

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 Phil Barnhart, Phil Barnhart, Candidate, Christine A. Bales, Treasurer, for the First Pre-Election for the November 2, 2004, General Election) Final Order by Default
)
) Case No. I8413
)

January 26, 2006

Friends of Phil Barnhart (003481)
Phil Barnhart, Candidate / Christine A. Bales, Treasurer
182 Sunset Dr
Eugene, OR 97403

Dear Representative Barnhart:

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 November 2, 2004, General Election.

On November 16, 2005, the secretary notified Friends of Phil Barnhart (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 November 28, 2003. The mailing address provided on the Statement of Organization for the candidate was PO Box 71188, Eugene, OR 97401. The statement reported Christine A. Bales as the treasurer and 2790 Echo Lane, Eugene, OR 97404 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 September 27, 2004.
3. On October 12, 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 October 21, 2004, to avoid penalties for failure to file a sufficient report.

4. On the day following the October 21, 2004, amendment deadline, the committee's report was still missing the following required information: the names of four contributors, sufficient occupational information for two contributors, and documentation showing that three contributors' occupational information was requested within seven days of receipt of their contribution (9 items).
5. On October 22, 2004, an amendment to the committee's report was filed. The amendment provided nine items of previously insufficient information.
6. On October 25, 2005, the committee filed an amended Statement of Organization, updating the candidate's address to 182 Sunset Dr, Eugene, OR 97403.
7. On November 16, 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 and was sent by first class mail to the treasurer at the above-referenced addresses. The notice proposed a civil penalty of \$45.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Florence Barnhart on November 17, 2005.
8. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing.
9. The secretary has record of no previous insufficient filings during the two-year period beginning September 15, 2003.

ULTIMATE FINDINGS OF FACT

Phil Barnhart, Candidate, and Christine A. Bales, Treasurer, failed to file a sufficient first pre-election contribution and expenditure report for the November 2, 2004, General Election.

CONCLUSIONS OF LAW

Candidate Phil Barnhart's and Treasurer Christine A. Bales's failure to file a sufficient first pre-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 first violation by the candidate, 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: _____

c: Christine A. Bales, Treasurer
2790 Echo Lane
Eugene, OR 97404