

BILL BRADBURY
SECRETARY OF STATE



ELECTIONS DIVISION
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DIRECTOR
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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 the Amalgamated Transit Union Division 757 Legislative) Final Order by Default
Fund, Thomas V. Wallace, Treasurer, for the First Pre-)
Election for the November 2, 2004, Local Election) Case No. L8640
)

July 7, 2006

Amalgamated Transit Union Division 757 Legislative Fund (003094)
Thomas V. Wallace, Treasurer
1801 NE Couch St
Portland, OR 97232-3054

Dear Mr. Wallace:

This is a Final Order by Default issued by the Secretary of State (secretary) for your failure to file a timely first pre-election contribution and expenditure report for the November 2, 2004, Local Election.

On April 4, 2006, the secretary notified the Amalgamated Transit Union Division 757 Legislative 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 Clackamas County Clerk on June 22, 2005. The statement reported Thomas V. Wallace as the treasurer and 1801 NE Couch St, Portland, OR 97232-3054 as the address to which all committee correspondence was to be sent.
2. The committee was required to file a first pre-election report with the Clackamas County Clerk on September 27, 2004.
3. On April 13, 2005, a letter was sent by the secretary inquiring about contributions during the 2004 Local Election cycle and informing the committee the requirement for filing a campaign finance report with the Clackamas County Clerk.

4. The Clackamas County Clerk received the report on June 22, 2005, which is 186 business days after the date on which the report was due.
5. The committee reported total contributions of \$14,991.88 and total expenditures of \$22,250.00 during the accounting period for the report.
6. On April 4, 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 \$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 the committee on April 6, 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

Thomas V. Wallace, Treasurer, failed to file a timely first pre-election contribution and expenditure report for the November 2, 2004, Local Election.

CONCLUSIONS OF LAW

Treasurer Thomas V. Wallace's failure to file a timely first pre-election contribution and expenditure report for the November 2, 2004, Local Election violated ORS 260.073.

By statute, a maximum \$1,000 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.

The penalty for filing late with a secondary filing officer is calculated at 10% of what the penalty would be if filed late with the principal filing office, only if the same report was filed timely with the principal filing officer.

Although the calculated penalty for the late report is \$12,415.50 ($\$22,250.00 \times 3\% \times 186 \text{ days} \times 10\%$), the penalty matrix sets a maximum penalty of \$1,000.00 when the total contributions or total expenditures—whichever is greater—is between \$2,000.01 and \$10,000.

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 L8640 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.

Jan Flowers, Compliance Specialist

DATE of Service: _____

c: Clackamas County Clerk