

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 Friends of Brad Fudge, Brad Fudge, Candidate,) Final Order by Default
Dan Fitzgerald, Treasurer, for the Second Pre-Election for the)
November 7, 2006, General Election) Case No. L9041

May 31, 2007

Friends of Brad Fudge (005464)
Brad Fudge, Candidate / Dan Fitzgerald, Treasurer
20918 NE Sandy Blvd
Fairview, OR 97024

Dear Mr. Fudge:

This is a Final Order by Default issued by the Secretary of State (secretary) for your failure to file a timely second pre-election contribution and expenditure report for the November 7, 2006, General Election.

On April 12, 2007, the secretary notified the Friends of Brad Fudge (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 August 21, 2006. The mailing address provided on the Statement of Organization for the candidate was 20918 NE Sandy Blvd, Fairview, OR 97024. The statement reported Dan Fitzgerald as the treasurer and 2713 NE 9th Ave, Portland, OR 97202 as the address to which all committee correspondence was to be sent.
2. The committee was required to file a second pre-election report with the secretary on October 26, 2006.
3. The secretary sent the committee a notice that it had failed to file a timely report on October 27, 2006. The notice was sent by first class mail to the candidate and treasurer at the above-referenced addresses.

4. The secretary received the report on January 26, 2007, which is 61 business days after the date on which the report was due.
5. The committee reported total contributions of \$1,000.00 and total expenditures of \$625.00 during the accounting period for the report.
6. On April 12, 2007, 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 \$100.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Brad Fudge on April 13, 2007.
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 no previous late filings during the two-year period beginning September 15, 2005.

ULTIMATE FINDINGS OF FACT

Brad Fudge, Candidate, and Dan Fitzgerald, Treasurer, failed to file a timely second pre-election contribution and expenditure report for the November 7, 2006, General Election.

CONCLUSIONS OF LAW

Candidate Brad Fudge's and Treasurer Dan Fitzgerald's failure to file a timely second pre-election contribution and expenditure report for the November 7, 2006, General Election violated ORS 260.068.

By statute, a maximum \$10,000 civil penalty may be imposed for this violation. The *2006 Campaign Finance Manual*, which contains a penalty calculation matrix on pages 104–106, 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 candidate.

Although the calculated penalty for the late report is \$610.00 ($\$1,000.00 \times 1\% \times 61$ 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 proposed civil penalty of \$100.00 was received in the office of the Secretary of State on April 20, 2007. 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: _____

c: Dan Fitzgerald, Treasurer
2713 NE 9th Ave
Portland, OR 97202