

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 )  
by the Paul Holvey for State Representative, Paul R. Holvey, ) Final Order  
Candidate, Kate M. Herbert, Treasurer, for the Second )  
Supplement to Second Pre-Election for the May 16, 2006, ) Case No. L9079  
Primary Election )

March 9, 2007

Paul Holvey for State Representative (004788)  
Paul R. Holvey, Candidate / Kate M. Herbert, Treasurer  
PO Box 51416  
Eugene, OR 97405

Dear Representative Holvey:

This is a Final Order issued by the Secretary of State (secretary) for your failure to file a timely second supplement to second pre-election contribution and expenditure report for the May 16, 2006, Primary Election.

On November 30, 2006, the secretary notified the Paul Holvey for State Representative (committee), pursuant to ORS 260.232(2) and 260.159, 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. The committee submitted written testimony in the form of a notarized statement in lieu of a personal appearance at a public hearing. Accordingly, after consideration of the applicable law and evidence presented, Jennifer Hertel, Hearings Officer with the Elections Division, 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 October 18, 2005. The statement reported Kate M. Herbert as the treasurer and PO Box 51416, Eugene, OR 97405 as the mailing address for both candidate and committee correspondence.
2. The committee submitted a timely second supplement to the second pre-election report on May 12, 2006; however, an additional contribution (\$5,000 from Pacific Northwest Regional Carpenters on May 11, 2006) should have been included on the report.
3. The committee first reported the contribution to be included on the second supplement to the second pre-election report on its post-election report filed on June 14, 2006, making this portion of the report 22 calendar days late.

4. On November 30, 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 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 Paul Holvey on December 7, 2006.
5. On December 12, 2006, the secretary received an amendment to the post-election report, which amended the receipt date of the contribution received from Pacific Northwest Regional Council of Carpenters from May 11, 2006 to May 12, 2006, outside of the second supplement to the second pre-election accounting period.
6. On December 14, 2006, the secretary received a notarized letter from Paul Holvey in lieu of a public hearing.
7. The letter—attached as Exhibit A—was reviewed, considered, and made part of the record.
8. The secretary has record of no previous late filings during the two-year period beginning September 15, 2005.

#### ULTIMATE FINDINGS OF FACT

Paul R. Holvey, Candidate, and Kate M. Herbert, Treasurer, filed a timely second supplement to second pre-election contribution and expenditure report for the May 16, 2006, Primary Election.

#### CONCLUSIONS OF LAW

Candidate Paul R. Holvey's and Treasurer Kate M. Herbert's filed a timely second supplement to second pre-election contribution and expenditure report for the May 16, 2006, Primary Election, and therefore did not violate ORS 260.058.

#### OPINION

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.

After reviewing and considering the evidence and information on file in this office, the hearings officer finds that there has not been a violation of Oregon election law.

The explanation provided in the notarized testimony by Mr. Holvey indicated that the date of the contribution received from Pacific Northwest Regional Council of Carpenters was reported incorrectly on the post-election report filed June 14, 2006. On December 12, 2006, the secretary received an amendment to the post-election report, which amended the receipt date of the \$5,000 from Pacific Northwest Regional Carpenters from May 11, 2006 to May 12, 2006. Therefore, the contribution was not required to be included on the second supplement to the second pre-election report filed May 12, 2006. There is no violation of ORS 260.058.

#### ORDER

It is ordered that no penalty be assessed because there is no violation of election law.

#### 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.

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Jennifer Hertel, Compliance Specialist

DATE of Service: \_\_\_\_\_

c: Kate M. Herbert, Treasurer  
PO Box 51416  
Eugene, OR 97405