

BILL BRADBURY  
SECRETARY OF STATE



ELECTIONS DIVISION  
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DIRECTOR  
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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 Hansen for Judge, Bernt "Al" Hansen, Candidate, Mike ) Final Order by Default  
McKenzie, Treasurer, for the First Supplement to the Second )  
Pre-Election for the November 2, 2004, ) Case No. L8136  
General Election )

April 27, 2005

Hansen for Judge (005015)  
Bernt "Al" Hansen, Candidate / Mike McKenzie, Treasurer  
PO Box 597  
McMinnville, OR 97128

Dear Mr. Hansen:

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

On March 11, 2005, the secretary notified Hansen for Judge (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 August 23, 2004. The mailing address provided on the Statement of Organization for the candidate was PO Box 597, McMinnville, OR 97128. The statement reported Mike McKenzie as the treasurer and 638 NE 5th, McMinnville, OR 97128 as the address to which all committee correspondence was to be sent.

2. The committee submitted a timely first supplement to the second pre-election report on October 25, 2004; however, an additional expenditure should have been included on the report. The committee reported the expenditure required to be included on the first supplement to the second pre-election report (\$2,691.09 to the US Postmaster on October 19, 2004) on a first supplement to the second pre-election report filed on October 26, 2004, which is one business day after the first supplement to the second pre-election report was due.
3. On March 11, 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 addresses. The notice proposed a civil penalty of \$26.91 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by J. Beaman on March 14, 2005.
4. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing.
5. The secretary has record of no previous late filings during the two-year period beginning September 15, 2003.

#### ULTIMATE FINDINGS OF FACT

Bernt "Al" Hansen, Candidate, and Mike McKenzie, Treasurer, failed to file a timely first supplement to the second pre-election contribution and expenditure report for the November 2, 2004, General Election.

#### CONCLUSIONS OF LAW

Candidate Bernt "Al" Hansen's and Treasurer Mike McKenzie's failure to file a timely first supplement to the second pre-election contribution and expenditure report for the November 2, 2004, General Election violated ORS 260.068.

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.

The calculated penalty for the late report is \$26.91 ( $\$2,691.09 \times 1\% \times 1 \text{ day}$ ). Because the appropriate penalty is under \$50, no penalty will be assessed.

#### ORDER

It is ordered that no penalty be assessed.

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: Mike McKenzie, Treasurer  
638 NE 5th  
McMinnville, OR 97128