

BILL BRADBURY
SECRETARY OF STATE



ELECTIONS DIVISION
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DIRECTOR
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SALEM, OREGON 97310-0722
ELECTIONS—(503) 986-1518

BEFORE THE SECRETARY OF STATE
OF THE
STATE OF OREGON

In the matter of a Late Contribution and Expenditure Report) Final Order by Default
by Service Employees Political Action Committee II,)
Arthur Towers and Megan Sweeney, Treasurers, for the) Case No. L7722
Second Pre-Election for the May 18, 2004, Primary Election)

August 4, 2004

Service Employees Political Action Committee II (003235)
Arthur Towers, Treasurer
10401 NE Halsey St
Portland, Or 97220

Megan Sweeney, Treasurer
3536 SE 26th Ave
Portland OR 97202

Dear Mr. Towers and Ms Sweeney:

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

On June 10, 2004, the secretary notified the Service Employees Political Action Committee II (committee), pursuant to ORS 260.232(2), that it had failed to file the 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 221), applicable during the reporting period, was filed with the secretary on May 17, 2000. The statement reported Arthur Towers as the treasurer and 10401 NE Halsey St, Portland, OR 97220 as the address to which all committee correspondence was to be sent.
2. The committee was required to file a second pre-election report with the secretary on May 6, 2004.

3. The secretary sent the committee a notice that it had failed to file a timely report on May 7, 2004. The notice was sent by first class mail to the treasurer at the above-referenced address.
4. On May 14, 2004, an amended SEL 221 was filed with secretary. The statement designated Megan Sweeney as the treasurer and 3536 SE 26th Ave, Portland OR 97202 as the address to which all correspondence was to be sent. The secretary also received the report on May 14, 2004, which is six business days after the date on which the report was due. Ms. Sweeney signed the report.
5. The committee reported no contributions or expenditures during the accounting period for the report.
6. On June 10, 2004, the secretary sent the committee a Notice of Proposed Civil Penalty. The notice was sent by both certified and first class mail to the treasurers at the above-referenced addresses in facts one and four. The notice proposed a civil penalty of \$50.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail to Mr. Towers was received and signed for by D. Murray on June 14, 2004. The notice sent to Ms. Sweeney was received and signed for the committee on June 14, 2004.
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 late filing during the two-year period beginning September 15, 2003.

ULTIMATE FINDINGS OF FACT

Arthur Towers and Megan Sweeney, Treasurers, failed to file a timely second pre-election contribution and expenditure report for the May 18, 2004, Primary Election.

CONCLUSIONS OF LAW

Treasurers' Arthur Towers and Megan Sweeney's failure to file a timely second pre-election contribution and expenditure report for the May 18, 2004, Primary Election violated ORS 260.063.

By statute, 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 101 and 102, is designated in OAR 165-012-0005 as the procedure manual for Oregon campaign finance regulations. If the late report is filed by a different treasurer, both treasurers shall be jointly liable.

Under the penalty matrix, the maximum statutory penalty of \$10,000 is reduced to 3% of the total contributions or total expenditures—whichever is greater—for each business day the report was late as this is the second late violation by the treasurer.

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Although the committee reported no activity during the accounting period for the late report, the penalty matrix sets a minimum penalty of \$50.00 for a candidate's or treasurer's second late violation.

ORDER

Payment of the proposed civil penalty of \$50.00 was received in the office of the Secretary of State on June 18, 2004. 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.

Jennifer Hertel, Compliance Specialist

DATE of Service: _____