

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 Citizens for Alan Brown State Representative,)
Alan Brown, Candidate, June Brown, Treasurer, for the) Case No. L8508
Supplemental of 2005)

August 14, 2006

Citizens for Alan Brown State Representative (002868)
Alan Brown, Candidate / June Brown, Treasurer
1155 SW Coast Hwy
Newport, OR 97365

Dear Representative Brown:

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 June 19, 2006, the secretary notified Citizens for Alan Brown State Representative (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 April 12, 2004. The mailing address provided on the Statement of Organization for the candidate was 1155 SW Coast Hwy, Newport, OR 97365. The statement reported June Brown as the treasurer and 11855 SW Katherine St, Tigard, OR 97223-3145 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. This report was required to be filed electronically. A paper copy of the report was provided to 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 candidate and treasurer at the above-referenced addresses.

4. The secretary received the electronic filing of the report on September 21, 2005, which is seven business days after the date on which the report was due.
5. The committee reported total contributions of \$21,650.00 and total expenditures of \$10,052.99 during the accounting period for the report.
6. On June 19, 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 candidate and was sent by first class mail to the treasurer at the above-referenced addresses. The notice proposed a civil penalty of \$1,000.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Ann Illingworth on June 20, 2006.
7. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing.
8. The secretary has record of one previous late filing during the two-year period beginning September 15, 2003.

ULTIMATE FINDINGS OF FACT

Alan Brown, Candidate, and June Brown, Treasurer, failed to file a timely supplemental contribution and expenditure report electronically for 2005.

CONCLUSIONS OF LAW

Candidate Alan Brown's and Treasurer June Brown's failure to file a timely supplemental contribution and expenditure report electronically for 2005 violated ORS 260.068 and ORS 260.159.

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 3% of the total contributions or total expenditures—whichever is greater—for each business day the report was late as this is the second late violation by the candidate. Additionally, if a paper copy of the report is provided to the filing officer prior to the electronic copy, the penalty is reduced by 75%, beginning with the day a paper copy of the report is submitted.

Although the calculated penalty for the late report is \$1,136.63 ($\$21,650.00 \times 3\% \times 7 \text{ days} \times 25\%$), the penalty matrix sets a maximum penalty of \$1,000.00 for September supplemental reports.

ORDER

It is ordered that a penalty of \$1,000.00 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 L8508 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.

Nancy Ferry, Compliance Specialist

DATE of Service: _____

c: June Brown, Treasurer
11855 SW Katherine St
Tigard, OR 97223-3145