OFFICE OF THE SECRETARY OF STATE

BILL BRADBURY
SECRETARY OF STATE

ELECTIONS DIVISION

JOHN LINDBACK
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 Oregon Federation of College Republicans, Keith Bryan, Treasurer, for the First Pre-Election for the May 16, 2006, Primary Election	)))))	Final Order Case No. L9097

July 3, 2007

Oregon Federation of College Republicans (004586)
Keith Bryan, Treasurer of Record / John Swanson, Current Treasurer
PO Box 789
Salem, OR 97308

Dear Mr. Bryan:

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

On March 9, 2007, the secretary notified Oregon Federation of College Republicans (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 221), applicable during the reporting period, was filed with the secretary on January 23, 2006. The statement reported Keith Bryan as the treasurer and PO Box 789, Salem, OR 97308 as the address to which all committee correspondence was to be sent.

2. The committee was required to file a first pre-election report with the secretary on April 10, 2006.

3. The secretary received the report on November 22, 2006, which is 158 business days after the date on which the report was due.

4. The committee reported total contributions of $28,553.21 and total expenditures of $28,116.63 during the accounting period for the report.

5. On March 9, 2007, the secretary sent the committee a Notice of Proposed Civil Penalty. The notice was sent by both certified and first class mail to the treasurer at the above-referenced address. The notice proposed a civil penalty of $10,000.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by John Swanson on March 15, 2007.

6. On March 29, 2007, the secretary received a notarized letter from John Swanson 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

Keith Bryan, Treasurer, failed to file a timely first pre-election contribution and expenditure report for the May 16, 2006, Primary Election.

CONCLUSIONS OF LAW

Treasurer Keith Bryan's failure to file a timely first pre-election contribution and expenditure report for the May 16, 2006, Primary Election did not violate ORS 260.063.

OPINION

The Oregon Federation of College Republicans's first pre-election contribution and expenditure report, filed on November 22, 2006, was late. It was due by 5:00 p.m., April 10, 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 not been a violation of Oregon election law. The explanation provided in the notarized testimony and Elections Division documentation adequately mitigates the failure to file a report by the deadline.

The committee filed an amended SEL 221 with the Elections Division on January 23, 2006; however, instead of the committee information being updated, the committee was erroneously discontinued in the Elections Division database. This error was not discovered by the Elections Division until the committee tried to file its 2006 Primary Election post-election report. The Elections Division contacted the committee with regard to the filing of the post-election report; as the committee was not listed on the report receipt log as a committee owing a report.

It was then that the Elections Division reviewed the committee record in the database and found that an error had been made processing the amended statement of organization; it was discontinued instead of being amended. The committee record was subsequently corrected.

ORS 260.205(2) requires in part that a filing officer shall immediately notify a person required to file a contribution and expenditure statement if it appears that the person has failed to file the statement. After a filing deadline the Elections Division sends a notice to all committees that have not filed a contribution and expenditure report by 5 pm on the day of the deadline. Because the committee was discontinued, the Elections Division database did not create a report due for the committee, thus its name was not on the list produced by the database of committees that failed to file a timely first pre-election report and was not sent a letter notifying them of the late report.

One of the mitigating circumstances considered in a late filing is the lateness of the report is the direct result of the filing officer. Because the committee was erroneously discontinued by the Elections Division and the committee was not notified by the Elections Division of the late filing, we find that the late report was a direct result of filing officer error. Therefore we find no violation and will not be assessing a penalty for the late filing of the report.

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.

_____
Jennifer Hertel, Compliance Specialist

DATE of Service: _____