

## Federal Election Commission

## § 111.36

### **§ 111.32 How will the Commission notify respondents of a reason to believe finding and a proposed civil money penalty?**

If the Commission determines, by an affirmative vote of at least four (4) of its members, that it has reason to believe that a respondent has violated 2 U.S.C. 434(a), the Chairman or Vice-Chairman shall notify such respondent of the Commission's finding. The written notification shall set forth the following:

(a) The alleged factual and legal basis supporting the finding including the type of report that was due, the filing deadline, the actual date filed (if filed), and the number of days the report was late (if filed);

(b) The applicable schedule of penalties;

(c) The number of times the respondent has been assessed a civil money penalty under this subpart during the current two-year election cycle and the prior two-year election cycle;

(d) The amount of the proposed civil money penalty based on the schedules of penalties set forth in 11 CFR 111.43 or 111.44; and

(e) An explanation of the respondent's right to challenge both the reason to believe finding and the proposed civil money penalty.

### **§ 111.33 What are the respondent's choices upon receiving the reason to believe finding and the proposed civil money penalty?**

The respondent must either send payment in the amount of the proposed civil money penalty pursuant to 11 CFR 111.34 or submit a written response pursuant to 11 CFR 111.35.

### **§ 111.34 If the respondent decides to pay the civil money penalty and not to challenge the reason to believe finding, what should the respondent do?**

(a) The respondent shall transmit payment in the amount of the civil money penalty to the Commission within forty (40) days of the Commission's reason to believe finding.

(b) Upon receipt of the respondent's payment, the Commission shall send the respondent a final determination that the respondent has violated the statute or regulations and the amount

of the civil money penalty and an acknowledgment of the respondent's payment.

### **§ 111.35 If the respondent decides to challenge the alleged violation or proposed civil money penalty, what should the respondent do?**

(a) Within forty (40) days of the Commission's reason to believe finding, the respondent shall submit to the Commission a written response.

(b) The written response shall contain the following:

(1) Reason(s) why the respondent is challenging the reason to believe finding and/or civil money penalty which may consist of:

(i) The existence of factual errors; and/or

(ii) The improper calculation of the civil money penalty; and/or

(iii) The existence of extraordinary circumstances that were beyond the control of the respondent and that were for a duration of at least 48 hours and that prevented the respondent from filing the report in a timely manner;

(2) The factual basis supporting the reason(s); and

(3) Supporting documentation.

(4) Examples of circumstances that will not be considered extraordinary include, but are not limited to, the following:

(i) Negligence;

(ii) Problems with vendors or contractors;

(iii) Illness, inexperience, or unavailability of staff, including the treasurer;

(iv) Computer failures (except failures of the Commission's computers); and

(v) Other similar circumstances.

[65 FR 31794, May 19, 2000, as amended at 68 FR 12577, Mar. 17, 2003]

### **§ 111.36 Who will review the respondent's written response?**

(a) A reviewing officer shall review the respondent's written response. The reviewing officer shall be a person who has not been involved in the reason to believe finding.