

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 Oregonians Against Insurance Rate Increases,) Final Order by Default
Mark W. Nelson, Treasurer, for the First Supplement to the)
Second Pre-Election for the November 7, 2006,) Case No. L9195
General Election)

July 27, 2007

Oregonians Against Insurance Rate Increases (005442)
Mark W. Nelson, Treasurer
PO Box 12945
Salem, OR 97309

Dear Mr. Nelson:

This is a Final Order by Default issued by the Secretary of State (secretary) for your failure to file a complete first supplement to the second pre-election contribution and expenditure report for the November 7, 2006, General Election.

On May 16, 2007, the secretary notified Oregonians Against Insurance Rate Increases (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 7, 2006. The statement reported Mark W. Nelson as the treasurer and PO Box 12945, Salem, OR 97309 as the address to which all committee correspondence was to be sent.
2. The committee submitted a complete first supplement to the second pre-election report on October 30, 2006. However, an additional expenditure (\$14,500.00 from Our Oregon on October 29, 2006) should have been included on the report.
3. The committee first report the expenditure required to be included on the first supplement to the second pre-election report on its post-election report filed on December 1, 2006, making this portion of the report 22 business days late.

4. On May 16, 2007, 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 \$3,190.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Zuzana Holcom on May 17, 2007.
5. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing.
6. The secretary has record of no previous late filings during the two-year period beginning September 15, 2005.

ULTIMATE FINDINGS OF FACT

Mark W. Nelson, Treasurer, failed to file a complete first supplement to the second pre-election contribution and expenditure report for the November 7, 2006, General Election.

CONCLUSIONS OF LAW

Treasurer Mark W. Nelson's failure to file a complete first supplement to the second pre-election contribution and expenditure report for the November 7, 2006, General Election violated ORS 260.073.

By statute, a maximum \$10,000 civil penalty may be imposed for this violation. The *2006 Campaign Finance Manual*, which contains a penalty calculation matrix on pages 104–106, 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 \$3,190.00 ($\$14,500.00 \times 1\% \times 22$ 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 L9195 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.

Jan Flowers, Compliance Specialist

DATE of Service: July 27, 2007