

BILL BRADBURY
SECRETARY OF STATE



ELECTIONS DIVISION
JOHN LINDBACK
DIRECTOR
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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 Coos County Democratic Central Committee,) Final Order by Default
Richard Kuznitsky, Treasurer, for the First Supplement to)
the Second Pre-Election for the November 2, 2004, General) Case No. L8153
Election)

April 27, 2005

Coos County Democratic Central Committee (000299)
Richard Kuznitsky, Treasurer
PO Box 417
Coos Bay, OR 97420

Dear Mr. Kuznitsky:

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

On March 11, 2005, the secretary notified the Coos County Democratic Central 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; however, no request for a hearing was received by the secretary within the time permitted in the notice. Accordingly, after consideration of the records and files of the secretary regarding this matter, the secretary 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 August 30, 2004. The statement reported Richard Kuznitsky as the treasurer and PO Box 417, Coos Bay, OR 97420 as the address to which all committee correspondence was to be sent.
2. The committee was required to file a first supplement to the second pre-election report with the secretary on October 25, 2004, because it made aggregate expenditures exceeding \$1,000 to a single payee between October 18 and October 24, 2004.
3. On October 29, 2004, the committee filed a first supplement to the second pre-election report with the secretary disclosing expenditures of \$2,818.00, making it four business days late.

4. Additionally, the secretary discovered that the committee should have included an expenditure of \$113.40 to the Postmaster on October 18, 2004, on the first supplement to the second pre-election report because the aggregate for the payee exceeded \$1,000 during the accounting period of the report. This expenditure was first disclosed on the committee's post-election report filed on November 30, 2004, making this portion of the report 24 business days late.
5. On March 11, 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 \$139.84 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Matt C. Christensen on March 21, 2005.
6. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing.
7. The secretary has record of no previous late filings during the two-year period beginning September 15, 2003.

ULTIMATE FINDINGS OF FACT

Richard Kuznitsky, Treasurer, failed to file a timely first supplement to the second pre-election contribution and expenditure report for the November 2, 2004, General Election.

CONCLUSIONS OF LAW

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

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.

Under the penalty matrix, the maximum statutory penalty of \$10,000 is reduced to 1% of the total contributions or total expenditures—whichever is greater—for each business day the report was late as this is the first late violation by the treasurer.

ORDER

It is ordered that a penalty of \$139.84 [(\$2,818.00 x 1% x 4 days) + (\$113.40 x 1% x 24 days)] 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 L8153 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.

Jennifer Hertel, Compliance Specialist

DATE of Service: _____