

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 Friends of Billy Dalto, Billy Dalto, Candidate,) Final Order by Default
Donna Butler, Treasurer, for the First Supplement to the)
Second Pre-Election for the May 16, 2006, Primary Election) Case No. L9093

March 9, 2007

Friends of Billy Dalto (004238)
Billy Dalto, Candidate / Donna Butler, Treasurer
PO Box 943
Salem, OR 97308

Dear Mr. Dalto:

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 Friends of Billy Dalto (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 December 12, 2005. The mailing address provided on the Statement of Organization for the candidate was PO Box 943, Salem, OR 97308. The statement reported Donna Butler as the treasurer and PO Box 1304, Silverton, OR 97381 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; however, an additional contribution should have been included on the report. The committee reported the contribution required to be on the first supplement to the second pre-election report (\$2,500.00 accounts receivable from Coalition for a Healthy Oregon PAC on May 4, 2006) on an amended first supplement to the second pre-election report filed on May 9, 2006, which is one business day after the report was due. The amended report also deleted a duplicate entry (\$2,000.00 contribution from Oregon Restaurant Association PAC on May 5, 2006).
3. The committee reported a change in total contributions of \$4,500.00 on the amended first supplement to the second pre-election report.
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 addresses. The notice proposed a civil penalty of \$45.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Billy Dalto on December 1, 2006.
5. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing.
6. The secretary has record of no previous late filings during the two-year period beginning September 15, 2005.

ULTIMATE FINDINGS OF FACT

Billy Dalto, Candidate, and Donna Butler, 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 Billy Dalto's and Treasurer Donna Butler'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.

The calculated penalty for the late report is \$45.00 ($\$4,500.00 \times 1\% \times 1 \text{ day}$). Because the appropriate penalty is under \$50, no penalty will be assessed.

ORDER

It is ordered that no penalty be assessed.

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: Donna Butler, Treasurer
PO Box 1304
Silverton, OR 97381