

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 the Socialist Party of Oregon, Cassidy Martinez, ) Final Order by Default  
Treasurer, for the first pre-election for the November 2, 2004, )  
General Election ) Case No. L7931  
)

March 16, 2005

Socialist Party of Oregon (001970)  
Cassidy Martinez, Treasurer  
PO Box 5633  
Portland, OR 97228

Dear Ms. Martinez:

This is a Final Order by Default 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 Socialist Party of 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 221), applicable during the reporting period, was filed with the secretary on May 2, 2003. The statement reported Cassidy Martinez as the treasurer and PO Box 5633, Portland, OR 97228 as the address to which all committee correspondence was to be sent.
2. The secretary sent the committee a notice that it had failed to file a timely report on September 28, 2004. The notice was sent by first class mail to the treasurer at the above-referenced address.
3. The committee was required to file a first pre-election report with the secretary on October 4, 2004.

4. The secretary received the report on October 6, 2004, which is two business days after the date on which the report was due.
5. The committee filed a Certificate of Limited Contributions and Expenditures certifying that it did not expect to exceed \$2,000 in either contributions or expenditures for the entire election.
6. 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 \$100.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Cassidy Martinez on January 31, 2005.
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 no previous late filings during the two-year period beginning September 15, 2003.

#### ULTIMATE FINDINGS OF FACT

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

#### CONCLUSIONS OF LAW

Treasurer Cassidy Martinez's failure to file a timely first pre-election contribution and expenditure report for the November 2, 2004, General Election violated ORS 260.112.

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 treasurer. For a late Certificate of Limited Contributions and Expenditures, the penalty is based on assumed contributions and expenditures of \$2,000. However, ORS 260.112 states in part that a candidate or committee that does not expect to receive aggregate contributions or aggregate expenditures to exceed \$2,000, shall file a certificate to that effect, not later than the 29th day before the date of the election. Therefore the report was due no later than October 4, 2004, not September 27, 2004, as stated in the proposed penalty notice, thereby making the report two days late.

The calculated penalty for the late report is \$40.00 ( $\$2,000.00 \times 1\% \times 2$  days). Because the appropriate penalty is under \$50, no penalty will be assessed.

ORDER

It is ordered that no penalty be assessed.

On February 2, 2005, a payment in the amount of \$100.00 was received by the secretary from Cassidy E. Martinez on behalf of the committee. No penalty is due, therefore a refund of the \$100.00 will be issued to Cassidy E. Martinez.

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: March 16, 2005