

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 Cindy Banzer for State Representative HD 46,) Final Order by Default
Cindy Banzer, Candidate, Susan Halton Findlay, Treasurer,)
for the Second Supplement to the Second Pre-Election for the) Case No. L9082
May 16, 2006, Primary Election)

March 9, 2007

Cindy Banzer for State Representative HD 46 (005160)
Cindy Banzer, Candidate / Susan Halton Findlay, Treasurer
6325 SE Thorburn St
Portland, OR 97215

Dear Ms. Banzer:

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

On November 30, 2006, the secretary notified Cindy Banzer for State Representative HD 46 (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, 2006. The statement reported Susan Halton Findlay as the treasurer and PO Box 13764, Portland, OR 97213 as the mailing address for both candidate and committee correspondence.
2. The committee was required to file a second supplement to the second pre-election report with the secretary on May 12, 2006, because it made expenditures to a single payee between May 1 and May 11, 2006, whose aggregate exceeded \$1,000.

3. The committee reported the expenditure required to be on the second supplement to the second pre-election report (\$700.00 to the Postmaster on May 9, 2006) on its post-election report filed on June 15, 2006, which is 23 business days after the second supplement to the second pre-election report was due.
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 \$100.00 and allowed the committee 20 days to request a hearing. All copies of the notice were sent to the committee's post office box (the mailing address of record) and were returned by the post office as undeliverable.
5. On January 3, 2007, the notice was sent by certified and first class mail to the candidate's physical address at 6325 SE Thorburn St, Portland, OR 97213, with a copy to the treasurer at the same address. The notice sent by certified mail was returned unclaimed and the post office indicated it gave first notice on January 4, 2007.
6. On February 5, 2007, the committee amended its Statement of Organization to update the candidate and treasurer mailing address to 6325 SE Thorburn St, Portland, OR 97213.
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

Cindy Banzer, Candidate, and Susan Halton Findlay, Treasurer, failed to file a timely second supplement to the second pre-election contribution and expenditure report for the May 16, 2006, Primary Election.

CONCLUSIONS OF LAW

Candidate Cindy Banzer's and Treasurer Susan Halton Findlay's failure to file a timely second supplement to the second pre-election contribution and expenditure report for the May 16, 2006, Primary Election violated ORS 260.058.

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 \$161.00 ($\$700.00 \times 1\% \times 23$ 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 February 5, 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: Susan Halton Findlay, Treasurer
6325 SE Thorburn St
Portland, OR 97215