

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 Friends of Ted Ferrioli, Ted Ferrioli, Candidate, ) Final Order by Default  
Robert Armstrong, Treasurer, for the First Supplement to the )  
Second Pre-Election for the November 2, 2004, General ) Case No. L8157  
Election )

October 28, 2005

Friends of Ted Ferrioli (003215)  
Ted Ferrioli, Candidate / Robert Armstrong, Treasurer  
111 Skyline Dr  
John Day, OR 97845

Dear Senator Ferrioli:

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 August 19, 2005, the secretary notified Friends of Ted Ferrioli (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 November 14, 2003. The statement reported Robert Armstrong as the treasurer and 111 Skyline Dr, John Day, OR 97845 as the mailing address for both candidate and committee correspondence.
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 on the first supplement to the second pre-election report (\$5,000.00 to Committee to Elect Ron Sunseri on October 19, 2004) on a first supplement to the second pre-election report filed on November 9, 2004, which is eleven business days after the first supplement to the second pre-election report was due.

3. 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 and was sent by first class mail to the 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 Ted Ferrioli on August 23, 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

Ted Ferrioli, Candidate, and Robert Armstrong, 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 Ted Ferrioli's and Treasurer Robert Armstrong'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.

#### ORDER

Payment of the proposed civil penalty of \$550.00 was received in the office of the Secretary of State on August 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.

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Jennifer Hertel, Compliance Specialist

DATE of Service: \_\_\_\_\_

c: Robert Armstrong, Treasurer  
111 Skyline Dr  
John Day, OR 97845