OFFICE OF THE SECRETARY OF STATE

BILL BRADBURY
SECRETARY OF STATE

ELECTIONS DIVISION

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ELECTIONS — (503) 986-1518

In the matter of a Late Contribution and Expenditure Report by the Rural Sensible Values PAC, Mike Gatrell, Treasurer, for the Second Pre-Election for the November 2, 2004, General Election	)))))	Notice of Proposed Civil Penalty; Opportunity to Request Hearing

February 7, 2005

Case Number: L8049

Rural Sensible Values PAC (004944)
Mike Gatrell, Treasurer
PO Box 1350
Scappoose, OR 97056

Dear Mr. Gatrell:

This letter constitutes a Notice of Proposed Civil Penalty. Please read the information below carefully and contact our office if you have any questions about its contents or necessary actions on your part.

Reason for Notice:

This notice is being sent to you as a result of the late filing of your second pre-election contribution and expenditure report (see ORS 260.073). This report was due in the office of the Secretary of State, Elections Division, not later than 5:00 pm, October 21, 2004. Your report was filed on October 22, 2004, making it one business day late.

Authority for Civil Penalty:

The Secretary of State has the authority to impose civil penalties in accordance with ORS 260.232 and has adopted the *2004 Campaign Finance Manual* by administrative rule. The penalty is imposed against the treasurer of record at the time of the violation.

Explanation of the Penalty Matrix:

Enclosed is the penalty matrix used in calculating penalties for late reports. This matrix reduces the maximum statutory civil penalty to an amount not to exceed a percentage of the total contributions or total expenditures—whichever is greater—for each business day the report was late. The percentage is based upon whether the treasurer has committed any previous late violations since September 15, 2003, as follows:

- First Violation: One percent
- Second Violation: Three percent
- Third or Subsequent Violation: Five percent

Additionally, the matrix sets minimum penalties based on the number of previous late violations and maximum penalties based on the type of report and the activity level of the committee during the accounting period of the late report.

Proposed Civil Penalty:

The Secretary is proposing a civil penalty of $50.00, the minimum penalty because this is the treasurer's second late violation.

Reduction or Waiver of Penalty:

A reduction or waiver of the penalty will be considered only if one of the following mitigating circumstances is present:

a) The lateness was the direct result of clearly-established fraud, embezzlement or other criminal activity against the committee, committee treasurer or candidate, as determined in a criminal or civil action in a court of law or independently corroborated by a report of a law enforcement agency or insurer or the sworn testimony or affidavit of an accountant or bookkeeper or the person who actually engaged in the criminal activity;

b) The lateness was the direct result of fire, flood or other calamitous event, resulting in physical destruction of, or inaccessibility to, committee records. [Calamitous event means a phenomenon of an exceptional character, the effects of which could not have been reasonably prevented or avoided by the exercise of due care or foresight.];

c) The lateness was the direct result of failure of a professional delivery service to deliver documents in the time guaranteed for delivery by written receipt of the service provider (this does not include delivery by fax);

d) The lateness was the direct result of an error by the elections filing officer; or

e) The lateness was the direct result of a valid personal emergency of the candidate or treasurer. In this case, independent written verification must be provided. (A valid personal emergency is a serious personal illness or death in the immediate family of the candidate or treasurer which caused a report to be late.)

It is your responsibility to show that one of the listed circumstances occurred and that it caused the late filing of your report.