

BILL BRADBURY  
SECRETARY OF STATE



ELECTIONS DIVISION  
JOHN LINDBACK  
DIRECTOR  
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SALEM, OREGON 97310  
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 the Klamath County Democratic Central Committee, ) Final Order  
Headley Davis, Treasurer of Record and Carol Patzkowsky, )  
Current Treasurer, for the Post Election for the ) Case No. L9101  
November 7, 2006, General Election )

May 23, 2008

Klamath County Democratic Central Committee (000320)  
Carol Patzkowsky, Current Treasurer  
PO Box 1705  
Klamath Falls, Oregon 97601

Dear Ms. Patzkowsky:

This is a Final Order issued by the Secretary of State (secretary) for your failure to file a timely post election contribution and expenditure report for the November 7, 2006, General Election.

On March 31, 2008, the secretary notified the Klamath County Democratic Central Committee (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 September 25, 2006. The statement reported Headley Davis as the treasurer and PO Box 71, Klamath Falls, Oregon 97601 as the address to which all committee correspondence was to be sent.
2. The committee was required to file a post election report with the secretary on December 7, 2006.
3. The secretary sent the committee a notice that it had failed to file a timely report on December 8, 2006. The notice was sent by first class mail to the treasurer at the above-referenced address. The mail was returned undeliverable.

4. On May 30, 2007, the secretary sent a letter to the committee informing them that their report had still not been received. This notice was sent to 4751 Bellm Dr Lot 11, Klamath Falls, Oregon 97603. This was listed as the committee address on the SEL 221.
5. On November 11, 2007, the secretary received an amended SEL 221, changing the treasurer to Carol Patzkowsky and address for the committee correspondence to PO Box 1705 Klamath Falls, Oregon 97601.
6. The secretary received the report on December 3, 2007, which is 248 business days after the date on which the report was due. The report was filed by Carol Patzkowsky.
7. The committee reported no contributions and total expenditures of \$21.20 during the accounting period for the report.
8. On March 31, 2008, the secretary sent the committee a Notice of Proposed Civil Penalty. The notice was sent by both certified and first class mail to the current treasurer at the above-referenced address in fact number 5 and to the treasurer of record at the above-referenced address in fact number 4. The notice proposed a civil penalty of \$100.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Carol Patzkowsky on April 10, 2008 and received and signed for by Headley Davis on April 8, 2008.
9. On April 21, 2008, the secretary received a notarized letter from Carol Patzkowsky in lieu of a public hearing.
10. The letter—attached as Exhibit A—was reviewed, considered, and made part of the record.
11. The secretary has record of one previous late filing during the two-year period beginning September 15, 2005.

#### ULTIMATE FINDINGS OF FACT

Headley Davis, Treasurer of Record and Carol Patzkowsky, Current Treasurer, failed to file a timely post election contribution and expenditure report for the November 7, 2006, General Election.

#### CONCLUSIONS OF LAW

Treasurer of Record Headley Davis's and Current Treasurer Carol Patzkowsky's failure to file a timely post election contribution and expenditure report for the November 7, 2006, General Election violated ORS 260.073.

#### OPINION

The Klamath County Democratic Central Committee's post election contribution and expenditure report, filed on December 3, 2007, was late. It was due by 5:00 p.m., December 7, 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 provided by Ms. Patzkowsky states that the committee informally disbanded, no longer held meetings, and the Treasurer of Record, Headley Davis, became ill at the time the Post Election report was due. She also explained that there was no intent by the committee to not disclose campaign finance information. The committee reorganized in the fall of 2007 which is when she accepted the role of treasurer for the committee. After obtaining and reviewing the financial records she was able to file a post election report.

It is the responsibility of the treasurer to keep a committee's records up-to-date and to file accurate reports by the deadline. It is unfortunate that Mr Davis was ill but in order for the secretary to consider that the lateness was the result of a valid personal emergency independent written verification must be provided. There was no documentation submitted with the notarized testimony to support this mitigating circumstance. Additionally, the treasurer responsible for a late filing penalty is the treasurer required to file the report (the treasurer of record at the time the report is due.) If the late report is filed by a different treasurer, both treasurers shall be jointly liable. Therefore the explanation provided in the notarized testimony does not adequately mitigate the failure to file a report by the deadline and does not constitute a mitigating circumstance in which the secretary would reduce or waive the civil penalty.

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 treasurer.

Although the calculated penalty for the late report is \$158.08 ( $\$21.20 \times 3\% \times 248$  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

It is ordered that a penalty of \$100.00 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 L9101 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.

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Jennifer Hertel, Compliance Specialist

DATE of Service: \_\_\_\_\_

c: Headley Davis, Treasurer of Record  
4751 Bellm Dr Lot 11  
Klamath Falls OR 97603