

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE

778

DATE FILMED 10/23/03

CAMERA NO. 3

CAMERAMAN SES



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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COMMISSION
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2003 AUG 18 P 1:03

August 18, 2003

MEMORANDUM

SENSITIVE

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# 778 - BOB HERRIOTT FOR U.S. CONGRESS AND JACK
F. GAMEL, CPA, AS TREASURER (C00371690)

On December 23, 2002, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Bob Herriott for U.S. Congress and Jack F. Gamel, CPA, as Treasurer ("respondents"), violated 2 U.S.C. § 434(a) for failing to file the 2002 October Quarterly Report, a non-election sensitive report. The report was filed on November 20, 2002, 36 days late, and was considered not filed for purposes of the civil money penalty calculation. As a result, on December 23, 2002, the Commission also made a preliminary determination that the civil money penalty was \$5,500 based on the schedule of penalties at 11 C.F.R. § 111.43.

On February 2, 2003, the Commission received the respondents' written response ("challenge"). After reviewing the challenge, the Reviewing Officer's recommendation dated July 22, 2003 was forwarded to the Commission. A copy was simultaneously forwarded to the respondents. The Reviewing Officer recommended that the Commission make a final determination that the respondents violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$5,500 because the respondents submitted no evidence that a factual error was made, that the civil money penalty was miscalculated at RTB or that extraordinary circumstances existed which prevented them from filing the October Quarterly Report in a timely manner.

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). The respondents' written response was received via facsimile on July 28, 2003 and is attached for your review.

OAR Recommendations

- (1) Make a final determination in AF# 778 that Bob Herriott for U.S. Congress and Jack F. Gamel, CPA, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$5,500; and
- (2) Send the appropriate letter.

Reviewing Analyst: Jennifer H. Boyt

Attachment



FEDERAL ELECTION COMMISSION
Washington, DC 20463

Werth
SENSITIVE

DATE & TIME OF TRANSMITTAL: Monday, August 18, 2003 4:00

BALLOT DEADLINE: Thursday, August 21, 2003 4:00

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

SUBJECT: **Final Determination Recommendation in AF #778 – Bob Herriott for U.S. Congress and Jack F. Gamel, CPA, as Treasurer (C00371690). Memorandum from the Reviewing Officer Office of Administrative Review dated August 18, 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)
)
Bob Herriott for U.S. Congress and) AF #778
Jack F. Gamel, CPA, as Treasurer)
(C00371690) - Final Determination)
Recommendation.)

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on August 21, 2003 the Commission decided by a vote of 5-1 to take the following actions in AF #778:

1. Make a final determination in AF #778 that Bob Herriott for U.S. Congress and Jack F. Gamel, CPA, as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$5,500.
2. Send the appropriate letter, as recommended in the Reviewing Officer's Memorandum dated August 18, 2003.

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

Commissioner Smith dissented.

Attest:

August 21, 2003
Date

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

FOR BOD. HERRIOTT for U.S. Congress

FEC ID C00371690

AF 4778

PAYMENT AMOUNT DUE \$5,500

MGMCOMP 15:55 EST

To reply by Mailgram Message, see reverse side for Western Union's toll-free number.

QUALITY IS OUR PRIORITY FOR LOCKBOX 2182
SEQ# 001 \$ 0000550000 BA# 1 09-03-03 20 9

ROBERT HERRIOTT.
MARY LOU HERRIOTT

64-78611

4774

Date 8/28/03

Pay to the Order of Federal Election Commission \$ 5,500.00

Five thousand five hundred dollars & 00/100

SUNTRUST OF NORTHWEST GEORGIA, NA
CARROLLTON, GA

FEC ID C00371690 Robert P. Herriot

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THIS IS THE END OF ADMINISTRATIVE FINE CASE

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