

BILL BRADBURY  
SECRETARY OF STATE



ELECTIONS DIVISION  
JOHN LINDBACK  
DIRECTOR  
141 STATE CAPITOL  
SALEM, OREGON 97310-0722  
ELECTIONS—(503) 986-1518

BEFORE THE SECRETARY OF STATE  
OF THE  
STATE OF OREGON

In the matter of a Late Contribution and Expenditure Report )  
by the Oregon Laborers Political Committee, Greg Held, ) Final Order  
Treasurer, for the First Pre-Election for the )  
November 2, 2004, General Election ) Case No. L7936  
)

March 16, 2005

Oregon Laborers Political Committee (003079)  
Greg Held, Treasurer  
10245 SE Holgate Blvd  
Portland, OR 97266

Dear Mr. Held:

This is a Final Order issued by the Secretary of State (secretary) for your failure to file a timely first pre-election contribution and expenditure report for the November 2, 2004, General Election.

On January 28, 2005, the secretary notified the Oregon Laborers Political Committee (committee), pursuant to ORS 260.232(2), that it had failed to file the report and that the secretary may impose a civil penalty. An opportunity for a hearing was provided in that notice. The committee submitted written testimony in the form of a notarized statement in lieu of a personal appearance at a public hearing. Accordingly, after consideration of the applicable law and evidence presented, Jennifer Hertel, Hearings Officer with the Elections Division, is entering the following Order.

FINDINGS OF FACT

1. The committee's Statement of Organization (SEL 221), applicable during the reporting period, was filed with the secretary on April 12, 2004. The statement reported Greg Held as the treasurer and 10245 SE Holgate Blvd, Portland, OR 97266 as the address to which all committee correspondence was to be sent.
2. The committee was required to file a first pre-election report with the secretary on September 27, 2004.
3. The secretary sent the committee a notice that it had failed to file a timely report on September 28, 2004. The notice was sent by first class mail to the treasurer at the above-referenced address.

4. The secretary received the report on October 25, 2004, which is 20 business days after the date on which the report was due.
5. The committee reported total contributions of \$4,000.00 and total expenditures of \$4,000.00 during the accounting period for the report.
6. On January 28, 2005, the secretary sent the committee a Notice of Proposed Civil Penalty. The notice was sent by both certified and first class mail to the treasurer at the above-referenced address. The notice proposed a civil penalty of \$1,000.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by K. Simpson on January 31, 2005.
7. On February 17, 2005, the secretary received a notarized letter from Greg Held in lieu of a public hearing.
8. The letter—attached as Exhibit A—was reviewed, considered, and made part of the record.
9. The secretary has record of three previous late filings during the two-year period beginning September 15, 2003.

#### ULTIMATE FINDINGS OF FACT

Greg Held, Treasurer, failed to file a timely first pre-election contribution and expenditure report for the November 2, 2004, General Election.

#### CONCLUSIONS OF LAW

Treasurer Greg Held's failure to file a timely first pre-election contribution and expenditure report for the November 2, 2004, General Election violated ORS 260.073.

#### OPINION

The Oregon Laborers Political Committee's first pre-election contribution and expenditure report, filed on October 25, 2004, was late. It was due by 5:00 p.m., September 27, 2004.

By statute, a maximum \$10,000 civil penalty may be imposed for this violation. The *2004 Campaign Finance Manual*, which contains a penalty calculation matrix on pages 101 and 102, is designated in OAR 165-012-0005 as the procedure manual for Oregon campaign finance regulations.

Mr. Held states in his testimony that he had neck surgery on September 15, 2004. He also provided with the notarized testimony an order from his doctor, Dr. Thomas Jay Rosenbaum, ordering bed rest from 9/15/04 - 10/1/04. He further states that because it took him longer to recover that some of his business responsibilities “slipped through the cracks.”

Although it is regrettable that Mr. Held was required to undergo surgery, the hearings officer does not find that his particular situation meets the mitigating circumstance of a valid personal emergency. The interpretation of this mitigating circumstance is limited to emergencies that are sudden and unexpected, such as a serious personal illness or death in the immediate family of the treasurer, which caused a report to be late. Upon the scheduling of the surgery, Mr. Held could have made other arrangements for the filing of the report.

Under the penalty matrix, the maximum statutory penalty of \$10,000 is reduced to 5% of the total contributions or total expenditures—whichever is greater—for each business day the report was late as this is the fourth late violation by the treasurer.

Although the calculated penalty for the late report is \$4,000.00 ( $\$4,000.00 \times 5\% \times 20$  days), the penalty matrix sets a maximum penalty of \$1,000.00 when the total contributions or total expenditures—whichever is greater—is between \$2,000.01 and \$10,000.

#### ORDER

It is ordered that a penalty of \$1,000.00 is assessed. If your payment is not received within 60 days from the date of service noted below, this Order will be sent to our accounting division for collection and may be subsequently sent to the Oregon Department of Revenue.

Please refer to case number L7936 when mailing your payment.

#### RIGHT TO JUDICIAL REVIEW

You have the right to appeal this Order to the Oregon Court of Appeals pursuant to ORS 183.482. To appeal you must file a petition for judicial review with the Court of Appeals within 60 days from the day this Order was served to you. Because this Order was mailed to you, the date of service is the day it was *mailed*, not the day you received it. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

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Jennifer Hertel, Compliance Specialist

DATE of Service: \_\_\_\_\_