

**PDC Public Comment for 11/21/24 BAP
Conner Edwards**

Clarifying Penalty Issue

If a respondent has failed to file multiple reports required under the FCPA, have they committed one violation or several?

Common sense tells us that each failure to file a required report is a separate violation. It should be treated as such in enforcement hearings, but often isn't.

Notwithstanding this fact, the agency will often group numerous violations together as if they were one violation for purposes of determining penalties. Most often this occurs when a candidate fails to file the three required reports associated with a particular election.

Each violation should be treated separately for purposes of applying the base penalty amounts. If applying the base penalty amounts would result in an absurdly high or low penalty, the Commissioners have the authority to modify the penalty imposed based on the presence of aggravating/mitigating factors.

The agency's most common way of handling these cases effectively gives respondents the ability to commit three violations but only pay the price of one violation. However, the agency doesn't always follow this approach.

This raises questions as to how the agency intends to apply the penalty schedule with respect to future enforcement issues. I would encourage the agency to consider and clarify its approach to this issue.

-Conner