: J. Mark Flippin

American National Insurance Company  
COMMITTEE NAME: Employee Political Action Committee

ADDRESS: One Moody Plaza

Galveston, TX 77550

TELEPHONE: HOME: \_\_\_\_\_

BUSINESS: ( 409 ) 766-6537

29092630442



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

FEDERAL ELECTION COMMISSION  
COMMUNICATIONS SECTION  
SECRETARIAT

2009 FEB -2 P 3:29

January 30, 2009

**MEMORANDUM**

To: The Commission

Through: Joseph F. Stoltz *JFS*  
Acting Staff Director

From: John D. Gibson  
Chief Compliance Officer

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

By: Maureen Benitz *MB*  
Reviewing Analyst

Subject: AF# 1887 – American National Insurance Company Employee Political  
Action Committee and John Mark Flippin, as Treasurer (C00135525)

**SENSITIVE**

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

29092630443



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

January 30, 2009

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

AF# 1887 – American National Insurance Company Employee Political Action  
Committee and John Mark Flippin, as Treasurer (C00135525)

On December 10, 2008, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to file the 2008 October Quarterly Report and made a preliminary determination that the civil money penalty was \$3,000 based on the schedule of penalties at 11 C.F.R. § 111.43. They were notified by the Reports Analysis Division ("RAD") on December 11 and 17, 2008 of the Commission's RTB finding and civil money penalty.

**Respondents' Response**

On January 12, 2008, the Commission received the written response ("challenge") from Dwain A. Akins, the Secretary of the Committee. The Secretary asserts the Committee submitted their report no later than October 14, 2008, to be delivered via certified mail, to the Commission. He explains that, due to Hurricane Ike, the Galveston Post Office was not open the week of October 10. Because of the state of emergency in place in Galveston Island, where the Committee records are held, the Committee's staff had the report transported to the company's disaster recovery facility in San Antonio. The report was ultimately received at the San Antonio Post Office on October 14, 2008. He believes that the Postal Service faced severe service disruptions and that is why the report was never delivered to the Commission. Included with the challenge is an affidavit signed by John Mark Flippin, the Treasurer, which reiterates Mr. Akins' explanation, as well as a copy of the certified mail receipt for tracking number 7008 1300 0002 2521 0777, which is postmarked October 14, 2008.

**Analysis**

The October Quarterly Report shall be filed no later than October 15. 2 U.S.C. § 434(a)(4)(A)(i). The Federal Election Campaign Act states that if a report (other than a pre-election report) is sent by certified mail, the U.S. postmark is considered the date of filing. 2 U.S.C. § 434(a)(5).

The respondents have provided factual evidence that shows they "filed" their report to the Commission via certified mail on October 14, 2008. It appears that the USPS lost the report and, thus, it was not received at the Commission.

29092630444

29092630445

The respondents availed themselves of the certified mail safe harbor provision at 2 U.S.C. § 434(a)(5) and their report should be considered filed on October 14, 2008, making it a timely filed report.

Therefore, the Reviewing Officer recommends that the Commission find that they did not violate 2 U.S.C. § 434(a) because the RTB finding was based on a factual error.

#### **OAR Recommendations**

- (1) Adopt the Reviewing Officer recommendation for AF# 1887 involving American National Insurance Company Employee Political Action Committee and John Mark Flippin, as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 1887 that American National Insurance Company Employee Political Action Committee and John Mark Flippin, as Treasurer, did not violate 2 U.S.C. § 434(a) because the RTB finding was based on a factual error;
- (3) Close the file; and
- (4) Send the appropriate letter.


Reviewing Analyst: Maureen Benitz

#### **Attachments**

Attachment 1 – Challenge Received from Respondents  
Attachment 2 – Declaration from RAD  
Attachment 3 – Declaration from OAR

**DECLARATION OF MAUREEN BENITZ**

- 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 2008 October Quarterly Report is due October 15, 2008. If the report is sent by certified mail and is postmarked by October 15, it is considered timely filed.
- 3) I hereby certify that I have searched the Commission's public records and that the documents identified herein are the true and accurate copies of the letter accompanying the 2008 October Quarterly Report, Page 1 of the 2008 October Quarterly Report, the certified mail receipt for tracking number 7008 1300 0002 2521 0777, postmarked October 14, 2008, and the Envelope Replacement Page for Incoming Documents filed by the American National Insurance Company Employee Political Action Committee and John Mark Flippin, as Treasurer. According to Commission records, the Report, letter and receipt were sent on November 10, 2008, via overnight delivery, and were received on November 12, 2008.
- 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 30<sup>th</sup> of January, 2009.

  
Maureen Benitz  
Reviewing Analyst  
Office of Administrative Review  
Federal Election Commission

29092630446



AMERICAN NATIONAL INSURANCE COMPANY

J. MARK FLIPPIN, CLU, ChFC, FLMI, SECRETARY  
ONE MOODY PLAZA, GALVESTON, TX 77550-7999  
Bus: (409) 766-6537, Fax: (409) 766-6803  
Email: mark.flippin@anico.com

RECEIVED  
FEC MAIL CENTER

2008 NOV 12 PM 12:16



November 10, 2008

Public Records Office  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20463

This is in response to Patricia Carmona's letter of November 3, 2008, a copy of which is enclosed, regarding the October quarterly report for the American National Insurance Company Employee Political Action Committee.

That report was mailed on October 10, 2008, and a copy of the certified mail receipt is enclosed. When I received Ms. Carmona's letter earlier today, I asked our mail department to see if they could track the package, and they attempted to do, using tracking number 70081300000225210777, but for whatever reason, USPS has no record of it.

As you may be aware, mail service in and out of Galveston has been severely affected by Hurricane Ike in recent weeks, and I believe the package might have been mishandled in the aftermath of the hurricane.

Earlier today, I spoke to a gentleman at the FEC named Chris at ext. 1146. He suggested that I send you another copy of the report, along with this cover letter of explanation. The report is enclosed. Please do not hesitate to contact me if I can do anything further.

Sincerely,

J. Mark Flippin  
Treasurer,  
American National Insurance Company Employee Political  
Action Committee  
mark.flippin@anico.com

29092630447  
28039920184

**FEC  
FORM 3X**

**REPORT OF RECEIPTS  
AND DISBURSEMENTS**  
For Other Than An Authorized Committee

RECEIVED  
FEC MAIL CENTER  
2008 NOV 12 PM 12:16

Office Use Only

1. NAME OF  
COMMITTEE (in full)

TYPE OR PRINT ▼

Example: If typing, type  
over the lines.

12FE4M5

AMERICAN NATIONAL INSURANCE COMPANY EMPLOYEE POLITICAL ACTION COMMITTEE

ADDRESS (number and street)

ONE MOODY PLAZA



Check if different  
than previously  
reported. (ACC)

GALVESTON

TX

77550

2. FEC IDENTIFICATION NUMBER ▼

CITY ▲

STATE ▲

ZIP CODE ▲

C 00135525

3. IS THIS  
REPORT

☒ NEW  
(N)

OR

☐ AMENDED  
(A)

4. TYPE OF REPORT  
(Choose One)

(a) Quarterly Reports:

- ☐ April 15  
Quarterly Report (Q1)
- ☐ July 15  
Quarterly Report (Q2)
- ☒ October 15  
Quarterly Report (Q3)
- ☐ January 31  
Year-End Report (YE)
- ☐ July 31 Mid-Year  
Report (Non-election  
Year Only) (MY)
- ☐ Termination Report  
(TER)

(b) Monthly  
Report  
Due On:

- ☐ Feb 20 (M2)
- ☐ Mar 20 (M3)
- ☐ Apr 20 (M4)

- ☐ May 20 (M5)
- ☐ Jun 20 (M6)
- ☐ Jul 20 (M7)

- ☐ Aug 20 (M8)
- ☐ Sep 20 (M9)
- ☐ Oct 20 (M10)

- ☐ Nov 20 (M11)  
(Non-Election  
Year Only)
- ☐ Dec 20 (M12)  
(Non-Election  
Year Only)
- ☐ Jan 31 (YE)

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

- ☐ Primary (12P)
- ☐ Convention (12C)

- ☐ General (12G)
- ☐ Special (12S)

☐ Runoff (12R)

Election on

10/10/2008

In the  
State of

TX

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

☐ General (30G)

☐ Runoff (30R)

☐ Special (30S)

Election on

10/10/2008

In the  
State of

TX

5. Covering Period

07/01/2008

through

09/30/2008

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

John Mark Flippin

Signature of Treasurer

*John Mark Flippin*

Date

10/10/2008

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 3X**  
Rev. 12/2004

FE8AN026


*Mailed Certified mail  
10-10-08*

28039920185  
29092630448

Page 1/1

**2001/002**

Federal Election Commission  
**ENVELOPE REPLACEMENT PAGE FOR INCOMING DOCUMENTS**  
The FEC added this page to the end of this filing to indicate how it was received.

<input type="checkbox"/> Hand Delivered	Date of Receipt
<input type="checkbox"/> USPS First Class Mail	Postmarked
<input type="checkbox"/> USPS Registered/Certified	Postmarked (R/C)
<input type="checkbox"/> USPS Priority Mail	Postmarked
Delivery Confirmation™ or Signature Confirmation™ Label <input type="checkbox"/>	
<input type="checkbox"/> USPS Express Mail	Postmarked
<input type="checkbox"/> Postmark Illegible	
<input type="checkbox"/> No Postmark	
<input checked="" type="checkbox"/> Overnight Delivery Service (Specify): <span style="margin-left: 20px;">UPS</span>	Shipping Date 11/10/08
Next Business Day Delivery <input checked="" type="checkbox"/>	
<input type="checkbox"/> Received from House Records & Registration Office	Date of Receipt
<input type="checkbox"/> Received from Senate Public Records Office	Date of Receipt
<input type="checkbox"/> Received from Electronic Filing Office	Date of Receipt
<input type="checkbox"/> Other (Specify):	Date of Receipt or Postmarked
 PREPARER	11/12/08 DATE PREPARED

(3/2005)

29092630450  
28039920256



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**VIA OVERNIGHT DELIVERY**

February 3, 2009

John Mark Flippin, as Treasurer  
American National Insurance Company Employee Political Action Committee  
One Moody Plaza  
Galveston, TX 77550

C00135525  
AF# 1887

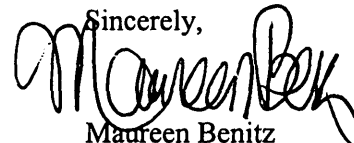
Dear Mr. Flippin:

On December 10, 2008, the Federal Election Commission ("Commission") found reason to believe ("RTB") that American National Insurance Company Employee Political Action Committee and you, as Treasurer ("respondents"), violated 2 U.S.C. § 434(a) for failing to file the 2008 October Quarterly Report. The Commission also made a preliminary determination that the civil money penalty was \$3,000.00 based on the schedule of penalties at 11 C.F.R. § 111.43.

After reviewing the written response submitted by you and any supplemental information submitted 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,  
  
Maureen Benitz  
Reviewing Analyst  
Office of Administrative Review

Attachment

29092630451



RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2009 FEB 25 A 9:35

February 4, 2009

*Via Facsimile (202) 208-3333*

Federal Election Commission  
Commission Secretary  
999 E Street, NW  
Washington, DC 20463

RE: AF# 1887 – American National Insurance Company Employee Political Action  
Committee and John Mark Flippin, as Treasurer (C00135525)

Dear Secretary Dove:

The American National Insurance Company Employee Political Action  
Committee (“EMPAC”) acknowledges receipt of the Reviewing Officer  
Recommendation with respect to the above-referenced matter and agrees with the OAR  
Recommendations therein. EMPAC has no further information to submit to the  
Commission in connection with this matter.

We thank you for the Commission’s due consideration of EMPAC’s response.

Sincerely,



Dwain A. Akins,  
Secretary  
American National Insurance Company Political Action Committee

cc: J. Mark Flippin,  
Treasurer  
American National Insurance Company Political Action Committee

29092630452



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2009 FEB 24 P 2:58

February 23, 2009

MEMORANDUM

**SENSITIVE**

To: The Commission

Through: Joseph F. Stoltz *JFS*  
Acting Staff Director

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

Shawn Woodhead *SW*  
Reviewing Officer  
Office of Administrative Review

By: Maureen Benitz *MB*  
Reviewing Analyst

Subject: Final Determination Recommendation in AF# 1887 – American  
National Insurance Company Employee Political Action Committee  
and John Mark Flippin, as Treasurer (C00135525)

On December 10, 2008, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failure to file the 2008 October Quarterly Report. As a result, the Commission also made a preliminary determination that the civil money penalty was \$3,000 based on the schedule of penalties at 11 C.F.R. § 111.43.

On January 12, 2009, the Commission received the respondents' written response ("challenge"). After reviewing the challenge, the Reviewing Officer's recommendation dated January 30, 2009 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. The respondents provided factual evidence that they filed their report, via certified mail, on October 14, 2008. It appears that the USPS lost the report. Because they availed themselves of the certified safe harbor provision at 2 U.S.C. § 434(a)(5), the report should be considered filed on October 14, making it a timely filed report. The Reviewing Officer recommended that the Commission make a final determination that they did not violate 2 U.S.C. § 434(a) because the RTB finding was based on a factual error.

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

29092630453

29092630454

raised in the respondents' challenge or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). On February 9, 2009, the respondents submitted a response which states that they agree with the recommendation and have no further information to submit.

**OAR Recommendations**

- (1) Adopt the Reviewing Officer recommendation for AF# 1887 involving American National Insurance Company Employee Political Action Committee and John Mark Flippin, as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 1887 that American National Insurance Company Employee Political Action Committee and John Mark Flippin, as Treasurer, did not violate 2 U.S.C. § 434(a) because the RTB finding was based on a factual error;
- (3) Close the file; and
- (4) Send the appropriate letter.

Attachment

1 Page

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
)  
Final Determination Recommendation: ) AF 1887  
American National Insurance Company )  
Employee Political Action Committee )  
and John Mark Flippin, as Treasurer )  
(C00135525) )

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby  
certify that on March 06, 2009, the Commission decided by a vote of 6-0 to take  
the following actions in AF 1887:

1. Adopt the Reviewing Officer recommendation for AF 1887 involving American National Insurance Company Employee Political Action Committee and John Mark Flippin, as Treasurer, in making the final determination.
2. Make a final determination in AF 1887 that American National Insurance Company Employee Political Action Committee and John Mark Flippin, as Treasurer, did not violate 2 U.S.C. § 434(a) because the RTB finding was based on a factual error.
3. Close the file.
4. Send the appropriate letter.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and

Weintraub voted affirmatively for the decision.

Attest:

March 6, 2009  
Date

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

29092630455



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

March 12, 2009

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

John Mark Flippin, as Treasurer  
American National Insurance Company Employee Political Action Committee  
One Moody Plaza  
Galveston, TX 77550

C00135525  
AF# 1887

Dear Mr. Flippin:

On December 10, 2008, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that the American National Insurance Company Employee Political Action Committee and you, as Treasurer, violated 2 U.S.C. § 434(a) for failing to file the 2008 October Quarterly Report. By letter dated December 11 and 17, 2008, the Commission sent you notification of the RTB finding that included a civil money penalty calculated at RTB of \$3,000 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On January 12, 2009, the Office of Administrative Review received the written response from Dwain A. Akins, the Secretary of the Committee, challenging the RTB finding.

The Reviewing Officer reviewed the Commission's RTB finding with its supporting documentation and the written response. Based on this review, the Reviewing Officer recommended that the Commission make a final determination that the American National Insurance Company Employee Political Action Committee and you, as Treasurer, did not violate 2 U.S.C. § 434(a) because the RTB finding was based on a factual error as the respondents provided factual evidence that they timely filed the report by certified mail on October 14, 2008, but the Commission did not receive it. The basis for the Reviewing Officer's recommendation was included in the Final Determination Report, a copy of which was sent to you on February 3, 2009.

On March 6, 2009, the Commission adopted the Reviewing Officer's recommendation and made a final determination that the American National Insurance Company Employee Political Action Committee and you, as Treasurer, did not violate 2 U.S.C. § 434(a) because the RTB finding was based on a factual error. A copy of the final determination recommendation is attached.

29092630456

29092630457

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

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

On behalf of the Commission,



Steven T. Walther  
Chairman

Attachment



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 1887

DATE SCANNED 6/5/19

SCANNER NO. 2

SCAN OPERATOR Jm

29092630458