

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 Ben Cannon, Ben Cannon, Candidate, ) Final Order by Default  
David Cannon, Treasurer, for the First Supplement to the )  
Second Pre-Election for the November 7, 2006, General ) Case No. L9150  
Election )

August 29, 2007

Friends of Ben Cannon (005206)  
Ben Cannon, Candidate / David Cannon, Treasurer  
354 NE 72nd Ave  
Portland, OR 97213

Dear Representative Cannon:

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 November 7, 2006, General Election.

On July 11, 2007, the secretary notified Friends of Ben Cannon (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 2, 2005. The mailing address provided on the Statement of Organization for the candidate was 22 NE 69th Ave, Portland, OR 97213. The statement reported David Cannon as the treasurer and PO Box 80151, Portland, OR 97280 as the address to which all committee correspondence was to be sent.
2. The committee was required to file a first supplement to the second pre-election report with the secretary on October 30, 2006.
3. The secretary received the report on October 31, 2006, which is one business day after the date on which the report was due.
4. The committee reported no contributions and total expenditures of \$1,500.00 on the report.

5. On July 11, 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 \$15.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Elizabeth Cannon on July 14, 2007.
6. On July 29, 2007, the committee filed an amended Statement of Organization, updating the candidate's mailing address to 354 NE 72nd Ave, Portland, OR 97213, and the treasurer's mailing address to 9814 SW Quail Post Rd, Portland, OR 97219.
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 no previous late filings during the two-year period beginning September 15, 2005.

#### ULTIMATE FINDINGS OF FACT

Ben Cannon, Candidate, and David Cannon, Treasurer, failed to file a timely first supplement to the second pre-election contribution and expenditure report for the November 7, 2006, General Election.

#### CONCLUSIONS OF LAW

Candidate Ben Cannon's and Treasurer David Cannon's failure to file a timely first supplement to the second pre-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 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 \$15.00 ( $\$1,500.00 \times 1\% \times 1 \text{ day}$ ). 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.

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Nancy Ferry, Compliance Specialist

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

c: David Cannon, Treasurer  
9814 SW Quail Post Rd  
Portland, OR 97219