

BILL BRADBURY
SECRETARY OF STATE



ELECTIONS DIVISION
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DIRECTOR
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SALEM, OREGON 97310
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 Committee to Elect Jim Torrey, James D. Torrey,) Final Order by Default
Candidate, Tricia Duncan, Treasurer, for the Second Pre-)
Election for the May 16, 2006, Primary Election) Case No. I9404

September 19, 2008

Committee to Elect Jim Torrey (004676)
James D. Torrey, Candidate / Tricia Duncan, Treasurer
3393 Arlington Ave
Eugene, OR 97408

Dear Mr. Torrey:

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 May 16, 2006, Primary Election.

On June 4, 2008, the secretary notified the Committee to Elect Jim Torrey (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 13, 2005. The mailing address provided on the Statement of Organization for the candidate was 3593 River Point Dr, Eugene, OR 97408. The statement reported Tricia Duncan as the treasurer and PO Box 10086, Eugene, OR 97440 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 May 5, 2006.
3. On May 19, 2006, 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 June 1, 2006, to avoid penalties for failure to file a sufficient report.

4. On the day following the June 1, 2006, amendment deadline, the committee's report was still missing the following required information: a sufficient purpose of one in-kind contribution, a sufficient name of the payee for one expenditure, a sufficient purpose for two expenditures, a sufficient purpose for one accounts payable and a Report of Expenditures Made by an Agent (form PC 9) (6 items).
5. On June 5, 2006, an amendment to the committee's report was filed. The amendment provided five items of previously insufficient information and a Report of Expenditures Made by an Agent (form PC 9).
6. On March 6, 2008, the secretary received an amended SEL 220 updating the candidate's mailing address to 3393 Arlington Ave, Eugene, OR 97408.
7. On June 4, 2008, 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 \$51.45 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Kathy Torrey on June 5, 2008.
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, 2005.

ULTIMATE FINDINGS OF FACT

James D. Torrey, Candidate, and Tricia Duncan, Treasurer, failed to file a sufficient second pre-election contribution and expenditure report for the May 16, 2006, Primary Election.

CONCLUSIONS OF LAW

Candidate James D. Torrey's and Treasurer Tricia Duncan's failure to file a sufficient second pre-election contribution and expenditure report for the May 16, 2006, 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 *2006 Campaign Finance Manual*, which contains a penalty calculation matrix on pages 108 and 109, 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 and 1% of agent expenditures, less 50% for every omitted item submitted after the amendment deadline but prior to the deadline for a candidate or treasurer to request a hearing.

ORDER

Payment of the proposed civil penalty of \$51.45 was received in the office of the Secretary of State on July 2, 2008. 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.

Stacey Jackson, Compliance Specialist

DATE of Service: September 19, 2008

c: Tricia Duncan, Treasurer
PO Box 10086
Eugene, OR 97440