

The Committee has received your electronic notice and files a pre-election report now. It requests that no administrative fine be assessed because (1) the Committee did not file due to an error in the Commission's own published regulations, and (2) the Committee made no expenditures or contributions and had no receipts or other disbursements during the October 1-15 reporting period, and (2).

11 CFR 104.5(c)(3)(ii) provides, for an unauthorized committee that is a monthly filer such as the Committee, that "[i]n lieu of the monthly reports due in November and December, in any year in which a regularly scheduled election is held, a pre-election report shall be filed as prescribed at 11 CFR 104.5(a)(1)(ii), a post general election report shall be filed as prescribed at 11 CFR 104.5(a)(1)(iii), and a year-end report shall be filed no later than January 31 of the following calendar year.

The references to 11 CFR 104.5(a)(1)(ii) and 11 CFR 104.5(a)(1)(iii) are plainly erroneous, because those provisions instead deal with quarterly reports of principal committees of House and Senate candidates. However, 11 CFR 104.5(c)(1)(ii) and 11 CFR 104.5(c)(1)(iii) address, respectively, the pre-election and post-election reports of an unauthorized committee that is a quarterly filer, and we interpreted 11 CFR 104.5(c)(3)(ii) as intending to refer to those provisions. 11 CFR 104.5(c)(1)(ii) provides that a pre-election report is due only if the unauthorized committee "makes contributions or expenditures in connection with any election such election if such disbursements have not been previously disclosed." As stated above, the Committee made no contributions or expenditures at all, let alone in connection with the general election, during the pre-election reporting period, so we did not file a pre-election report.

It may be that 11 CFR 104.5(c)(3)(ii) should refer instead to 11 CFR 104.5(a)(2)(i) and 11 CFR 104.5(a)(2)(ii), but inasmuch as that subnumbering is so different from the two mistakenly referenced provisions, the mistakenly referenced provisions are identical to 11 CFR 104.5(c)(1)(ii) and 11 CFR 104.5(c)(1)(iii) except for the "(c)" in place of the "(a)", and 11 CFR 104.5(a)(2) deals with candidate committees whereas 11 CFR 104.5(c)(1) also deals with unauthorized committees, as does 11 CFR 104.5(c)(3), the Committee's interpretation of the erroneous published regulations should be excused. We also suggest the the Commission provide appropriate notices to all monthly filing unauthorized committees about this error.

Please contact the Committee if your office intends to take any further action on this matter. Thank you for your consideration.

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