

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 Duerfeldt for Representative (Tim), Tim Duerfeldt,)
Candidate/Treasurer, for the Supplemental of 2005) Case No. L8530

June 30, 2006

Duerfeldt for Representative (Tim) (004223)
Tim Duerfeldt, Candidate/Treasurer
1216 NE Evans
McMinnville, OR 97128

Dear Mr. Duerfeldt:

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 Duerfeldt for Representative (Tim) (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 22, 2004. The statement reported Tim Duerfeldt, the candidate, as the treasurer and PO Box 111, McMinnville, OR 97128 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 candidate/treasurer at the above-referenced address.
4. The secretary received the report on September 19, 2005, which is five business days after the date on which the report was due.

5. The committee reported total contributions of \$50.00 and total expenditures of \$725.08 during the accounting period for the report.
6. On February 3, 2006, the candidate filed an amended Statement of Organization, updating the candidate's mailing address to 1216 NE Evans, McMinnville, OR 97128.
7. 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 candidate/treasurer at the above-referenced address. The notice proposed a civil penalty of \$100.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Tim Duerfeldt on May 30, 2006.
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 one previous late filing during the two-year period beginning September 15, 2003.

ULTIMATE FINDINGS OF FACT

Tim Duerfeldt, Candidate/Treasurer, failed to file a timely supplemental contribution and expenditure report for 2005.

CONCLUSIONS OF LAW

Candidate/Treasurer Tim Duerfeldt's failure to file a timely supplemental contribution and expenditure report for 2005 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 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.

Although the calculated penalty for the late report is \$108.75 ($\$725.08 \times 3\% \times 5$ days), the penalty matrix sets a maximum penalty of \$100.00 when the total contributions or total expenditures—whichever is greater—is between \$0 and \$2,000.

ORDER

Payment of the calculated civil penalty of \$108.75 was received in the office of the Secretary of State on June 6, 2006. 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.

Nancy Ferry, Compliance Specialist

DATE of Service: _____