

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 Susan Castillo for Superintendent of Public Instruction,) Final Order by Default
Susan Castillo, Candidate, Paul Machu, Treasurer, for the)
First Supplement to the Second Pre-Election for the) Case No. L9087
May 16, 2006, Primary Election)

March 9, 2007

Susan Castillo for Superintendent of Public Instruction (002758)
Susan Castillo, Candidate / Paul Machu, Treasurer
c/o Ed Dennis
1004 NE Ayrshire Dr
Hillsboro, OR 97124

Dear Ms. Castillo:

This is a Final Order by Default 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 Susan Castillo for Superintendent of Public Instruction (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 November 22, 2005. The statement reported Paul Machu as the treasurer and c/o Ed Dennis 1004 NE Ayrshire Dr, Hillsboro, OR 97124 as the mailing address for both candidate and committee correspondence.
2. The committee submitted a timely first supplement to the second pre-election report on May 8, 2006; however, an additional expenditure should have been included on the report. The committee reported the expenditure required to be on the first supplement to the second pre-election report (\$2,540.00 to Ed Dennis on May 5, 2006) on a first supplement to the second pre-election report filed on May 24, 2006, which is 12 business days after the first supplement to the second pre-election report was due.

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 and was sent by first class mail to the treasurer at the above-referenced address. The notice proposed a civil penalty of \$304.80 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was returned unclaimed and the post office indicated it gave first notice on December 1, 2006.
4. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing.
5. The secretary has record of no previous late filings during the two-year period beginning September 15, 2005.

ULTIMATE FINDINGS OF FACT

Susan Castillo, Candidate, and Paul Machu, 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 Susan Castillo's and Treasurer Paul Machu'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.

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.

ORDER

It is ordered that a penalty of \$304.80 ($\$2,540.00 \times 1\% \times 12$ days) 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 L9087 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.

Nancy Ferry, Compliance Specialist

DATE of Service: _____

c: Paul Machu, Treasurer
c/o Ed Dennis
1004 NE Ayrshire Dr
Hillsboro, OR 97124