

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 Chuck Riley For State Representative, Chuck Riley,) Final Order
Candidate, Linda Ray-Keeney, Treasurer, for the)
First Supplement to the Second Pre-Election for the) Case No. L7855
May 18, 2004, Primary Election)

January 6, 2005

Chuck Riley For State Representative (004212)
Chuck Riley, Candidate / Linda Ray-Keeney, Treasurer
250 NE Hillwood Dr
Hillsboro, OR 97124

Dear Mr. Riley:

This is a Final Order 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 Chuck Riley 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. The committee submitted written testimony in the form of a notarized statement in lieu of a personal appearance at a public hearing. Accordingly, after consideration of the applicable law and evidence presented, Jennifer Hertel, Hearings Officer with the Elections Division, 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 February 4, 2004. The mailing address provided on the Statement of Organization for the candidate was 250 NE Hillwood Dr, Hillsboro, OR 97124. The statement reported Linda Ray-Keeney as the treasurer and 14905 SW Peachtree Dr, Tigard, OR 97224 as the address to which all committee correspondence was to be sent.
2. The committee submitted a timely first supplement to the second pre-election report with the secretary on May 10, 2004.

3. The committee filed a post-election report on June 8, 2004. The committee disclosed two expenditures to Meghan Moyer, \$16.53 on May 5, 2004, and \$2,650.00 on May 6, 2004. These expenditures were made within the accounting period of the first supplement to the second pre-election report. The expenditures were disclosed 20 business days after the date on which the report was due.
4. 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 \$533.20 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Chuck Riley on August 20, 2004.
5. On August 31, 2004, the secretary received a notarized letter from Chuck Riley in lieu of a public hearing.
6. The letter—attached as Exhibit A—was reviewed, considered, and made part of the record.
7. The secretary has record of no previous late filings during the two-year period beginning September 15, 2003.

ULTIMATE FINDINGS OF FACT

Chuck Riley, Candidate, and Linda Ray-Keeney, 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 Chuck Riley's and Treasurer Linda Ray-Keeney'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.

OPINION

Chuck Riley For State Representative 's first supplement to the second pre-election contribution and expenditure report, filed on June 8, 2004, was late. It was due by 5:00 p.m., May 10, 2004.

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.

After reviewing and considering the evidence and information on file in this office, the hearings officer finds that there has been a violation of Oregon election law. The explanation provided in the notarized testimony does not adequately mitigate the failure to file a report by the deadline.

The testimony submitted by Mr. Riley explains that the expenditure to Megan Moyer in the amount of \$2,650.00, and reported as being made on May 6, 2004, was actually a check written on June 1, 2004. Additionally, he also submitted a copy of the check made to Ms. Moyer, showing the true date of June 1, 2004. Therefore, the calculated penalty in the proposed penalty notice should not have included the \$2,650.00 expenditure.

However, the expenditure (\$16.43) made to Ms. Moyer on May 5, 2004, was not contested in the testimony. Therefore that expenditure should have been included on the first supplement to the second pre-election report filed on May 10, 2004. The calculated penalty for the late portion of the report is \$3.20 ($\$16.43 \times 1\% \times 20$ business days). Because the appropriate penalty is under \$50, no penalty will be assessed.

ORDER

It is ordered that no penalty be assessed.

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: Linda Ray-Keeney, Treasurer
14905 SW Peachtree Dr
Tigard, OR 97224