

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 Third Congressional District Republican Party,) Final Order by Default
James E. Parker, Treasurer, for the First Pre-Election for the)
November 2, 2004, General Election) Case No. L7933
)

July 12, 2005

Third Congressional District Republican Party (002436)
James E. Parker, Treasurer
14422 SE Nehalem St
Portland, OR 97236

Dear Mr. Parker:

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 May 13, 2005, the secretary notified the Third Congressional District Republican Party (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 of State on January 16, 2001. The statement reported James E. Parker as the treasurer and 14422 SE Nehalem St, Portland, OR 97236 as the address to which all committee correspondence was to be sent.
2. The Secretary of State 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 of State on October 4, 2004.

4. The Secretary of State received the report on May 9, 2005, which is 149 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 May 13, 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 James E. Parker on May 14, 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

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

CONCLUSIONS OF LAW

Treasurer James E. Parker'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 149 days late.

Although the calculated penalty for the late report is \$2,980.00 ($\$2,000.00 \times 1\% \times 149$ days), the penalty matrix sets a maximum penalty of \$100 for a late Certificate of Limited Contributions and Expenditures.

Third Congressional District Republican Party (002436)

James E. Parker, Treasurer

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ORDER

Payment of the proposed civil penalty of \$100.00 was received in the office of the Secretary of State on June 21, 2005. This Order will serve as your receipt and this matter is now considered closed.

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: July 12, 2005

c: Secretary of State