

BILL BRADBURY
SECRETARY OF STATE



ELECTIONS DIVISION
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BEFORE THE SECRETARY OF STATE
OF THE
STATE OF OREGON

In the matter of a Late Contribution and Expenditure Report)
by the Friends of Dave Mowry Political Action Committee,) Final Order by Default
Dave Mowry, Candidate/Treasurer, for the First)
Supplement to the Second Pre-Election for the) Case No. L8139
November 2, 2004, General Election)

April 27, 2005

Friends of Dave Mowry Political Action Committee (004765)
Dave Mowry, Candidate/ Treasurer
13913 SE Hampshire Ct
Clackamas, OR 97015

Dear Mr. Mowry:

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 the Friends of Dave Mowry Political Action 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; 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 January 13, 2004. The statement reported Dave Mowry, the candidate, as the treasurer and 13913 SE Hampshire Ct, Clackamas, OR 97015 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 contribution should have been included on the report. The committee reported the contribution required to be the first supplement to the second pre-election report on a first supplement to the second pre-election report (\$1,800.00 from Majority 2004 on October 23, 2004) filed on November 4, 2004, which is eight business days after the first supplement to the second pre-election 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/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 David Mowry on March 12, 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

Dave Mowry, Candidate/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/Treasurer Dave Mowry'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.

Although the calculated penalty for the late report is \$144.00 ($\$1,800.00 \times 1\% \times 8$ days), the penalty matrix sets a maximum penalty of \$100.00 when the total contributions or total expenditures—whichever is greater—is between \$0 and \$2,000.

ORDER

Payment of the proposed civil penalty of \$100.00 was received in the office of the Secretary of State on March 25, 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.

Jennifer Hertel, Compliance Specialist

DATE of Service: _____