

BILL BRADBURY
SECRETARY OF STATE



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 Janie Burcart for DA, Janie Burcart, Candidate/Treasurer,)
for the Supplemental of 2004) Case No. L7914

March 16, 2005

Janie Burcart for DA (004675)
Janie Burcart, Candidate/Treasurer
409 Sunset Dr
La Grande, OR 97850

Dear Ms. Burcart:

This is a Final Order by Default issued by the Secretary of State (secretary) for your failure to file a timely supplemental contribution and expenditure report for 2004.

On January 21, 2005, the secretary notified Janie Burcart for DA (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 October 6, 2003. The statement reported Janie Burcart, the candidate, as the treasurer and 409 Sunset Dr, La Grande, OR 97850 as the address to which all committee correspondence was to be sent.
2. The committee was required to file a supplemental report with the secretary on September 10, 2004.
3. The secretary received the report on September 13, 2004, which is one business day after the date on which the report was due.
4. The committee reported total contributions of \$100.00 and total expenditures of \$215.40 during the accounting period for the report.

5. On January 21, 2005, 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 \$2.15 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was returned unclaimed and the post office indicated it gave first notice on January 24, 2005.
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

Janie Burcart, Candidate/Treasurer, failed to file a timely supplemental contribution and expenditure report for 2004.

CONCLUSIONS OF LAW

Candidate/Treasurer Janie Burcart's failure to file a timely supplemental contribution and expenditure report for 2004 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.

The calculated penalty for the late report is \$2.15 ($\$215.40 \times 1\% \times 1 \text{ day}$). 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: _____