

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 Committee to Elect Hakanson (Jonah A.),) Final Order by Default
Jonah A. Hakanson, Candidate, Thomas J. Hottman,)
Treasurer, for the First Pre-Election for the) Case No. L7960
November 2, 2004, General Election)

March 16, 2005

Committee to Elect Hakanson (Jonah A.) (004700)
Jonah A. Hakanson, Candidate / Thomas J. Hottman, Treasurer
423 1/2 W 12th
Eugene, OR 97401-3411

Dear Mr. Hakanson:

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 Committee to Elect Hakanson (Jonah A.) (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 November 17, 2003. The statement reported Thomas J. Hottman as the treasurer and 4514 Selma St, Klamath Falls, OR 97603 as the mailing address for both candidate and committee correspondence.
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 candidate and 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 14, 2004, which is eight 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 candidate and was sent by 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 post office forwarded the notice to a new mailing address for the candidate, 1121 NW 10th St, Prineville, OR 97754. The notice sent by certified mail (and forwarded by the post office) was returned unclaimed and the post office indicated it gave first notice on February 3, 2005. After a phone call on March 1, 2005, to the candidate's family in Klamath Falls, the secretary obtained the current mailing address for Jonah A. Hakanson: 423 ½ W 12th, Eugene, OR 97401-3411. The Statement of Organization has not yet been amended.
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

Jonah A. Hakanson, Candidate, and Thomas J. Hottman, Treasurer, failed to file a timely first pre-election contribution and expenditure report for the November 2, 2004, General Election.

CONCLUSIONS OF LAW

Candidate Jonah A. Hakanson's and Treasurer Thomas J. Hottman's failure to file a timely first pre-election contribution and expenditure report for the November 2, 2004, General Election violated ORS 260.112. 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 eight days late.

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. For a late Certificate of Limited Contributions and Expenditures, the penalty is based on assumed contributions and expenditures of \$2,000.

Although the calculated penalty for the late report is \$160.00 ($\$2,000.00 \times 1\% \times 8$ days), the penalty matrix sets a maximum penalty of \$100 for a late Certificate of Limited Contributions and Expenditures.

ORDER

It is ordered that a penalty of \$100.00 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 L7960 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.

Jennifer Hertel, Compliance Specialist

DATE of Service: _____

c: Thomas J. Hottman, Treasurer
4514 Selma St
Klamath Falls, OR 97603