

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 Taxpayer Defense Fund, Russ Walker, Treasurer, for the) Final Order by Default
First Supplement to the Second Pre-Election for the)
February 3, 2004, Special Election) Case No. L8191
)

August 5, 2005

Taxpayer Defense Fund (004652)
Russ Walker, Treasurer
PO Box 1304
Silverton, OR 97381

Dear Mr. Walker:

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 February 3, 2004, Special Election.

On June 15, 2005, the secretary notified the Taxpayer Defense Fund (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 221), applicable during the reporting period, was filed with the Secretary of State on December 10, 2003. The statement reported Russ Walker as the treasurer and PO Box 12873, Salem, OR 97309 as the address to which all committee correspondence was to be sent.
2. The committee was required to file a first supplement to the second pre-election report with the Secretary of State on January 26, 2004.
3. The Secretary of State received the report on February 19, 2004, which is 17 business days after the date on which the report was due.

4. The committee reported total contributions of \$3,296.43 and no expenditures during the accounting period for the report.
5. On March 4, 2004, the committee filed a amended SEL 221, updating the committee's mailing address to PO Box 1304, Silverton, OR 97381.
6. On May 5, 2005, the secretary sent the committee a Notice of Proposed Civil Penalty to PO Box 12873, Salem, 97309. The notice was sent by both certified and first class mail to the treasurer at that address. The notice proposed a civil penalty of \$560.32 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by the committee on May 19, 2005.
7. On June 15, 2005, the secretary sent the committee a Notice of Proposed Civil Penalty to PO Box 1304, Silverton, OR 97381. The notice was sent by both certified and first class mail to the treasurer at that address. The notice proposed a civil penalty of \$560.32 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Donna L. Butler on June 21, 2005.
8. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing.
9. The secretary has record of no previous late filings during the two-year period beginning September 15, 2003.

ULTIMATE FINDINGS OF FACT

Russ Walker, Treasurer, failed to file a timely first supplement to the second pre-election contribution and expenditure report for the February 3, 2004, Special Election.

CONCLUSIONS OF LAW

Treasurer Russ Walker's failure to file a timely first supplement to the second pre-election contribution and expenditure report for the February 3, 2004, Special Election violated ORS 260.063.

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 of the total contributions or total expenditures—whichever is greater—for each business day the report was late as this is the late violation by the treasurer.

ORDER

It is ordered that a penalty of \$560.32 ($\$3,296.43 \times 1\% \times 17$ days) 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 L8191 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: August 5, 2005