

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) Final Order by Default
by the First Congressional District Democrats,)
Marvin P. Kaplan, Treasurer, for the Supplemental of 2005) Case No. L8482
)

June 30, 2006

First Congressional District Democrats (000359)
Marvin P. Kaplan, Treasurer
412 Mountainview Ct
Newberg, OR 97132

Dear Mr. Kaplan:

This is a Final Order by Default issued by the Secretary of State (secretary) for your failure to file a timely supplemental contribution and expenditure report for 2005.

On May 26, 2006, the secretary notified the First Congressional District Democrats (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 on April 11, 2005. The statement reported Marvin P. Kaplan as the treasurer and 412 Mountainview Ct, Newberg, OR 97132 as the address to which all committee correspondence was to be sent.
2. The committee was required to file a supplemental report with the secretary on September 12, 2005.
3. The secretary sent the committee a notice that it had failed to file a timely report on September 13, 2005. The notice was sent by first class mail to the treasurer at the above-referenced address.
4. The secretary received the report on October 4, 2005, which is 16 business days after the date on which the report was due.

5. The committee reported total contributions of \$605.06 and total expenditures of \$336.00 during the accounting period for the report.
6. On May 26, 2006, the secretary sent the committee a Notice of Proposed Civil Penalty. The notice was sent by both certified and first class mail to the treasurer at the above-referenced address. The notice proposed a civil penalty of \$96.80 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Marvin P. Kaplan on June 1, 2006.
7. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing. The treasurer submitted a letter of explanation on June 8, 2006; however, the letter was not notarized. Even if the letter had been notarized, it would not have changed the outcome of this case.
8. The secretary has record of no previous late filings during the two-year period beginning September 15, 2003.

ULTIMATE FINDINGS OF FACT

Marvin P. Kaplan, Treasurer, failed to file a timely supplemental contribution and expenditure report for 2005.

CONCLUSIONS OF LAW

Treasurer Marvin P. Kaplan's failure to file a timely supplemental contribution and expenditure report for 2005 violated ORS 260.073.

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 treasurer.

ORDER

It is ordered that a penalty of \$96.80 ($\$605.06 \times 1\% \times 16$ 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 L8482 when mailing your payment.

First Congressional District Democrats (000359)

Marvin P. Kaplan, Treasurer

page 3

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.

Nancy Ferry, Compliance Specialist

DATE of Service: _____