

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 the Hood River County Republican Central Committee, )  
Brian Steeves, Treasurer, for the First Pre-Election for the ) Case No. L7923  
November 2, 2004, General Election )

March 17, 2005

Hood River County Republican Central Committee (000313)  
Brian Steeves, Treasurer  
3700 Westcliff Dr  
Hood River, OR 97031

Dear Mr. Steeves:

This is a Final Order issued by the Secretary of State (secretary) for your failure to file a timely first pre-election contribution and expenditure report for the November 2, 2004, General Election.

On January 28, 2005, the secretary notified the Hood River County Republican Central Committee (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 221), applicable during the reporting period, was filed with the secretary on December 10, 2002. The statement reported Brian Steeves as the treasurer and 3700 Westcliff Dr, Hood River, OR 97031 as the address to which all committee correspondence was to be sent.
2. The committee was required to file a first pre-election report with the secretary on September 27, 2004.
3. The secretary received the report on September 28, 2004, which is one business day after the date on which the report was due.

4. The committee reported total contributions of \$5,255.60 and total expenditures of \$5,495.25 during the accounting period for the report.
5. On January 28, 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 treasurer at the above-referenced address. The notice proposed a civil penalty of \$164.86 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Brian K. Steeves on February 1, 2005.
6. On February 10, 2005, the secretary received a notarized letter from Brian K. Steeves in lieu of a public hearing.
7. The letter—attached as Exhibit A—was reviewed, considered, and made part of the record.
8. The secretary has record of one previous late filing during the two-year period beginning September 15, 2003.

#### ULTIMATE FINDINGS OF FACT

Brian Steeves, Treasurer, failed to file a timely first pre-election contribution and expenditure report for the November 2, 2004, General Election.

#### CONCLUSIONS OF LAW

Treasurer Brian Steeves's failure to file a timely first pre-election contribution and expenditure report for the November 2, 2004, General Election violated ORS 260.073.

#### OPINION

The Hood River County Republican Central Committee's first pre-election contribution and expenditure report, filed on September 28, 2004, was late. It was due by 5:00 p.m., September 27, 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 notarized testimony, submitted by treasurer Brian K. Steeves, explains that B. E. Caldwell, a CPA, had volunteered to be the treasurer of the committee, and Mr. Steeves had turned all the records over to him. However, due to the fact that Mr. Caldwell has MS, he was not able to complete the task of finishing this report, and did not notify Mr. Steeves until the day before the report was due. Mr. Steeves needed 12 hours to reconstruct the report and was unable to file it until the day after it was due. Mr. Steeves states that this was out of his control.

According to our records, no Statement of Organization was ever filed designating Mr. Caldwell treasurer. Mr. Steeves has been the treasurer of record since April 17, 2000, and has ultimate responsibility for the filing of the committee's reports. Also, the mitigating circumstance of a valid personal emergency, such as a serious illness, does not apply to long-term illnesses in which other arrangements for the filing of reports could be made. A valid personal emergency requires independent written verification, such as from a doctor, and applies to a serious personal illness or death in the immediate family, which directly caused the report to be late. While it is an unfortunate incident that Mr. Caldwell has MS, and that Mr. Steeves was not timely notified of his need for help in filing the report, it does not constitute a valid mitigating circumstance in which the secretary would reduce or waive the civil penalty.

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 \$164.86 ( $\$5,495.25 \times 3\% \times 1 \text{ day}$ ) 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 L7923 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: \_\_\_\_\_