

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 Boone for State Representative, Deborah Boone,) Final Order
Candidate/Treasurer, for the First Supplement to the)
Second Pre-Election for the May 16, 2006, Primary Election) Case No. L9085

March 9, 2007

Boone for State Representative (004846)
Deborah Boone, Candidate/Treasurer
PO Box 637
Cannon Beach, OR 97110

Dear Representative Boone:

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

On November 30, 2006, the secretary notified Boone for State Representative (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. 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 December 29, 2005. The statement reported Deborah Boone, the candidate, as the treasurer and PO Box 637, Cannon Beach, OR 97110 as the address to which all committee correspondence was to be sent.
2. The committee submitted a timely first supplement to the second pre-election report on May 8, 2006, reporting an in-kind contribution of \$681.45 from Oregon Restaurant Association on May 3, 2006. This contribution was not reported on the committee's post-election report; however, it was disclosed on the post-election amendment filed on July 13, 2006, as \$617.45. The difference of \$64.00 is considered a late portion of the report, making this portion of the report 46 business days late.

3. 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/treasurer at the above-referenced address. The notice proposed a civil penalty of \$88.32 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Bill Boone on December 11, 2006.
4. On January 4, 2007, the secretary received a notarized letter from Deborah A. Boone in lieu of a public hearing.
5. The letter—attached as Exhibit A—was reviewed, considered, and made part of the record.
6. The secretary has record of one previous late filing during the two-year period beginning September 15, 2005.

ULTIMATE FINDINGS OF FACT

Deborah Boone, Candidate/Treasurer, failed to file a timely first supplement to the second pre-election contribution and expenditure report for the May 16, 2006, Primary Election.

CONCLUSIONS OF LAW

Candidate/Treasurer Deborah Boone's failure to file a timely first supplement to the second pre-election contribution and expenditure report for the May 16, 2006, Primary Election violated ORS 260.058.

OPINION

Boone for State Representative's first supplement to the second pre-election contribution and expenditure report, filed on July 13, 2006, was late. It was due by 5:00 p.m., May 8, 2006.

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 been a violation of Oregon election law. The explanation provided in the notarized testimony does not adequately mitigate the failure to file a report by the deadline. The testimony explains that the candidate was given a verbal estimate of the amount of in-kind, but when she received the written receipt the amount was different by \$64.00. She attributed this to the gratuity not being included in the verbal estimate; however, the verbal estimate was higher than the actual written receipt. In any case, a change in a previously reported amount on a supplement to the second pre-election report is considered a late portion based on the amount of the change (see page 105 of the *2006 Campaign Finance Manual*).

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.

ORDER

Payment of the proposed civil penalty of \$88.32 was received in the office of the Secretary of State on January 8, 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.

Jennifer Hertel, Compliance Specialist

DATE of Service: _____