

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 Price for State Representative, Wes Price, Candidate, ) Final Order  
Debra Blasquez, Treasurer, for the First Pre-Election for the )  
November 2, 2004, General Election ) Case No. L7966  
)

March 16, 2005

Price for State Representative (004837)  
Wes Price, Candidate / Debra Blasquez, Treasurer  
PO Box 3216  
Albany, OR 97321

Dear Mr. Price:

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 Price for State Representative (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 220), applicable during the reporting period, was filed with the secretary on July 15, 2004. The statement reported Debra Blasquez as the treasurer and PO Box 3216, Albany, OR 97321 as the mailing address for both candidate and committee correspondence.
2. The committee was required to file a first pre-election report with the secretary on September 27, 2004.
3. 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.

4. The secretary received the report on September 28, 2004, which is one business day after the date on which the report was due.
5. The committee reported total contributions of \$34,201.82 and total expenditures of \$25,217.01 during the accounting period for the report.
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 \$1,026.05 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Preston Eng on February 7, 2005.
7. On February 24, 2005, the secretary received a notarized letter from Debra Blasquez in lieu of a public hearing.
8. The letter—attached as Exhibit A—was reviewed, considered, and made part of the record.
9. The secretary has record of one previous late filing during the two-year period beginning September 15, 2003.

#### ULTIMATE FINDINGS OF FACT

Wes Price, Candidate, and Debra Blasquez, Treasurer, failed to file a timely first pre-election contribution and expenditure report for the November 2, 2004, General Election.

#### CONCLUSIONS OF LAW

Candidate Wes Price's and Treasurer Debra Blasquez's failure to file a timely first pre-election contribution and expenditure report for the November 2, 2004, General Election violated ORS 260.068.

#### OPINION

The Price for State Representative'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. ORS 246.021 provides that election documents which must be filed with the Secretary of State or other filing officer must be "delivered to and actually received at the office of the designated officer" not later than 5 p.m. of the day the document is due.

The testimony submitted by Ms. Blasquez describes her attempt to file the committee's first electronic report on Monday, September 27, 2004. She also states that it was determined that the e-mail address where she sent the electronic file of the report was incorrect. While it is unfortunate that an incorrect e-mail address was used and the committee thought the report had been delivered timely, the report was not received in our office by the filing deadline as required, and this circumstance does not fall within the mitigating circumstances which the secretary may consider for purposes of waiving a 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 candidate.

#### ORDER

It is ordered that a penalty of \$1,026.05 ( $\$34,201.82 \times 3\% \times 1 \text{ day}$ ) 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 L7966 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: \_\_\_\_\_

c: Debra Blasquez, Treasurer  
PO Box 3216  
Albany, OR 97321