

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 HEARPAC, Wayne Brown, Treasurer, for the Second ) Final Order by Default  
Pre-Election for the November 2, 2004, General Election )  
 ) Case No. L8028  
 )

April 1, 2005

HEARPAC (004420)  
Wayne Brown, Treasurer  
4124 NE 31st AVE  
Portland, OR 97211

Dear Mr. Brown:

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

On February 7, 2005, the secretary notified HEARPAC (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 October 29, 2002. The statement reported Wayne Brown as the treasurer and 4124 NE 31st AVE, Portland, OR 97211 as the address to which all committee correspondence was to be sent.
2. The committee was required to file a second pre-election report with the secretary on October 21, 2004.
3. The secretary sent the committee a notice that it had failed to file a timely report on October 22, 2004. The notice was sent by first class mail to the treasurer at the above-referenced address.

4. The secretary received the report on October 25, 2004, which is two business days after the date on which the report was due.
5. The committee reported no contributions or expenditures during the accounting period for the report.
6. On February 7, 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 Wayne Brown on February 8, 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 three previous late filings during the two-year period beginning September 15, 2003.

#### ULTIMATE FINDINGS OF FACT

Wayne Brown, Treasurer, failed to file a timely second pre-election contribution and expenditure report for the November 2, 2004, General Election.

#### CONCLUSIONS OF LAW

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

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 5% of the total contributions or total expenditures—whichever is greater—for each business day the report was late as this is the fourth late violation by the treasurer.

Although the committee reported no activity during the accounting period for the late report, the penalty matrix sets a minimum penalty of \$100.00 for a candidate's or treasurer's third or subsequent late violation.

ORDER

Payment of the proposed civil penalty of \$100.00 was received in the office of the Secretary of State on February 11, 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.

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Jennifer Hertel, Compliance Specialist

DATE of Service: \_\_\_\_\_