

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE

552

DATE FILMED 2-10-83

CAMERA NO. 1

CAMERAMAN S.E.G



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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FEDERAL ELECTION
COMMISSION
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2003 JAN -6 A 10: 04


January 6, 2003


SENSITIVE

MEMORANDUM

TO: THE COMMISSION

THROUGH: JAMES A. PEHRKON 
STAFF DIRECTOR

ALISON L. DOONE 
DEPUTY STAFF DIRECTOR

FROM: SHAWN WOODHEAD WERTH 
REVIEWING OFFICER
OFFICE OF ADMINISTRATIVE REVIEW

SUBJECT: FINAL DETERMINATION RECOMMENDATION IN AF# 552 -
CLAY JR. FOR CONGRESS AND CHARLES A. STEWART, JR.,
AS TREASURER (C00346080)

On October 29, 2002, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that the Clay Jr. for Congress committee and Charles A. Stewart, Jr., as Treasurer ("the respondents"), violated 2 U.S.C. § 434(a) for failing to file in a timely manner the 2001 Year End Report¹. The report was filed on February 22, 2002, 22 days late. As a result, on October 29, 2002 the Commission also made a preliminary determination that the civil money penalty was \$3,350 based on the schedule of penalties at 11 C.F.R. § 111.43.

On December 9, 2002, Charles A. Stewart, Jr. notified the Commission via facsimile that the written response and supporting documentation submitted by the Assistant Treasurer on July 22, 2002 should be considered the respondents' written response ("challenge"). After reviewing the challenge and supporting documentation, the Reviewing Officer's recommendation dated December 12, 2002 was forwarded to the Commission. A copy was simultaneously forwarded to the respondents. Based on the evidence provided in the challenge, the Reviewing Officer determined that the respondents availed themselves of the certified mail "safe harbor" provision in accordance with 2 U.S.C. § 434(a)(5) and sent the diskette containing the Year End Report via certified mail, postmarked on the January 31 filing date. Because the irradiation process resulted

¹ The Commission initially found RTB on June 14, 2002 against the Assistant Treasurer. On October 29, after receipt of the written response and supporting documentation ("challenge"), the Commission voted to rescind the June 14 RTB finding, find RTB against the respondents, assess the proposed \$3,350 civil money penalty and provide them with an opportunity to submit any additional information to support the challenge.

in mail delays, the Reviewing Officer recommends that the Commission calculate the number of days late from February 22, the date on which the diskette, sent by certified mail on January 31, was received. As the electronically filed report was uploaded on February 22, the same day the respondents were notified that the diskette was improperly formatted, the report would not be considered late and no civil money penalty would be assessed against the respondents. The Reviewing Officer, therefore, recommends that the Commission take no further action and close the file.

Within 10 days of transmittal of the recommendation, the respondents may file a written response with the Commission Secretary which may not raise any arguments not raised in the respondents' challenge or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). As of this date, a written response has not been received from the respondents.

OAR Recommendations

- (1) Take no further action in AF# 552 against Clay Jr. for Congress and Charles A. Stewart, Jr., as Treasurer, with respect to 2 U.S.C. § 434(a) and close the file; and
- (2) Send the appropriate letter.

Reviewing Analyst: Mary E. Seiler



FEDERAL ELECTION COMMISSION

Washington, DC 20463

Wesfh
SENSITIVE

DATE & TIME OF TRANSMITTAL: Monday, January 06, 2003 11:00

BALLOT DEADLINE: Thursday January 09, 2003 4:00

COMMISSIONER: MASON, McDONALD, SMITH, THOMAS, TONER, WEINTRAUB

SUBJECT: Final Determination Recommendation in AF 552 – Clay Jr.
For Congress and Charles A. Stewart, Jr., as treasurer
(C00346080). Memorandum from The Reviewing Officer, Office
of Administrative Review dated January 6 2003.

- () I approve the recommendation(s)
- () I object to the recommendation(s)
- () I abstain from voting on the recommendation(s)
- () I am recused from voting on the recommendation(s)
- () I am not voting on this tally.

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

DATE: _____

SIGNATURE: _____

FROM THE OFFICE OF THE SECRETARY OF THE COMMISSION

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Final Determination) AF #552
Recommendation - Clay Jr. For)
Congress and Charles A.)
Stewart, as treasurer)
(C00346080).)

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on January 9, 2003, the Commission decided by a vote of 6-0 to take the following actions in AF #552:

1. Take no further action against Clay Jr. For Congress and Charles A. Stewart, Jr, as treasurer, with respect to 2 U.S.C. §434(a) and close the file.
2. Send the appropriate letter, as recommended in the Reviewing Officer's Memorandum dated January 6, 2003.

Commissioners Mason, McDonald, Smith, Thomas, Toner and Weintraub voted affirmatively for the decision.

Attest:

January 10, 2003
Date

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

Received in the Secretariat: Mon., Jan. 06, 2003 10:03 a.m.
Circulated to the Commission: Mon., Jan. 06, 2003 11:00 a.m.
Deadline for vote: Thurs., Jan. 09, 2003 4:00 p.m.

vfv

Figure 1 is a flowchart illustrating the experimental design. It starts with a box labeled 'Stimulus' pointing to a box labeled 'Response'. From 'Response', an arrow points to a box labeled 'Recording'. From 'Recording', an arrow points to a box labeled 'Comparison'. From 'Comparison', an arrow points to a box labeled 'Feedback'. From 'Feedback', an arrow points to a box labeled 'New Stimulus', which then points back to the 'Stimulus' box, completing the cycle.

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DATE FILMED 2-10-03 CAMERA NO. 1

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