

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 a Late Contribution and Expenditure Report ) Final Order by Default  
by Family PAC, Michael Cross, Treasurer, for the Second )  
Pre-Election for the May 18, 2004, Primary Election ) Case No. L7731

August 4, 2004

Family PAC (004109)  
Michael Cross, Treasurer  
810 Mule Deer St NW  
Salem, OR 97304

Dear Mr. Cross:

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 18, 2004, the secretary notified Family PAC (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 March 16, 2004. The statement reported Michael Cross as the treasurer and 810 Mule Deer St NW, Salem, OR 97304 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 21, 2004, the secretary sent a letter to the committee informing them that their report had still not been received.
5. The secretary received the report on June 17, 2004, which is 29 business days after the date on which the report was due.
6. The committee reported total contributions of \$60.00 and no expenditures during the accounting period for the report.
7. On June 18, 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 treasurer at the above-referenced address. The notice proposed a civil penalty of \$52.20 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Brenda Cross on June 29, 2004.
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 one previous late filing during the two-year period beginning September 15, 2003.

#### ULTIMATE FINDINGS OF FACT

Michael Cross, Treasurer, failed to file a timely second pre-election contribution and expenditure report for the May 18, 2004, Primary Election.

#### CONCLUSIONS OF LAW

Treasurer Michael Cross'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.

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.

ORDER

It is ordered that a penalty of \$52.20 ( $\$60.00 \times 3\% \times 29$  days) is assessed. If your payment is not received within 60 days from the date of service noted below, this Order will be sent to our accounting division for collection and may be subsequently sent to the Oregon Department of Revenue.

Please refer to case number L7731 when mailing your payment.

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: \_\_\_\_\_