

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)
by Adam For Oregon, Adam Schwend,) Final Order by Default
Candidate/Treasurer, for the Post Election for the)
May 18, 2004, Primary Election) Case No. L7809
)

January 13, 2005

Adam For Oregon (004796)
Adam Schwend, Candidate/Treasurer
10290 Gilliam Ct
Tillamook, OR 97141

Dear Mr. Schwend:

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

On November 22, 2004, the secretary notified Adam For Oregon (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 220), applicable during the reporting period, was filed with the secretary on January 29, 2004. The statement reported Adam Schwend, the candidate, as the treasurer and 10290 Gilliam Ct, Tillamook, OR 97141 as the address to which all committee correspondence was to be sent.
2. The committee was required to file a post election report with the secretary on June 17, 2004.
3. The secretary sent the committee a notice that it had failed to file a timely report on June 18, 2004. The notice was sent by first class mail to the candidate/treasurer at the above-referenced address.

4. The secretary received the report on June 24, 2004, which is five business days after the date on which the report was due.
5. The committee reported no contributions or expenditures during the accounting period for the report.
6. On November 22, 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 candidate/treasurer at the above-referenced address. 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 was received and signed for by Adam Schwend on November 23, 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

Adam Schwend, Candidate/Treasurer, failed to file a timely post election contribution and expenditure report for the May 18, 2004, Primary Election.

CONCLUSIONS OF LAW

Candidate/Treasurer Adam Schwend's failure to file a timely post election contribution and expenditure report for the May 18, 2004, Primary Election violated ORS 260.058.

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.

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

It is ordered that a penalty of \$50.00 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 L7809 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.

Jennifer Hertel, Compliance Specialist

DATE of Service: _____