

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 the Retain Judge Van Dyk Committee, Douglas V. ) Final Order by Default  
Van Dyk, Candidate, Marc Abrams, Treasurer, for the )  
Second Pre-Election for the November 2, 2004, General ) Case No. I8592  
Election )

January 27, 2006

Retain Judge Van Dyk Committee (004606)  
Douglas V. Van Dyk, Candidate / Marc Abrams, Treasurer  
2672 Beacon Hill Dr  
West Linn, OR 97068-5613

Dear Judge Van Dyk:

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

On December 2, 2005, the secretary notified the Retain Judge Van Dyk Committee (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 September 20, 2004. The mailing address provided on the Statement of Organization for the candidate was 1537 NW Slocum, Portland, OR 97229. The statement reported Marc Abrams as the treasurer and 2868 NW Wardway #11, Portland, OR 97210 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 October 19, 2004.

3. On November 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 November 18, 2004, to avoid penalties for failure to file a sufficient report.
4. On the day following the November 18, 2004, amendment deadline, the committee's report was still missing the following required information: the date or range of dates for miscellaneous contributions and a Report of Expenditures Made by an Agent (form PC9) or a copy of an invoice from the agent detailing expenditures of \$1,150.00 made by the agent on behalf of the committee.
5. On December 2, 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 \$25.90 and allowed the committee 20 days to request a hearing. The notice sent by first class and certified mail to the candidate was returned by the post office on December 7, 2005, indicating the forwarding time had expired for 1537 NW Slocum, Portland, OR 97229. The post office indicated a new address of 2672 Beacon Hill Drive, West Linn, OR 97068-5613.
6. On December 27, 2005, the Secretary received a letter from Marc Abrams. Mr. Abrams indicated he believed reporting agent expenditures already reported as reimbursement to the candidate would be a double reported expenditure. He could not locate in the manual an explanation of how a two-step process can be reported without creating a false double expenditure. The letter was not notarized; however, had the letter been notarized, it would not have changed the outcome of the case. Mr. Abrams indicated his new mailing address is 1009 NW Hoyt St #216, Portland, OR, 97209.
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 no previous insufficient filings during the two-year period beginning September 15, 2003.

#### ULTIMATE FINDINGS OF FACT

Douglas V. Van Dyk, Candidate, and Marc Abrams, Treasurer, failed to file a sufficient second pre-election contribution and expenditure report for the November 2, 2004, General Election.

#### CONCLUSIONS OF LAW

Candidate Douglas V. Van Dyk's and Treasurer Marc Abrams's failure to file a sufficient second 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 plus 1% of agent expenditures.

#### ORDER

Payment of the proposed civil penalty of \$25.90 was received in the office of the Secretary of State on December 27, 2005. This Order will serve as your receipt and this matter is now considered closed.

#### 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: January 27, 2006

c: Marc Abrams, Treasurer  
1009 NW Hoyt #216  
Portland, OR 97209