

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 Friends of Brad Fudge, Brad Fudge, Candidate, ) Final Order by Default  
Dan Fitzgerald, Treasurer, for the Post-Election for the )  
November 7, 2006, General Election ) Case No. L9138

August 1, 2007

Friends of Brad Fudge (005464)  
Brad Fudge, Candidate / Dan Fitzgerald, Treasurer  
20918 NE Sandy Blvd  
Fairview, OR 97024

Dear Mr. Fudge:

This is a Final Order by Default 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 June 13, 2007, the secretary notified Friends of Brad Fudge (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 August 21, 2006. The mailing address provided on the Statement of Organization for the candidate was 20918 NE Sandy Blvd, Fairview, OR 97024. The statement reported Dan Fitzgerald as the treasurer and 2713 NE 9th Ave, Portland, OR 97202 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 candidate and treasurer at the above-referenced addresses.

4. The secretary received the report on January 26, 2007, which is 33 business days after the date on which the report was due.
5. The committee reported total contributions of \$991.62 and total expenditures of \$1,504.62 during the accounting period for the report.
6. On June 13, 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 candidate and was sent by first class mail to the treasurer at the above-referenced addresses. 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 returned unclaimed and the post office indicated it gave first notice on June 14, 2007.
7. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing.
8. The secretary has record of one previous late filing during the two-year period beginning September 15, 2005.

#### ULTIMATE FINDINGS OF FACT

Brad Fudge, Candidate, and Dan Fitzgerald, Treasurer, failed to file a timely post-election contribution and expenditure report for the November 7, 2006, General Election.

#### CONCLUSIONS OF LAW

Candidate Brad Fudge's and Treasurer Dan Fitzgerald's failure to file a timely post-election contribution and expenditure report for the November 7, 2006, General Election violated ORS 260.068.

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 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.

Although the calculated penalty for the late report is \$1,489.62 ( $\$1,504.62 \times 3\% \times 33$  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 L9138 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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Nancy Ferry, Compliance Specialist

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

c: Dan Fitzgerald, Treasurer  
2713 NE 9th Ave  
Portland, OR 97202