

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 Oregonians for Clem, Brian Clem, Candidate, Pat Saltz,) Final Order
Treasurer, for the Second Supplement to the Second Pre-)
Election for the November 7, 2006, General Election) Case No. L9151

October 18, 2007

Oregonians for Clem (005133)
Brian Clem, Candidate / Pat Saltz, Treasurer
PO Box 987
Salem, OR 97308

Dear Representative Clem:

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

On July 11, 2007, the secretary notified Oregonians for Clem (committee), pursuant to ORS 260.232(2), that it had failed to file the complete 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 220), applicable during the reporting period, was filed with the secretary on August 7, 2006. The statement reported Pat Saltz as the treasurer and PO Box 987, Salem, OR 97308 as the mailing address for both candidate and committee correspondence.
2. The committee submitted a timely second supplement to the second pre-election report on November 3, 2006. However, three additional in-kind contributions ((\$5,345.22 and \$3,881.88 from Future PAC House Builders on October 31, 2006, and \$100.00 from Oregon League of Conservation Voters on November 1, 2006) should have been included on the report.
3. The committee first reported the in-kind contributions required to be included on the second supplement to the second pre-election report on its post-election report filed on

December 6, 2006, which is 21 business days after the date on which the second supplement to the second pre-election report was due.

4. 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 address. The notice proposed a civil penalty of \$1,000.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Patricia Saltz on July 24, 2007.
5. On August 8, 2007, an amendment to the committee's post-election report was electronically filed, changing the dates of the contributions.
6. On August 10, 2007, the secretary received a notarized letter from Patricia Saltz 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

Brian Clem, Candidate, and Pat Saltz, Treasurer, did not fail to file a complete second supplement to the second pre-election contribution and expenditure report for the November 7, 2006, General Election.

CONCLUSIONS OF LAW

Candidate Brian Clem and Treasurer Pat Saltz did not violate ORS 260.068.

OPINION

After reviewing and considering the evidence and information on file in this office, the hearings officer finds that there has been no violation of Oregon election law. The explanation provided in the notarized testimony adequately mitigates the failure to file the three contributions on the second supplement to the second pre-election report. The testimony explains that the committee reported the three contributions on its post-election report for the November 7, 2006, General Election, erroneously using the dates that the expenditures resulting in the in-kind contributions were made by Future PAC House Builders and Oregon League of Conservation Voters, not the date the committee received the notices and became aware of the contributions.

The committee has since electronically amended its post-election report, correcting the date received entry to November 20, 2006, for the contribution from Oregon League of Conservation Voters, and November 27, 2006, for the contributions from Future PAC House Builders. Since these dates are outside the accounting period of October 23 to November 2, 2006, for the supplement reporting periods, the contributions were not required to be filed on the second supplement to the second pre-election report. Copies of the memos from the donating committees and the amendment are attached to the testimony.

ORDER

It is ordered that no penalty be assessed, because the contributions electronically amended by the committee are outside the accounting period for the supplement reports, and therefore, not required to be filed on a supplement to the second pre-election report for the November 7, 2006, General Election.

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: _____

c: Pat Saltz, Treasurer
PO Box 987
Salem, OR 97308