

RECEIVED

By Office of the Commission Secretary at 4:24 pm, Apr 27, 2021



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

April 27, 2021

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

BY: Kristin D. Roser *KDR*
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 12 Day Pre-General Report up to 48 hours before the November 3, 2020 General Election in accordance with 52 U.S.C. § 30104(a) and 11 CFR. § 104.5(f). The committee, Burgess 4 Utah, represents a candidate who won the General Election. The committee is being referred for failing to file 48-hour notices for contributions totaling \$33,800.00.

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.

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 Burgess 4 Utah and Paul Kilgore, in his official capacity as treasurer, violated 52 U.S.C. § 30104(a) and make a preliminary determination that a civil money penalty of \$3,984 be assessed.
2. Send the appropriate letter.

Attachment

Contributions for Which a 48-Hour Notice Was Not Received**AF 4201****Committee ID: C00725853****Committee Name: Burgess 4 Utah****Report Type: 2020 30 Day Post-General Report (10/15/2020 – 11/23/2020)****48-Hour Reporting Period: 10/15/2020 – 10/31/2020**

CONTRIBUTOR	DATE	AMOUNT
GAINES, W LEE	10/15/2020	\$2,800.00
GREEN, WILLIAM ROBERT	10/15/2020	\$2,000.00
CRAIL, JOE ¹	10/16/2020	\$2,800.00
JONES, RON ²	10/16/2020	\$1,000.00
MELLI, ALI ³	10/16/2020	\$2,800.00
MILLS, BRUCE ⁴	10/16/2020	\$1,000.00
ROSS, PATRICIA ⁵	10/16/2020	\$2,000.00
SPENCER, DIANA DAVIS	10/16/2020	\$1,000.00
		
CAMPBELL, ROBERT	10/20/2020	\$1,000.00
HAMM, EDWARD H	10/20/2020	\$1,000.00
HARRIS, R K	10/20/2020	\$1,000.00
GUTHRIE, MICHAEL	10/21/2020	\$1,000.00
HARVIE, WILLIAM	10/21/2020	\$1,000.00
ASBJORNSON, NORMAN	10/22/2020	\$1,000.00
		
DURHAM, MARY ⁶	10/23/2020	\$2,800.00
ROJ, WILLIAM ⁷	10/23/2020	\$2,800.00
		
PROST, VAUGHN	10/27/2020	\$2,000.00
ROCKEFELLER, LISENNE	10/27/2020	\$1,000.00
HESLEP, DONALD BALDWIN	10/28/2020	\$1,000.00
MORGAN, TOM ⁸	10/29/2020	\$2,800.00
TOTAL		\$33,800.00

Proposed Civil Money Penalty: \$3,984 ((4 Notices Not Filed at \$151 each) + (10% of the Overall Contributions Not Reported))

¹ This contribution was earmarked through House Freedom Fund and was received by the conduit on 10/16/20.

² This contribution was earmarked through House Freedom Fund and was received by the conduit on 10/16/20.

³ This contribution was earmarked through House Freedom Fund and was received by the conduit on 10/16/20.

⁴ This contribution was earmarked through House Freedom Fund and was received by the conduit on 10/16/20.

⁵ This contribution was earmarked through House Freedom Fund and was received by the conduit on 10/16/20.

⁶ This contribution was earmarked through House Freedom Fund and was received by the conduit on 10/23/20.

⁷ This contribution was earmarked through House Freedom Fund and was received by the conduit on 10/23/20.

⁸ This contribution was earmarked through House Freedom Fund and was received by the conduit on 10/29/20.

Federal Election Commission
Reason to Believe Circulation Report
48-Hour Notification Report

4/27/2021 11:16 AM

AF#	Committee ID	Committee Name	State	Election	Candidate Name	Treasurer	Prev Violations	Notices Not Filed	LOA	Penalty
4201	C00725853	BURGESS 4 UTAH	UT	2020	BURGESS OWENS	PAUL KILGORE	0	4	\$33,800	\$3,984

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) AF 4201
 Reason to Believe Recommendation -)
 Failure to File 48-Hour Notices under the)
 Administrative Fine Program: Burgess 4)
 Utah and Paul Kilgore in his official)
 capacity as treasurer)

CERTIFICATION

I, Laura E. Sinram, Acting Secretary and Clerk of the Federal Election Commission, do hereby certify that on April 29, 2021, the Commission decided by a vote of 5-0 to take the following actions in AF 4201:

1. Find reason to believe that Burgess 4 Utah and Paul Kilgore, in his official capacity as treasurer, violated 52 U.S.C. § 30104(a) and make a preliminary determination that a civil money penalty of \$3,984 be assessed.
2. Send the appropriate letter.

Commissioners Broussard, Cooksey, Dickerson, Trainor, and Weintraub voted affirmatively for the decision. Commissioner Walther did not vote.

Attest:

**Laura
Sinram**

Digitally signed by
Laura Sinram
Date: 2021.05.04
11:13:50 -04'00'



 Laura E. Sinram
 Acting Secretary and Clerk of the
 Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AF

May 5, 2021

Paul Kilgore, in official capacity as Treasurer
Burgess 4 Utah
824 S Milledge Ave
Ste 101
Athens, GA 30605

C00725853

AF#: 4201

Dear Mr. Kilgore,

The Federal Election Campaign Act of 1971, as amended, 52 U.S.C. § 30101, et seq. ("the Act"), requires principal campaign committees of candidates for federal office to notify in writing 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. 52 U.S.C. § 30104(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.* These notification requirements are in addition to all other reporting requirements. 52 U.S.C. § 30104(a). Our records indicate that Burgess 4 Utah did not submit 48-Hour Notices for contributions of \$1,000 or more, received between October 15, 2020 and October 31, 2020, totaling \$33,800, as required by 52 U.S.C. § 30104(a)(6)(A). Attachment 1.

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. § 30109(a)(4). On April 29, 2021, the FEC found that there is Reason to Believe ("RTB") that Burgess 4 Utah and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) by failing to file the 48-Hour Notices. Based on the FEC's schedule of civil money penalties at 11 CFR § 111.44, the amount of your civil money penalty calculated at the RTB stage is \$3,984. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.55. Attachment 2. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. <http://www.fec.gov/af/af.shtml>. 11 CFR § 111.34. The amount of the civil money penalty is \$151 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 of \$3,984 within forty (40) days of the finding, or by June 8, 2021.

BURGESS 4 UTAH

Page 2 of 5

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

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 June 8, 2021. 11 CFR § 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 CFR § 111.36(c).

Please note, the Federal Election Commission's office remains closed to visitors and most of its employees are continuing to telework in an effort to limit the spread of coronavirus (COVID-19). The Commission is processing some documents submitted by mail, though processing will not occur daily until the agency resumes normal mail operations. Nevertheless, a challenge to an RTB finding and/or calculated civil money penalty must be received on time. Thus, all written responses and supporting documentation should be converted to PDF (Portable Document Format) and must be 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 it is 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 CFR § 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 CFR § 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

BURGESS 4 UTAH

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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 CFR § 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 CFR § 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.

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 Burgess 4 Utah 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 CFR § 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

BURGESS 4 UTAH

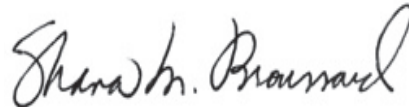
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restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order, will be rejected. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance 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.

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 CFR § 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 <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Jamie Sikorsky 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,



Shana M. Broussard
Chair

ADMINISTRATIVE FINE PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 CFR § 111.44, the amount of your civil money penalty calculated at RTB is \$3,984 for the 2020 General Election 48-Hour Notification 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

BURGESS 4 UTAH

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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 Jamie Sikorsky in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130.

COMMITTEE NAME: Burgess 4 Utah

FEC ID#: C00725853

AF#: 4201

PAYMENT DUE DATE: June 8, 2021

PAYMENT AMOUNT DUE: \$3,984

Contributions for Which a 48-Hour Notice Was Not Received**AF 4201****Committee ID: C00725853****Committee Name: Burgess 4 Utah****Report Type: 2020 30 Day Post-General Report (10/15/2020 – 11/23/2020)****48-Hour Reporting Period: 10/15/2020 – 10/31/2020**

CONTRIBUTOR	DATE	AMOUNT
GAINES, W LEE	10/15/2020	\$2,800.00
GREEN, WILLIAM ROBERT	10/15/2020	\$2,000.00
CRAIL, JOE ¹	10/16/2020	\$2,800.00
JONES, RON ²	10/16/2020	\$1,000.00
MELLI, ALI ³	10/16/2020	\$2,800.00
MILLS, BRUCE ⁴	10/16/2020	\$1,000.00
ROSS, PATRICIA ⁵	10/16/2020	\$2,000.00
SPENCER, DIANA DAVIS	10/16/2020	\$1,000.00
		
CAMPBELL, ROBERT	10/20/2020	\$1,000.00
HAMM, EDWARD H	10/20/2020	\$1,000.00
HARRIS, R K	10/20/2020	\$1,000.00
GUTHRIE, MICHAEL	10/21/2020	\$1,000.00
HARVIE, WILLIAM	10/21/2020	\$1,000.00
ASBJORNSON, NORMAN	10/22/2020	\$1,000.00
		
DURHAM, MARY ⁶	10/23/2020	\$2,800.00
ROJ, WILLIAM ⁷	10/23/2020	\$2,800.00
		
PROST, VAUGHN	10/27/2020	\$2,000.00
ROCKEFELLER, LISENNE	10/27/2020	\$1,000.00
HESLEP, DONALD BALDWIN	10/28/2020	\$1,000.00
MORGAN, TOM ⁸	10/29/2020	\$2,800.00
	TOTAL	\$33,800.00

Proposed Civil Money Penalty: \$3,984 ((4 Notices Not Filed at \$151 each) + (10% of the Overall Contributions Not Reported))

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⁸ This contribution was earmarked through House Freedom Fund and was received by the conduit on 10/29/20.

RECEIVED

By Office of the Commission Secretary at 10:12 am, Jun 10, 2021



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

June 10, 2021

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

BY: Kristin D. Roser *KDR*
Reports Analysis Division
Compliance Branch

SUBJECT: Administrative Fine Program – Final Determination Recommendation for Failure to File 48-Hour Notices

Attached is a list 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 2020 General Election. The committee has paid the civil money penalty requested at RTB.

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

RAD Recommendation

(1) Make a final determination that the political committee and its treasurer, in his official capacity, listed on the attached report violated 52 U.S.C. § 30104(a) and assess the final civil money penalty so indicated.

(2) Send the appropriate letter.

Federal Election Commission
Final Determination Circulation Report
48-Hour Notification Report

6/9/2021 2:45 PM

AF#	Committee ID	Committee Name	State	Election	Candidate Name	Treasurer	Prev Violations	Notices Not Filed	LOA	RTB Date	RTB Penalty	FD Penalty	Date Paid	Amount Paid
4201	C00725853	BURGESS 4 UTAH	UT	2020	BURGESS OWENS	PAUL KILGORE	0	4	\$33,800	04/29/2021	\$3,984	\$3,984	05/10/2021	\$3,984

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) AF 4201
 Administrative Fine Program - Final)
 Determination Recommendation for)
 Failure to File 48-Hour Notices: Burgess)
 4 Utah and Paul Kilgore, in his official)
 capacity as treasurer)

CERTIFICATION

I, Laura E. Sinram, Acting Secretary and Clerk of the Federal Election Commission, do hereby certify that on June 11, 2021, the Commission decided by a vote of 4-0 to take the following actions in AF 4201:

1. Make a final determination that Burgess 4 Utah and Paul Kilgore, in his official capacity as treasurer, violated 52 U.S.C. § 30104(a) and assess the final civil money penalty in the amount of \$3,984.
2. Send the appropriate letter.

Commissioners Cooksey, Trainor, Walther, and Weintraub voted affirmatively for the decision. Commissioners Broussard and Dickerson did not vote.



Attest:

**Laura
Sinram**


 Digitally signed by Laura Sinram
 Date: 2021.06.14 20:25:57 -04'00'

Laura E. Sinram
 Acting Secretary and Clerk of the
 Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AF

June 16, 2021

Paul Kilgore, in official capacity as Treasurer
Burgess 4 Utah
824 S Milledge Ave
Ste 101
Athens, GA 30605

C00725853
AF#: 4201

Dear Mr. Kilgore,

On April 29, 2021, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Burgess 4 Utah and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) for failing to file 48-Hour Notices for contributions of \$1,000 or more, received between October 15, 2020 and October 31, 2020, totaling \$33,800. By letter dated May 5, 2021, the Commission notified you of the RTB finding and the civil money penalty calculated at the RTB stage totaling \$3,984 in accordance with the schedule of penalties at 11 CFR § 111.44.

On May 10, 2021, the FEC received payment of the civil money penalty calculated at the RTB stage. The FEC made a final determination on June 11, 2021 that Burgess 4 Utah and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a), assessed a civil money penalty in the amount of \$3,984 in accordance with 11 CFR § 111.44 and voted to close the file.

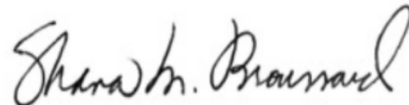
The confidentiality provisions at 52 U.S.C. § 30109(a)(12) no longer apply and this matter is now public. Pursuant to 11 CFR §§ 111.42(b) and 111.20(c), the file will be placed on the public record within thirty (30) days from the date of this notification.

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

BURGESS 4 UTAH

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On behalf of the Commission,

A handwritten signature in black ink, reading "Shana M. Broussard". The signature is written in a cursive style with a large, looping initial 'S'.

Shana M. Broussard
Chair