



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 1952

DATE SCANNED 4/25/07

SCANNER NO. 2

SCAN OPERATOR Imp

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SECRETARIAT

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March 17, 2009

MEMORANDUM

SENSITIVE

TO: THE COMMISSION

THROUGH: ROBERT A. HICKEY
STAFF DIRECTOR

JOHN D. GIBSON
CHIEF COMPLIANCE OFFICER

FROM: PATRICIA CARMONA *PC*
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

BY: NATALIYA IOFFE/RHIANNON MAGRUDER *RM*
COMPLIANCE BRANCH

SUBJECT: REASON TO BELIEVE RECOMMENDATION -
FAILURE TO FILE 48-HOUR NOTICES UNDER THE
ADMINISTRATIVE FINE PROGRAM

Attached is the name of a principal campaign committee that has failed to file 48-hour notices with the Commission for contributions of \$1,000.00 or more received from the close of books for the Maryland 12 Day Pre-General Election Report up to 48 hours before the November 4, 2008 General Election in accordance with 2 U.S.C. § 434(a)(6) and 11 CFR. § 104.5(f). The committee, Frank Kratovil for Congress, represents a candidate who won the General Election. The committee is being referred for failing to file 48-hour notices for contributions totaling \$35,300.00.

A 48-hour notice is required to report all contributions of a \$1,000.00 or more, to any authorized committee of a candidate, including contributions from the candidate, loans from the candidate and other non-bank sources and endorsements or guarantees of loans from banks, as per, 11 CFR § 104.5(f).

We have attached an information sheet which includes the contributor name, date of receipt and amount of the contributions for which a 48-hour notice was not filed.

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In accordance with the schedule of civil money penalties outlined within 11 CFR §111.44, this committee should be assessed the civil money penalty so indicated.

Recommendation

1. Find reason to believe that Frank Kratovil for Congress and Elaine Harrison, Treasurer, violated 2 U.S.C. § 434(a)(6) and make a preliminary determination that a civil money penalty of \$3,860.00 be assessed.
2. Send the appropriate letter.

Attachment

29092630852

Contributions for Which a 48-Hour Notice Was Not Received

AF 1952

Committee ID: C00434936

Committee Name: Frank Kratovil for Congress

Report Type: 30 Day Post-General Report (10/16/2008 – 11/24/2008)

48-Hour Reporting Period: 10/16/2008 – 11/1/2008

CONTRIBUTOR	DATE	AMOUNT
RECREATIONAL FISHING ALLIANCE PAC	10/30/2008	\$1,000.00
ARTBA PAC	10/31/2008	\$1,000.00
BEAN-PAC	10/31/2008	\$1,000.00
BOGGS, THOMAS H., JR.	10/31/2008	\$1,000.00
BOILERMAKERS BLACKSMITHS LEGISLATIVE EDUCATION ACT	10/31/2008	\$1,000.00
BRAMBLE, DAVID C.	10/31/2008	\$1,000.00
COMMITTEE TO ELECT GARY L. ACKERMAN, INC.	10/31/2008	\$1,000.00
EIN, MARK	10/31/2008	\$1,000.00
KELLY, CATHERINE D.	10/31/2008	\$1,000.00
LAW OFFICES OF J. BRIAN TANSEY, LLC	10/31/2008	\$1,000.00
PROCTOR, DIANNE M.	10/31/2008	\$1,000.00
SEMANS, NELLIE M.	10/31/2008	\$1,000.00
SULLIVAN, MICHAEL D.	10/31/2008	\$1,000.00
WORTHINGTON, RANDALL P., SR.	10/31/2008	\$1,000.00
BECERRA FOR CONGRESS	10/31/2008	\$2,000.00
PEOPLE FOR BEN	10/31/2008	\$2,000.00
THE KEYSTONE FUND PAC	10/31/2008	\$2,000.00
YAP, KION	10/31/2008	\$2,000.00
CONGRESSIONAL BLACK CAUCUS PAC	10/31/2008	\$5,000.00
ALSPACH, THOMAS T.	11/1/2008	\$1,000.00
BERRY, PAUL	11/1/2008	\$1,000.00
BROWN, MICHAEL	11/1/2008	\$1,000.00
MASON, MINERVA R.	11/1/2008	\$1,000.00
NABIT, CHARLES J.	11/1/2008	\$1,000.00
UNITED STATES BEET SUGAR ASSOC. PAC	11/1/2008	\$1,000.00
KAPLAN, EDWARD H.	11/1/2008	\$2,300.00
	TOTAL	\$35,300.00

Proposed Civil Money Penalty: \$3,860.00 ((3 Notices Not Filed at \$110 each) + (10% of Overall Contributions Not Filed))

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AF#	Committee ID	Committee Name	State	Election	Candidate Name	Treasurer	Prev Violations	Notices Not Filed	LOA	Penalty
1952	C00434936	FRANK KRATOVIL FOR CONGRESS	MD	2008 GENERAL	KRATOVIL, FRANK	ELAINE HARRISON	0	3	\$35,300	\$3,860

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Reason To Believe Recommendation -) AF 1952
Failure To File 48-Hour Notices Under)
The Administrative Fine Program)

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby
certify that on March 19, 2009, the Commission decided by a vote of 6-0 to take
the following actions in AF 1952:

1. Find reason to believe that Frank Kratovil for Congress and Elaine Harrison, Treasurer, violated 2 U.S.C. § 434(a)(6) and make a preliminary determination that a civil money penalty of \$3,860.00 be assessed.
2. Send the appropriate letter.

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

Attest:

March 20, 2009
Date

Darlene Harris
for Mary W. Dove
Secretary of the Commission

29092630855



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 23, 2009

Mrs. Elaine Harrison as Treasurer
Frank Kratovil for Congress
222 Main Sail Drive
P.O. Box 518
Stevensville, MD 21666

C00434936
AF#: 1952

Dear Mrs. Elaine Harrison:

The Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431, *et seq.* ("the Act"), requires principal campaign committees of candidates for federal office to notify in writing either the Secretary of the Senate or the Federal Election Commission ("FEC"), and the Secretary of State, as appropriate, of any contribution of \$1,000 or more, received by any authorized committee of the candidate after the 20th day, but more than 48 hours before, any election. 2 U.S.C. § 434(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. *Id.* The notification of these contributions shall be in addition to all other reporting requirements. 2 U.S.C. § 434(a). The Act was 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). Our records indicate that Frank Kratovil for Congress did not submit 48-Hour Notices for contributions of \$1,000 or more, received between October 16, 2008 and November 1, 2008, totaling \$35,300, as required by 2 U.S.C. § 434(a)(6)(A). *See* Attachment 1.

On March 19, 2009, the FEC found that there is Reason to Believe ("RTB") that Frank Kratovil for Congress and you as treasurer violated 2 U.S.C. § 434(a) by failing to file the 48-Hour Notices. Based on the FEC's schedule of civil money penalties at 11 C.F.R. § 111.44, the amount of your civil money penalty calculated at the RTB stage is \$3,860. Please see the attached copy of the Commission's administrative fine regulations at 11 C.F.R. §§ 111.30-11.46. Attachment 2. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. *See* <http://www.fec.gov/pages/af/af.shtml>. 11 C.F.R. § 111.34. The amount of the civil money penalty is \$110 for each non-filed notice plus 10 percent of the dollar amount of the contributions not timely reported. The civil money penalty increases by 25 percent for each prior violation. Send your payment within forty (40) days of the finding, or by April 28, 2009.

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To Pay the Calculated Civil Money Penalty

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with 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.

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

If you should decide 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 within forty (40) days of the Commission's RTB finding, or April 28, 2009. 11 C.F.R. § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty. 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. 11 C.F.R. § 111.35(b). 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. *Id.* 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. 11 C.F.R. § 111.35(c). **Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to, 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.** 11 C.F.R. § 111.35(d). 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. § 111.36(c).

Pursuant to the Commission's regulations, the "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the 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 Frank Kratovil for Congress and you as treasurer violated 2 U.S.C. § 434(a) and assess a civil money penalty.

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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.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/pages/af/af.shtml>. 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.

On behalf of the Commission,



Steven T. Walther
Chairman

29092630858

ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 C.F.R. § 111.44, the amount of your civil money penalty calculated at RTB is \$3,860 for the 2008 General Election 48-Hour Notification 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 April 28, 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: Frank Kratovil for Congress

FEC ID#: C00434936

AF#: 1952

PAYMENT DUE DATE: April 28, 2009

PAYMENT AMOUNT DUE: \$3,860

29092630859

Contributions for Which a 48-Hour Notice Was Not Received

AF 1952

Committee ID: C00434936

Committee Name: Frank Kratovil for Congress

Report Type: 30 Day Post-General Report (10/16/2008 – 11/24/2008)

48-Hour Reporting Period: 10/16/2008 – 11/1/2008

CONTRIBUTOR	DATE	AMOUNT
RECREATIONAL FISHING ALLIANCE PAC	10/30/2008	\$1,000.00
ARTBA PAC	10/31/2008	\$1,000.00
BEAN-PAC	10/31/2008	\$1,000.00
BOGGS, THOMAS H., JR.	10/31/2008	\$1,000.00
BOILERMAKERS BLACKSMITHS LEGISLATIVE EDUCATION ACT	10/31/2008	\$1,000.00
BRAMBLE, DAVID C.	10/31/2008	\$1,000.00
COMMITTEE TO ELECT GARY L. ACKERMAN, INC.	10/31/2008	\$1,000.00
EIN, MARK	10/31/2008	\$1,000.00
KELLY, CATHERINE D.	10/31/2008	\$1,000.00
LAW OFFICES OF J. BRIAN TANSEY, LLC	10/31/2008	\$1,000.00
PROCTOR, DIANNE M.	10/31/2008	\$1,000.00
SEMANS, NELLIE M.	10/31/2008	\$1,000.00
SULLIVAN, MICHAEL D.	10/31/2008	\$1,000.00
WORTHINGTON, RANDALL P., SR.	10/31/2008	\$1,000.00
BECERRA FOR CONGRESS	10/31/2008	\$2,000.00
PEOPLE FOR BEN	10/31/2008	\$2,000.00
THE KEYSTONE FUND PAC	10/31/2008	\$2,000.00
YAP, KION	10/31/2008	\$2,000.00
CONGRESSIONAL BLACK CAUCUS PAC	10/31/2008	\$5,000.00
ALSPACH, THOMAS T.	11/1/2008	\$1,000.00
BERRY, PAUL	11/1/2008	\$1,000.00
BROWN, MICHAEL	11/1/2008	\$1,000.00
MASON, MINERVA R.	11/1/2008	\$1,000.00
NABIT, CHARLES J.	11/1/2008	\$1,000.00
UNITED STATES BEET SUGAR ASSOC. PAC	11/1/2008	\$1,000.00
KAPLAN, EDWARD H.	11/1/2008	\$2,300.00
TOTAL		\$35,300.00

Proposed Civil Money Penalty: \$3,860.00 ((3 Notices Not Filed at \$110 each) + (10% of Overall Contributions Not Filed))

Federal Election Commission

§ 111.32

penalty shall not exceed the greater of \$11,000 or an amount equal to 200% of any contribution or expenditure involved in the violation.

(ii) Notwithstanding paragraph (a)(2)(i) of this section, in the case of a knowing and willful violation of 2 U.S.C. 441f, the civil penalty shall not be less than 300% of the amount of any contribution involved in the violation and shall not exceed the greater of \$55,000 or 1,000% of the amount of any contribution involved in the violation.

(b) Any Commission member or employee, or any other person, who in violation of 2 U.S.C. 437g(a)(12)(A) makes public any notification or investigation under 2 U.S.C. 437g without receiving the written consent of the person receiving such notification, or the person with respect to whom such investigation is made, shall be fined not more than \$2,200. Any such member, employee, or other person who knowingly and willfully violates this provision shall be fined not more than \$6,500.

[62 FR 11317, Mar. 12, 1997; 62 FR 18167, Apr. 14, 1997; 65 FR 31794, May 19, 2000; 67 FR 76977, Dec. 13, 2002; 70 FR 34635, June 15, 2005]

Subpart B—Administrative Fines

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

§ 111.30 When will subpart B apply?

Subpart B applies to violations of the reporting requirements of 2 U.S.C. 434(a) committed by political committees and their treasurers that relate to the reporting periods that begin on or after July 14, 2000 and end on or before December 31, 2008. This subpart, however, does not apply to reports that were due between January 1, 2004 and February 10, 2004 and that relate to reporting periods that begin and end between January 1, 2004 and February 10, 2004.

[70 FR 75718, Dec. 21, 2005]

§ 111.31 Does this subpart replace subpart A of this part for violations of the reporting requirements of 2 U.S.C. 434(a)?

(a) No; §§ 111.1 through 111.8 and 111.20 through 111.24 shall apply to all compliance matters. This subpart will

apply, rather than §§ 111.9 through 111.19, when the Commission, on the basis of information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities, and when appropriate, determines that the compliance matter should be subject to this subpart. If the Commission determines that the violation should not be subject to this subpart, then the violation will be subject to all sections of subpart A of this part.

(b) Subpart B will apply to compliance matters resulting from a complaint filed pursuant to 11 CFR 111.4 through 111.7 if the complaint alleges a violation of 2 U.S.C. 434(a). If the complaint alleges violations of any other provision of any statute or regulation over which the Commission has jurisdiction, subpart A will apply to the alleged violations of these other provisions.

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

If the Commission determines, by an affirmative vote of at least four (4) of its members, that it has reason to believe that a respondent has violated 2 U.S.C. 434(a), the Chairman or Vice-Chairman shall notify such respondent of the Commission's finding. The written notification shall set forth the following:

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

(b) The applicable schedule of penalties;

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

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

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

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a time specified by the reviewing officer. The reviewing officer will be entitled to draw an adverse inference from the failure by the respondent to submit the supplemental information.

(c) All documents required to be submitted by the respondents pursuant to this section and § 111.35 should be submitted in the form of affidavits or declarations.

(d) If the Commission staff, after the respondent files a written response pursuant to § 111.35, forwards any additional documents pertaining to the matter to the reviewing officer for his or her examination, the reviewing officer shall also furnish a copy of the document(s) to the respondents.

(e) Upon completion of the review, the reviewing officer shall forward a written recommendation to the Commission along with all documents required under this section and 11 CFR 111.32 and 111.35.

(f) The reviewing office shall also forward a copy of the recommendation to the respondent. The respondent may file with the Commission Secretary a written response to the recommendation within ten (10) days of transmittal of the recommendation. This response may not raise any arguments not raised in the respondent's original written response or not directly responsive to the reviewing officer's recommendation.

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

(a) If the Commission, after having found reason to believe and after reviewing the respondent's written response and the reviewing officer's recommendation, determines by an affirmative vote of at least four (4) of its members, that the respondent has violated 2 U.S.C. 434(a) and the amount of the civil money penalty, the Commission shall authorize the reviewing officer to notify the respondent by letter of its final determination.

(b) If the Commission, after reviewing the reason to believe finding, the respondent's written response, and the reviewing officer's written recommendation, determines by an affirmative vote of at least four (4) of its

members, that no violation has occurred (either because the Commission had based its reason to believe finding on a factual error or because the respondent used best efforts to file in a timely manner) or otherwise terminates its proceedings, the Commission shall authorize the reviewing officer to notify the respondent by letter of its final determination.

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

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

[65 FR 31794, May 19, 2000, as amended at 72 FR 14668, Mar. 29, 2007]

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

Yes; within thirty (30) days of receipt of the Commission's final determination under 11 CFR 111.37, the respondent may submit a written petition to the district court of the United States for the district in which the respondent resides, or transacts business, requesting that the final determination be modified or set aside. The respondent's failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver of the respondent's right to present such argument in a petition to the district court under 2 U.S.C. 437g.

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

(a) If the respondent does not submit a written petition to the district court of the United States, the respondent must remit payment of the civil money

Federal Election Commission

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If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1-24,999.99*	$[\$100 + (\$25 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$+\$900 \times [1 + (.25 \times \text{Number of previous violations})]$
\$25,000-49,999.99	$[\$200 + (\$50 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$1800 \times [1 + (.25 \times \text{Number of previous violations})]$
\$50,000-74,999.99	$[\$300 + (\$75 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$2700 \times [1 + (.25 \times \text{Number of previous violations})]$
\$75,000-99,999.99	$[\$400 + (\$100 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$3500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$100,000-149,999.99	$[\$600 + (\$125 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$4500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$150,000-199,999.99	$[\$800 + (\$150 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$5500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$200,000-249,999.99	$[\$1,000 + (\$175 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$6500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$250,000-349,999.99	$[\$1500 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$8000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$350,000-449,999.99	$[\$2000 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$9000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$450,000-549,999.99	$[\$2500 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$9500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$550,000-649,999.99	$[\$3000 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$10,000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$650,000-749,999.99	$[\$3500 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$10,500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$750,000-849,999.99	$[\$4000 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$11,000 \times [1 + (.25 \times \text{Number of previous violations})]$
\$850,000-949,999.99	$[\$4500 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$11,500 \times [1 + (.25 \times \text{Number of previous violations})]$
\$950,000 or over	$[\$5000 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$12,000 \times [1 + (.25 \times \text{Number of previous violations})]$

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

(2) For reports due on or after April 16, 2003:

(i) *Level of activity* means:

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

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

(ii) *Estimated level of activity* means:

(A) For an authorized committee, total receipts and disbursements re-

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

(B)(i) For an unauthorized committee, estimated level of activity is calculated as follows: [(Total receipts and disbursements reported in the current two-year cycle) - (Transfers received from non-Federal account(s) as reported on either Line 18(a) of FEC Form 3X or Line 18 of FEC Form 3X if before March 1, 2003 + Disbursements for the non-Federal share of operating expenditures attributable to allocated Federal/non-Federal activity as Reported on Line 21(a)(ii) of FEC Form 3X)] + Number of reports filed to date covering the activity in the current two-year election cycle.

Federal Election Commission

§ 111.43

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$25,000–49,999.99	$[\$300 + (\$50 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$2000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$50,000–74,999.99	$[\$450 + (\$75 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$3000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$75,000–99,999.99	$[\$600 + (\$100 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$4000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$100,000–149,999.99	$[\$900 + (\$125 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$5000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$150,000–199,999.99	$[\$1200 + (\$150 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$6000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$200,000–249,999.99	$[\$1500 + (\$175 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$7500 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$250,000–349,999.99	$[\$2250 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$9000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$350,000–449,999.99	$[\$3000 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$10,000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$450,000–549,999.99	$[\$3750 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$11,000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$550,000–649,999.99	$[\$4500 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$12,000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$650,000–749,999.99	$[\$5250 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$13,000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$750,000–849,999.99	$[\$6000 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$14,000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$850,000–949,999.99	$[\$6750 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$15,000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$950,000 or over	$[\$7500 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$16,000 \times [1 + (.25 \times \text{Number of previous violations})]$.

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

(2) For reports due on or after April 16, 2003:

(i) Level of activity has the same meaning as paragraph (a)(2)(i) of this section.

(ii) *Estimated level of activity* has the same meaning as paragraph (a)(2)(ii) of this section.

(iii) The civil money penalty shall be calculated in accordance with the following schedule:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1–\$4,999.99*	$[\$50 + (\$10 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$500 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$5,000–\$9,999.99	$[\$100 + (\$10 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$600 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$10,000–24,999.99	$[\$150 + (\$10 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$900 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$25,000–49,999.99	$[\$300 + (\$25 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$1,400 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$50,000–74,999.99	$[\$450 + (\$75 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$3000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$75,000–99,999.99	$[\$600 + (\$100 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$4000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$100,000–149,999.99	$[\$900 + (\$125 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$5000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$150,000–199,999.99	$[\$1200 + (\$150 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$6000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$200,000–249,999.99	$[\$1500 + (\$175 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$7500 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$250,000–349,999.99	$[\$2250 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$9000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$350,000–449,999.99	$[\$3000 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$10,000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$450,000–549,999.99	$[\$3750 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$11,000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$550,000–649,999.99	$[\$4500 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$12,000 \times [1 + (.25 \times \text{Number of previous violations})]$.
\$650,000–749,999.99	$[\$5250 + (\$200 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$.	$\$13,000 \times [1 + (.25 \times \text{Number of previous violations})]$.

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Federal Election Commission

§ 112.2

Department of the Treasury regulations at 31 CFR 285.2, 285.4, and 285.7 and the Federal Claims Collection Standards issued jointly by the Department of Justice and the U.S. Department of the Treasury at 31 CFR parts 900 through 904 also apply.

[65 FR 31794, May 19, 2000, as amended at 68 FR 12580, Mar. 17, 2003; 68 FR 16715, Apr. 7, 2003]

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

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

[68 FR 12580, Mar. 17, 2003]

PART 112—ADVISORY OPINIONS (2 U.S.C. 437f)

Sec.

- 112.1 Requests for advisory opinions (2 U.S.C. 437f(a)(1)).
- 112.2 Public availability of requests (2 U.S.C. 437f(d)).
- 112.3 Written comments on requests (2 U.S.C. 437f(d)).
- 112.4 Issuance of advisory opinions (2 U.S.C. 437f (a) and (b)).
- 112.5 Reliance on advisory opinions (2 U.S.C. 437f(c)).
- 112.6 Reconsideration of advisory opinions.

AUTHORITY: 2 U.S.C. 437f, 438(a)(8).

SOURCE: 45 FR 15123, Mar. 7, 1980, unless otherwise noted.

§ 112.1 Requests for advisory opinions (2 U.S.C. 437f(a)(1)).

(a) Any person may request in writing an advisory opinion concerning the application of the Act, chapters 95 or 96 of the Internal Revenue Code of 1954, or

any regulation prescribed by the Commission. An authorized agent of the requesting person may submit the advisory opinion request, but the agent shall disclose the identity of his or her principal.

(b) The written advisory opinion request shall set forth a specific transaction or activity that the requesting person plans to undertake or is presently undertaking and intends to undertake in the future. Requests presenting a general question of interpretation, or posing a hypothetical situation, or regarding the activities of third parties, do not qualify as advisory opinion requests.

(c) Advisory opinion requests shall include a complete description of all facts relevant to the specific transaction or activity with respect to which the request is made.

(d) The Office of General Counsel shall review all requests for advisory opinions submitted under 11 CFR 112.1. If the Office of General Counsel determines that a request for an advisory opinion is incomplete or otherwise not qualified under 11 CFR 112.1, it shall, within 10 calendar days of receipt of such request, notify the requesting person and specify the deficiencies in the request.

(e) Advisory opinion requests should be sent to the Federal Election Commission, Office of General Counsel, 999 E Street, NW., Washington, DC 20463.

(f) Upon receipt by the Commission, each request which qualifies as an advisory opinion request (AOR) under 11 CFR 112.1 shall be assigned an AOR number for reference purposes.

[45 FR 15123, Mar. 7, 1980, as amended at 50 FR 50778, Dec. 12, 1985]

§ 112.2 Public availability of requests (2 U.S.C. 437f(d)).

(a) Advisory opinion requests which qualify under 11 CFR 112.1 shall be made public at the Commission promptly upon their receipt.

(b) A copy of the original request and any supplements thereto, shall be available for public inspection and purchase at the Public Disclosure Division of the Commission.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

ED
SECTION
SIGN
SECRETARIAT

2009 MAY 15 P 2:40

May 15, 2009

MEMORANDUM

SENSITIVE

TO: THE COMMISSION

THROUGH: ROBERT A. HICKEY
STAFF DIRECTOR

FROM: JOHN D. GIBSON
CHIEF COMPLIANCE OFFICER

PATRICIA CARMONA *DC for PC*
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

BY: *NMC* NATALIYA IOFFE/RHIANNON MAGRUDER *PM*
COMPLIANCE BRANCH

SUBJECT: FINAL DETERMINATION RECOMMENDATION –
FAILURE TO FILE 48-HOUR NOTICES UNDER THE
ADMINISTRATIVE FINE PROGRAM

Attached is a circulation report identifying a political committee and its treasurer against which the Commission has found reason to believe (RTB) and assessed a proposed civil money penalty calculated at RTB for failure to file the appropriate 48-Hour Notices for the 2008 General Election. The committee has paid the civil money penalty requested at RTB.

In accordance with 11 C.F.R. 111.34, the Commission shall send a final determination notice to the respondent that has paid the civil money penalty.

RAD Recommendation

- (1) Make final determination that the political committee and its treasurer on the attached report violated 2 U.S.C. 434(a) and assess the final civil money penalty so indicated.
- (2) Send the appropriate letter.

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AF#	Committee Name	State	Election	Candidate Name	Committee ID	Treasurer	Prev Violations	Notices Not Filed	LOA	RTB Date	Civil Money Penalty	Date Paid	Amount Paid
1952	FRANK KRATOVIL FOR CONGRESS	MD	2008 GENERAL	KRATOVIL, FRANK	C00434936	ELAINE HARRISON	0	3	\$35,300	03/19/2009	\$3,860	04/30/2009	\$3,860

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Final Determination Recommendation –) AF 1952
Failure to File 48-Hour Notices under the)
Administrative Fine Program: Frank)
Kratovil for Congress and Elaine)
Harrison, as treasurer)

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby
certify that on May 18, 2009, the Commission decided by a vote of 6-0 to take the
following actions in AF 1952:

1. Make a final determination that Frank Kratovil for Congress and Elaine Harrison, as treasurer, violated 2 U.S.C. 434(a) and assess the final civil money penalty in the amount of \$3,860.
2. Send the appropriate letter.

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

Attest:

May 19, 2009
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 21, 2009

Mrs. Elaine Harrison as Treasurer
Frank Kratovil for Congress
222 Main Sail Drive
P.O. Box 518
Stevensville, MD 21666

C00434936
AF#: 1952

Dear Mrs. Harrison:

On March 19, 2009, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Frank Kratovil for Congress and you as treasurer violated 2 U.S.C. § 434(a) for failing to file 48-Hour Notices for contributions of \$1,000 or more, received between October 16, 2008 and November 1, 2008, totaling \$35,300. By letter dated March 23, 2009, the Commission sent you notification of the RTB finding that included a civil money penalty calculated at the RTB stage of \$3,860 in accordance with the schedule of penalties at 11 C.F.R. § 111.44.

On April 30, 2009, the FEC received payment of your civil money penalty calculated at the RTB stage. The FEC made a final determination on May 18, 2009 that you as treasurer and Frank Kratovil for Congress violated 2 U.S.C. § 434(a), assessed a civil money penalty in the amount of \$3,860 in accordance with 11 C.F.R. § 111.44 and voted to close the file.

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 thirty (30) days from the date of the Commission's notification, this could occur at anytime following certification of the Commission's vote.

If you have any questions regarding this matter, please contact Rhiannon Magruder on our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130.

On behalf of the Commission,

A handwritten signature in cursive script, reading "Steven T. Walther".

Steven T. Walther
Chairman

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QUALITY IS OUR PRIORITY FOR LOCKBOX 9058
SEQ# 001 \$ 000038600 BA# 1 04-29-09 20 4



Kratovil for Congress PO Box 518 Stensville, MD 21666		Overseas Bank of Maryland Quintessence, MD 21658 66-153521	5012
PAY TO THE ORDER OF: Federal Election Commission Three Thousand Eight Hundred Sixty and 00/100		4/24/2009	\$ 3,860.00
Federal Election Commission PO Box 978058 St Louis, MO 63197-9000		DO NOT WRITE	
MEMO AE1952 C00434936		AUTHORIZED SIGNATURE <i>[Signature]</i>	

FOR: Frank Kratovil for Congress

FEC ID#: C00434936

AF#: 1952

PAYMENT DUE DATE: April 28, 2009

PAYMENT AMOUNT DUE: \$3,860

4-25

N 48h

04805926062



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 1952

DATE SCANNED 6/25/07

SCANNER NO. 2

SCAN OPERATOR Jmf

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