

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 an Insufficient Contribution and Expenditure)
Report by South Coast Yes on Measure 30, Alice Carlson,) Final Order
Treasurer, for the Second Pre-Election for the February 3, 2004,)
Special Election) Case No. I8251
)

August 5, 2005

South Coast Yes on Measure 30 (004743)
Alice Carlson, Treasurer
294 Central Ave
Coos Bay, OR 97420

Dear Ms. Carlson:

This is a Final Order issued by the Secretary of State (secretary) for your failure to file a sufficient second pre-election contribution and expenditure report for the February 3, 2004, Special Election.

On June 3, 2005, the secretary notified South Coast Yes on Measure 30 (committee), pursuant to ORS 260.232(2), that it had failed to file a sufficient 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 December 11, 2003. The statement reported Alice Carlson as the treasurer and 294 Central Ave, Coos Bay, OR 97420 as the address to which all committee correspondence was to be sent.
2. The committee filed a second pre-election report with the secretary on January 22, 2004.

3. On February 5, 2004, the secretary sent the committee an exam letter that itemized the areas where the report was not in compliance. The committee was asked to submit the necessary amended information by February 19, 2004, to avoid penalties for failure to file a sufficient report.
4. On the day following the February 19, 2004, amendment deadline, the committee's report was still missing the following required information: the complete date for three contributions and occupational information for one contributor (4 items).
5. On June 3, 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 \$40.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Susan L. Anderson on June 6, 2005.
6. On June 21, 2005, an amendment to the committee's report was filed. The amendment provided 4 items of previously insufficient information.
7. On June 21, 2005, the secretary received a notarized letter from Susan L. Anderson in lieu of a personal appearance at 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 no previous insufficient filings during the two-year period beginning September 15, 2003.

ULTIMATE FINDINGS OF FACT

Alice Carlson, Treasurer, failed to file a sufficient second pre-election contribution and expenditure report for the February 3, 2004, Special Election.

CONCLUSIONS OF LAW

Treasurer Alice Carlson's failure to file a sufficient second pre-election contribution and expenditure report for the February 3, 2004, Special Election violated ORS 260.063, ORS 260.083 and OAR 165-012-0005. A civil penalty may be imposed for this violation under ORS 260.232(1)(b).

OPINION

The South Coast Yes on Measure 30's second pre-election contribution and expenditure report, filed on January 22, 2004, was insufficient. An exam letter was sent to the committee detailing the insufficiencies of the report and an amendment to the report was required to be filed by February 19, 2004. The committee failed to file an amendment which satisfied all the items listed on the exam letter by the deadline.

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 104 and 105, is designated in OAR 165-012-0005 as the procedure manual for Oregon campaign finance regulations.

After reviewing and considering the evidence and information on file in this office, the hearings officer finds that there has been a violation of Oregon election law. The explanation provided in the notarized testimony does not adequately mitigate the failure to file a sufficient report by the deadline. The testimony explains the amendment was not filed due to a mis-understanding by the committee regarding the items to be corrected after receiving the exam letter. The committee thought that the note written on page 4 of the exam letter, in the section for Summary Page (PC 1) information, "Please update your records – no need to file an amendment" meant that the committee only needed to update their records. The note was intended only for the section of the exam that notifies a committee of different summary page amounts. Further, the exam states that, "Unless noted otherwise, you must file a corrected summary page or submit information to support your totals." It is unfortunate that the committee didn't understand the note only referenced PC 1 totals, but it is not a mitigating circumstance considered in waiving the violation.

Since this is the first violation by the treasurer, the penalty is \$10.00 per omission less 50% for every omitted item provided prior to the issuance of the proposed penalty notice or during the hearing.

ORDER

It is ordered that no penalty be assessed because the appropriate penalty is under \$50.

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: August 5, 2005