

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 Malmay for State Representative (Carol), Carol ) Final Order by Default  
Malmay, Candidate/Treasurer, for the First Pre-Election for )  
the May 18, 2004, Primary Election ) Case No. I8313  
)

August 5, 2005

Malmay for State Representative (Carol) (004899)  
Carol Malmay, Candidate/Treasurer  
PO Box 953  
Canyonville, OR 97417

Dear Ms. Malmay:

This is a Final Order by Default issued by the Secretary of State (secretary) for your failure to file a sufficient first pre-election contribution and expenditure report for the May 18, 2004, Primary Election.

On June 3, 2005, the secretary notified Malmay for State Representative (Carol) (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; 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 220), applicable during the reporting period, was filed with the secretary on March 15, 2004. The statement reported Carol Malmay, the candidate, as the treasurer and PO Box 953, Canyonville, OR 97417 as the address to which all committee correspondence was to be sent.
2. The committee filed a first pre-election report with the secretary on April 12, 2004.
3. On April 27, 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 May 6, 2004, to avoid penalties for failure to file a sufficient report.

4. On the day following the May 6, 2004, amendment deadline, the committee's report was still missing the following required information: the names of the payees for two expenditures and sufficient purposes for two expenditures (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 candidate/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 Carol Malmay on June 6, 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 insufficient filings during the two-year period beginning September 15, 2003.

#### ULTIMATE FINDINGS OF FACT

Carol Malmay, Candidate/Treasurer, failed to file a sufficient first pre-election contribution and expenditure report for the May 18, 2004, Primary Election.

#### CONCLUSIONS OF LAW

Candidate/Treasurer Carol Malmay's failure to file a sufficient first pre-election contribution and expenditure report for the May 18, 2004, Primary Election violated ORS 260.058, ORS 260.083 and OAR 165-012-0005. A civil penalty may be imposed for this violation under ORS 260.232(1)(b).

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.

Since this is the first violation by the candidate, the penalty is \$10.00 per omission.

#### 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.

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Jennifer Hertel, Compliance Specialist

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