

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 Sara Gelsler for State Representative, Sara Gelsler,) Final Order by Default
Candidate, Barbara Sackett, Treasurer, for the First)
Supplement to the Second Pre-Election for the May 18, 2004,) Case No. L7837
Primary Election)

November 15, 2004

Sara Gelsler for State Representative (004680)
Sara Gelsler, Candidate / Barbara Sackett, Treasurer
4030 NW Glen Eden DR
Corvallis, OR 97330

Dear Ms. Gelsler:

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

On August 19, 2004, the secretary notified Sara Gelsler for State Representative (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 April 7, 2004. The mailing address provided on the Statement of Organization for the candidate was 4030 NW Glen Eden DR, Corvallis, OR 97330. The statement reported Barbara Sackett as the treasurer and 1804 SW Brooklane DR, Corvallis, OR 97330 as the address to which all committee correspondence was to be sent.
2. The committee was required to file a first supplement to the second pre-election report with the secretary on May 10, 2004, disclosing contributions exceeding an aggregate of \$500 from a single source and expenditures exceeding an aggregate of \$1,000 to a single payee between May 3 and May 9, 2004.

3. The committee submitted a timely first supplement to the second pre-election report on May 10, 2004. However, two additional expenditures (\$1,847.71 and \$2,770.00, both to William Berry Campaign on May 7, 2004) should have been included on the report.
4. The committee first reported the expenditure required to be included on the first supplement to the second pre-election report on its post-election report filed on June 14, 2004, making this portion of the report 24 days late.
5. On August 19, 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 and was sent by first class mail to the treasurer at the above-referenced addresses. The notice proposed a civil penalty of \$1,000.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received by the committee on August 20, 2004, according to the "Track and Confirm" feature of the United States Postal Service's web site.
6. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing.
7. The secretary has record of no previous late filings during the two-year period beginning September 15, 2003.

ULTIMATE FINDINGS OF FACT

Sara Gelser, Candidate, and Barbara Sackett, Treasurer, failed to file a timely first supplement to the second pre-election contribution and expenditure report for the May 18, 2004, Primary Election.

CONCLUSIONS OF LAW

Candidate Sara Gelser's and Treasurer Barbara Sackett's failure to file a timely first supplement to the second pre-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.

Under the penalty matrix, the maximum statutory penalty of \$10,000 is reduced to 1% of the total contributions or total expenditures—whichever is greater—for each business day the report was late as this is the first late violation by the candidate.

Although the calculated penalty for the late report is \$1,108.25 ($\$4,617.71 \times 1\% \times 24$ days), the penalty matrix sets a maximum penalty of \$1,000 when the total contributions or total expenditures—whichever is greater—is between \$2,000.01 and \$10,000.

ORDER

It is ordered that a penalty of \$1,000 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 L7837 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: _____

c: Barbara Sackett, Treasurer
1804 SW Brooklane DR
Corvallis, OR 97330