

BILL BRADBURY
SECRETARY OF STATE

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 Committee to Elect Brad Avakian, Brad Avakian,) Final Order by Default
Candidate/Treasurer, for the Second Supplement to the)
Second Pre-Election for the November 2, 2004, General) Case No. L8148
Election)

October 28, 2005

The Committee to Elect Brad Avakian (004152)
Brad Avakian, Candidate/Treasurer
17915 NW Lonerock Dr
Portland, OR 97229

Dear Representative Avakian:

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

On August 19, 2005, the secretary notified The Committee to Elect Brad Avakian (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 September 4, 2003. The statement reported Brad Avakian, the candidate, as the treasurer and 17915 NW Lonerock Dr, Portland, OR 97229 as the address to which all committee correspondence was to be sent.
2. The committee was required to file a second supplement to the second pre-election report with the secretary on October 29, 2004, because it received a contribution exceeding \$500 from a single source and made an expenditure exceeding \$1,000 to a single payee between October 25 and October 28, 2004.

3. The committee reported the contribution (\$1,000.00 from Coalition for a Healthy Oregon PAC on October 27, 2004) and the expenditure (\$2,500.00 to Future PAC on October 27, 2004) required to be on the second supplement to the second pre-election report on its post-election report filed on December 2, 2004, which is 22 business days after the second supplement to the second pre-election report was due.
4. On August 19, 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 \$550.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Brad Avakian on August 22, 2005.
5. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing.
6. The secretary has record of no previous late filings during the two-year period beginning September 15, 2003.

ULTIMATE FINDINGS OF FACT

Brad Avakian, Candidate/Treasurer, failed to file a timely second supplement to the second pre-election contribution and expenditure report for the November 2, 2004, General Election.

CONCLUSIONS OF LAW

Candidate/Treasurer Brad Avakian's failure to file a timely second 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.

ORDER

Payment of the proposed civil penalty of \$550.00 was received in the office of the Secretary of State on October 18, 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: _____