

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 Jackson County Democratic Central Committee,) Final Order
Helen Hooper, Treasurer, for the Post-Election for the)
November 2, 2004, General Election) Case No. L8072
)

October 3, 2005

Jackson County Democratic Central Committee (000314)
Helen Hooper, Treasurer
PO Box 4474
Medford, OR 97501

Dear Ms. Hooper:

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

On May 16, 2005, the secretary notified the Jackson County Democratic Central Committee (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 221), applicable during the reporting period, was filed with the secretary on November 26, 2004. The statement reported Helen Hooper as the treasurer and PO Box 4474, Medford, OR 97501 as the address to which all committee correspondence was to be sent.
2. The committee was required to file a post-election report with the secretary on December 2, 2004.
3. The secretary sent the committee a notice that it had failed to file a timely report on December 3, 2004. The notice was sent by first class mail to the treasurer at the above-referenced address. This report was required to be filed electronically. A paper copy of the report was filed February 17, 2005.

4. The secretary received the electronic filing of the report on May 11, 2005, which is 110 business days after the date on which the report was due.
5. The committee reported total contributions of \$3,325.00 and total expenditures of \$11,044.17 during the accounting period for the report.
6. On May 16, 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 \$10,000.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Gail Beason on May 19, 2005.
7. On June 6, 2005, the secretary received a notarized letter from Helen Hooper 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 three previous late filings during the two-year period beginning September 15, 2003.

ULTIMATE FINDINGS OF FACT

Helen Hooper, Treasurer, failed to file a timely post-election contribution and expenditure report for the November 2, 2004, General Election.

CONCLUSIONS OF LAW

Treasurer Helen Hooper's failure to file a timely post-election contribution and expenditure report for the November 2, 2004, General Election violated ORS 260.073.

OPINION

The Jackson County Democratic Central Committee's post-election contribution and expenditure report, filed on May 11, 2005, was late. It was due by 5:00 p.m., December 2, 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. The testimony submitted by the treasurer, Helen Hooper, stated that she was afflicted with serious personal illness at and about the time the report was due. Ms. Hooper stated in her testimony that an arthritic condition flared in late October of 2004 and that in December of 2004 she became further ill due to gallstone problems. These health issues brought on stress and chronic fatigue. In addition to the testimony, Ms. Hooper also submitted medical records from her doctor.

It is extremely unfortunate that the treasurer was suffering from multiple medical problems, however the medical documentation filed with her testimony does not mitigate the failure to file the second pre-election report by the deadline. The medical documentation indicates that Ms. Hooper went to the doctor on November 30, 2004 and several other times during the spring of 2005. The 'chart document' indicates that there were three issues noted by the medical examiner. The hearings officer finds that the medical issues documented do not meet the criteria for 'valid personal emergency'. The *2004 Campaign Finance Manual* defines this mitigating circumstance as a serious personal illness or death in the immediate family of the treasurer. Further it does not include a long-term illness where other arrangements could have been made.

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. Additionally, the penalty is further reduced if a paper copy of the report is filed prior to the electronic filing.

Although the calculated penalty for the late report is \$36,721.97 ($\$11,044.17 \times 5\% \times 52 \text{ days}$) + ($\$11,044.17 \times 5\% \times 110 \text{ days}$), the penalty matrix sets a maximum penalty of \$10,000.00 when the total contributions or total expenditures—whichever is greater—is over \$10,000.

ORDER

It is ordered that a penalty of \$10,000.00 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 L8072 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: _____