

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 Friends of Jay Omdahl, Jay Omdahl, Candidate,) Final Order by Default
Dimitri Guillen, Treasurer, for the Post-Election for the)
November 2, 2004, General Election) Case No. I8382
)

August 5, 2005

Friends of Jay Omdahl (004664)
Jay Omdahl, Candidate / Dimitri Guillen, Treasurer
7695 SW Gearhart Dr
Beaverton, OR 97007

Dear Mr. Omdahl:

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

On June 27, 2005, the secretary notified Friends of Jay Omdahl (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 May 17, 2004. The statement reported Dimitri Guillen as the treasurer and 4130 SW 117th Ave, PMB 194, Beaverton, OR 97005-8999 as the mailing address for both candidate and committee correspondence.
2. The committee filed a post-election report with the secretary on December 1, 2004.
3. On December 17, 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 December 30, 2004, to avoid penalties for failure to file a sufficient report.

4. On the day following the December 30, 2004, amendment deadline, the committee's report was still missing the following required information: occupational information for one contributor and the candidate or treasurer's signature (2 items).
5. On January 14, 2005, an amendment to the committee's report was filed. The amendment provided two items of previously insufficient information.
6. On June 27, 2005, the secretary sent the candidate a Notice of Proposed Civil Penalty to 7696 SW Gearhart Dr, Beaverton, OR 97007. The notice was sent by both certified and first class mail to the candidate. The notice was sent by first class mail to the treasurer at PO Box 230012, Tigard, OR 97281-0012. The notice proposed a civil penalty of \$15.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was returned unclaimed and the post-office indicated it gave first notice on on June 28, 2005.
7. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing.
8. The secretary has record of one previous insufficient filing during the two-year period beginning September 15, 2003.

ULTIMATE FINDINGS OF FACT

Jay Omdahl, Candidate, and Dimitri Guillen, Treasurer, failed to file a sufficient post-election contribution and expenditure report for the November 2, 2004, General Election.

CONCLUSIONS OF LAW

Candidate Jay Omdahl's and Treasurer Dimitri Guillen's failure to file a sufficient post-election contribution and expenditure report for the November 2, 2004, General Election violated ORS 260.068, 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 second violation by the candidate, the penalty is \$15.00 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

c: Dimitri Guillen, Treasurer
PO Box 230012
Tigard, OR 97281-0012