

RECEIVED

By Office of the Commission Secretary at 9:32 am, Jul 19, 2022



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

July 19, 2022

MEMORANDUM

TO: The Commission

THROUGH: Alec Palmer *AP*
Staff Director

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

Debbie Chacona *DC*
Assistant Staff Director
Reports Analysis Division
KDR

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

SUBJECT: Reason To Believe Recommendation – 2022 12-Day Pre-Primary Report
(California and New Jersey) for the Administrative Fine Program

Attached is a list of political committees and their treasurers who failed to timely file the 2022 12-Day Pre-Primary Report for the California and New Jersey Primary Elections in accordance with 52 U.S.C. § 30104(a). The 12-Day Pre-Primary Report was due on May 26, 2022 and the Primary Election was held on June 7, 2022.

The committees listed on the attached RTB Circulation Report failed to file the election sensitive report by the required due date. Election sensitive reports filed more than four days prior to the election are considered late, and reports not filed more than four days prior to the election are considered not filed. In accordance with the schedule of civil money penalties for reports at 11 CFR § 111.43, the committees should be assessed the civil money penalties highlighted on the attached circulation report.

Recommendation

1. Find reason to believe that the political committees and their treasurers, in their official capacity, listed on the RTB Circulation Report violated 52 U.S.C. § 30104(a) and make a preliminary determination that the civil money penalties would be the amounts indicated on the RTB Circulation Report.
2. Send the appropriate letters.

Federal Election Commission
Reason to Believe Circulation Report
2022 PRE-PRIMARY Election Sensitive 05/26/2022 AUTH (CA, NJ)

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
4332	C00719070	AJA SMITH FOR CONGRESS 2022	AJA SMITH	AJA SMITH	\$234,984	0		Not Filed	\$78,328 (est)	\$6,358
4333	C00803973	FERRARA FOR AMERICA	NICHOLAS JUDE FERRARA	NANCY MARKS	\$138,569	0	6/1/2022	6	\$28,334	\$706
4334	C00799353	GREG RATHS FOR CONGRESS	GREG RATHS	JENNIFER MITCHELL	\$283,703	0	6/4/2022	*Not Filed	\$99,256	\$6,358

* The committee did not file their report prior to four (4) days before the primary election; therefore, per 11 C.F.R. 111.43(e), the report is considered to be not filed.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
Reason To Believe Recommendation - 2022)	
12-Day Pre-Primary Report (California and)	
New Jersey) for the Administrative Fine)	
Program:)	
AJA SMITH FOR CONGRESS 2022, and)	AF# 4332
SMITH, AJA as treasurer;)	
FERRARA FOR AMERICA, and MARKS,)	AF# 4333
NANCY as treasurer;)	
GREG RATHS FOR CONGRESS, and)	AF# 4334
MITCHELL, JENNIFER as treasurer;)	

CERTIFICATION

I, Vicktoria J. Allen, Acting Deputy Secretary of the Federal Election Commission, do hereby certify that on July 20, 2022 the Commission took the following actions on the Reason To Believe Recommendation - 2022 12-Day Pre-Primary Report (California and New Jersey) for the Administrative Fine Program, as recommended in the Reports Analysis Division's Memorandum dated July 19, 2022, on the following committees:

AF#4332 Decided by a vote of 6-0 to: (1) find reason to believe that AJA SMITH FOR CONGRESS 2022, and SMITH, AJA in their official capacity as treasurer, violated 52 U.S.C. § 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

Federal Election Commission
Certification for Administrative Fines
July 20, 2022

Page 2

AF#4333 Decided by a vote of 6-0 to: (1) find reason to believe that FERRARA FOR AMERICA, and MARKS, NANCY in their official capacity as treasurer, violated 52 U.S.C. § 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

AF#4334 Decided by a vote of 6-0 to: (1) find reason to believe that GREG RATHS FOR CONGRESS, and MITCHELL, JENNIFER in their official capacity as treasurer, violated 52 U.S.C. § 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.

Attest:

**Vicktoria J Allen**

Digitally signed by Vicktoria J
Allen
Date: 2022.07.20 16:43:41 -04'00'

Vicktoria J. Allen
Acting Deputy Secretary of the Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AF

July 21, 2022

Nancy Marks, in official capacity as Treasurer
Ferrara for America
47 Flintlock Drive
Shirley, NY 11967

C00803973

AF#: 4333

Dear Nancy Marks,

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a 12-Day Pre-Primary Report of Receipts and Disbursements in any calendar year during which there is a regularly scheduled election for which the candidate is seeking election, or nomination for election. This report, covering the period April 1, 2022 through May 18, 2022 shall be filed no later than May 26, 2022. 52 U.S.C. § 30104(a). Records at the Federal Election Commission ("FEC") indicate that this report was filed on June 1, 2022, 6 days late.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 52 U.S.C. § 30104(a). 52 U.S.C. § 30109g(a)(4). On July 20, 2022, the FEC found that there is reason to believe ("RTB") that Ferrara for America and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) by failing to file timely this report on or before May 26, 2022. Based on the FEC's schedules of civil money penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$706. Please see the attached copy of the Commission's administrative fine regulations at 11 C.F.R. §§ 111.30-111.55. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <https://www.fec.gov/af/pay.shtml> 11 C.F.R. § 111.34. Your payment of \$706 is due within forty (40) days of the finding, or by August 29, 2022, and is based on these factors:

Election Sensitivity of Report: Election Sensitive

Level of Activity: \$28,334

Number of Days Late: 6

Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

FERRARA FOR AMERICA

Page 2 of 5

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response to the FEC's Office of Administrative Review. Your response must include the AF# (found at the top of page 1 under your committee's identification number) and be received within forty (40) days of the Commission's RTB finding, or August 29, 2022. 11 C.F.R. § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 C.F.R. § 111.36(c).

Please note, all challenges to an RTB finding and/or calculated civil money penalty should be converted to PDF (Portable Document Format) and emailed to administrativefines@fec.gov. The Commission encourages the use of electronic signatures on electronically submitted documents, but scanned copies of ink signatures will be accepted. Electronically submitted challenges will be deemed received on the date they are electronically received by staff.

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 C.F.R. § 111.35(b). For a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 C.F.R. § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 C.F.R. § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. District Court under 52 U.S.C. § 30109. 11 C.F.R. § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative

FERRARA FOR AMERICA

Page 3 of 5

Review. You should provide, in writing, the name, address, and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Ferrara for America and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, *et seq.* The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 C.F.R. § 111.51(a)(2).

3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the calculated civil money penalty, follow the payment instructions on page 4 of this letter. Upon receipt of your payment, the FEC will send you a final determination letter.

NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS

4. Partial Payments

If you make a payment in an amount less than the calculated civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assesses upon making a final determination.

5. Settlement Offers

Any offer to settle or compromise a debt owed to the Commission, including a payment in an amount less than the calculated civil money penalty assessed or any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order, will be rejected. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assesses upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

FERRARA FOR AMERICA

Page 4 of 5

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 52 U.S.C. § 30109(a)(2). Unless you notify the FEC in writing that you wish the matter to be made public, it will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) until it is placed on the public record at the conclusion of this matter in accordance with 11 C.F.R. § 111.42.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <https://www.fec.gov/af/pay.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Ben Holly in the Reports Analysis Division at our toll-free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll-free number (800) 424-9530 (press 0, then ext. 1158) or (202) 694-1158.

On behalf of the Commission,



Allen J. Dickerson
Chairman

ADMINISTRATIVE FINE PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at RTB is \$706 for the Pre-Primary Report.

You may remit payment by ACH withdrawal from your bank account, or by debit or credit card through Pay.gov, the federal government's secure portal for online collections. Visit www.fec.gov/af/pay.shtml to be directed to Pay.gov's Administrative Fine Program Payment form. Please use the details below to complete the required fields. For additional payment options, please contact Ben Holly in the Reports Analysis Division at our toll-free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130.

COMMITTEE NAME: Ferrara for America

FEC ID#: C00803973

AF#: 4333

FERRARA FOR AMERICA

Page 5 of 5

PAYMENT DUE DATE: August 29, 2022

PAYMENT AMOUNT DUE: \$706

RECEIVED

By Office of the Commission Secretary at 1:05 pm, Nov 16, 2022



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

November 16, 2022

MEMORANDUM

TO: The Commission

THROUGH: Alec Palmer
Staff Director *AP*

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

Debbie Chacona *DC*
Assistant Staff Director
Reports Analysis Division

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

SUBJECT: Administrative Fine Program – Final Determination Recommendation for the 2022 12-Day Pre-Primary Report (California and New Jersey)

Attached is a list of political committees and their treasurers against which the Commission has found reason to believe (RTB) and assessed proposed civil money penalties calculated at RTB for failure to file or failure to timely file the 2022 12-Day Pre-Primary Report. The first list represents committees that have paid the civil money penalty and the second list represents a committee that has not paid the civil money penalty. The committee that has not paid has been given at least forty (40) days from the date of the Commission's RTB finding to remit payment.

In accordance with 11 CFR § 111.34 and 11 CFR § 111.40, the Commission shall send a final determination notice to those respondents that have either paid or not paid the civil money penalty.

For your information, one (1) committee disclosed a level of activity after the RTB finding which would result in a lowered civil money penalty. An overview of this case has been provided below.

Aja Smith for Congress 2022 (AF 4332) filed the 2022 12-Day Pre-Primary Report after the RTB finding and disclosed an actual level of activity which would result in a lowered civil money penalty than that assessed at RTB. The committee disclosed total receipts and

disbursements of \$3,636 (previously estimated to be \$78,328), thus the fine would be lowered from \$6,358 to \$748.

For your information, Greg Rath's for Congress (AF 4334) disclosed a change in treasurer after the RTB finding. The committee filed an Amended Statement of Organization designating Greg Rath's as Treasurer.

RAD Recommendation

- (1) Make a final determination that the political committees and their treasurers, in their official capacity, listed on the attached reports violated 52 U.S.C. § 30104(a) and assess the final civil money penalties so indicated.
- (2) Send the appropriate letters.

Federal Election Commission
FD Circulation Report Fine Paid
2022 PRE-PRIMARY Election Sensitive 05/26/2022 AUTH (CA, NJ)

AF#	Committee Name	Candidate Name	Committee ID	Treasurer	Receipt Date	Days Late	LOA	PV	RTB Date	RTB Penalty	Final Money Penalty	Date Paid	Amount Paid
4333	FERRARA FOR AMERICA	NICHOLAS JUDE FERRARA	C00803973	NANCY MARKS	06/01/2022	6	\$28,334	0	07/20/2022	\$706	\$706	08/19/2022	\$706
4334	GREG RATHS FOR CONGRESS	GREG RATHS	C00799353	GREG RATHS	06/04/2022	*Not Filed	\$99,256	0	07/20/2022	\$6,358	\$6,358	08/31/2022	\$6,358

* The committee did not file their report prior to four (4) days before the primary election; therefore, per 11 C.F.R. 111.43(e), the report is considered to be not filed.

Federal Election Commission
FD Circulation Report Fine Not Paid
2022 PRE-PRIMARY Election Sensitive 05/26/2022 AUTH (CA, NJ)

AF#	Committee Name	Candidate Name	Committee ID	Treasurer	Receipt Date	Days Late	LOA	PV	RTB Date	RTB Penalty	Days Since RTB	FD Penalty
4332	AJA SMITH FOR CONGRESS 2022	AJA SMITH	C00719070	AJA SMITH	08/25/2022	*Not Filed	\$3,636	0	07/20/2022	\$6,358	119	\$748

* The committee did not file their report prior to four (4) days before the primary election; therefore, per 11 C.F.R. 111.43(e), the report is considered to be not filed.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
Administrative Fine Program – Final)	
Determination Recommendation for the)	
2022 12-Day Pre-Primary Report)	
(California and New Jersey):)	
AJA SMITH FOR CONGRESS 2022, and)	AF# 4332
SMITH, AJA as treasurer;)	
FERRARA FOR AMERICA, and MARKS,)	AF# 4333
NANCY as treasurer;)	
GREG RATHS FOR CONGRESS, and)	AF# 4334
RATHS, GREG as treasurer;)	

CERTIFICATION

I, Vicktoria J. Allen, Acting Deputy Secretary of the Federal Election Commission, do hereby certify that on November 21, 2022 the Commission took the following actions on the Administrative Fine Program – Final Determination Recommendation for the 2022 12-Day Pre-Primary Report (California and New Jersey), as recommended in the Reports Analysis Division's Memorandum dated November 16, 2022, on the following committees:

AF#4332 Decided by a vote of 4-0 to: (1) make a final determination that AJA SMITH FOR CONGRESS 2022, and SMITH, AJA in their official capacity as treasurer, violated 52 U.S.C. § 30104(a) and assess the final civil money penalty so indicated; (2) send the appropriate letter. Commissioners Cooksey, Dickerson, Lindenbaum, and Trainor voted affirmatively for the decision. Commissioners Broussard and Weintraub did not vote.

Federal Election Commission
Certification for Administrative Fines
November 21, 2022

Page 2

AF#4333 Decided by a vote of 4-0 to: (1) make a final determination that FERRARA FOR AMERICA, and MARKS, NANCY in their official capacity as treasurer, violated 52 U.S.C. § 30104(a) and assess the final civil money penalty so indicated; (2) send the appropriate letter. Commissioners Cooksey, Dickerson, Lindenbaum, and Trainor voted affirmatively for the decision. Commissioners Broussard and Weintraub did not vote.

AF#4334 Decided by a vote of 4-0 to: (1) make a final determination that GREG RATHS FOR CONGRESS, and RATHS, GREG in their official capacity as treasurer, violated 52 U.S.C. § 30104(a) and assess the final civil money penalty so indicated; (2) send the appropriate letter. Commissioners Cooksey, Dickerson, Lindenbaum, and Trainor voted affirmatively for the decision. Commissioners Broussard and Weintraub did not vote.



Attest:

Vicktoria J Allen Digitally signed by Vicktoria J Allen
Date: 2022.11.22 16:22:57 -05'00'

Vicktoria J. Allen
Acting Deputy Secretary of the
Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AF

November 22, 2022

Nancy Marks, in official capacity as Treasurer
Ferrara for America
47 Flintlock Drive
Shirley, NY 11967

C00803973

AF#: 4333

Dear Nancy Marks,

On July 20, 2022, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Ferrara for America and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) for filing late or failing to file the 2022 Pre-Primary Report. By letter dated July 21, 2022, the Commission notified you of the RTB finding and the civil money penalty calculated at the RTB stage totaling \$706, in accordance with the schedule of penalties at 11 C.F.R. § 111.43.

On August 19, 2022, the FEC received payment of the civil money penalty calculated at the RTB stage. The FEC made a final determination on November 21, 2022 that Ferrara for America and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a), assessed a civil money penalty in the amount of \$706, in accordance with 11 C.F.R. § 111.43, and voted to close the file.

The confidentiality provisions at 52 U.S.C. § 30109(a)(12) no longer apply and this matter is now public. Pursuant to 11 C.F.R. §§ 111.42(b) and 111.20(c), the file will be placed on the public record within thirty (30) days from the date of this notification.

If you have any questions regarding this matter, please contact Ben Holly 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 blue ink, appearing to read "Allen J. Dickerson", is written over a horizontal line.

Allen J. Dickerson
Chairman