

BILL BRADBURY  
SECRETARY OF STATE



ELECTIONS DIVISION  
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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 Foresight Ophthalmology Political Action Committee, ) Final Order by Default  
Nan Heim, Treasurer, for the Second Supplement to the )  
Second Pre-Election for the November 7, 2006, General ) Case No. L9164  
Election )

July 27, 2007

Foresight Ophthalmology Political Action Committee (000066)  
Nan Heim, Treasurer  
833 SW 11th Ave Ste 315  
Portland, OR 97205

Dear Ms. Heim:

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

On May 16, 2007, the secretary notified Foresight Ophthalmology Political Action 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; 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 221), applicable during the reporting period, was filed with the secretary on September 8, 1999. The statement reported Nan Heim as the treasurer and 833 SW 11th Ave Ste 315, Portland, OR 97205 as the address to which all committee correspondence was to be sent.
2. The committee was required to file a second supplement to the second pre-election report with the secretary on November 3, 2006, because it received a contribution exceeding \$500 from a single source between October 23 and November 2, 2006.

3. The committee reported the contribution required to be on the second supplement to the second pre-election report (\$1,000.00 from Debra Graham on October 30, 2006) on its post-election report filed on November 30, 2006, which is 17 business days after the second supplement to the second pre-election report was due.
4. On May 16, 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 \$100.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Diane Mayer on May 17, 2007.
5. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing.
6. The secretary has record of one previous late filing during the two-year period beginning September 15, 2005.

#### ULTIMATE FINDINGS OF FACT

Nan Heim, Treasurer, failed to file a timely second supplement to the second pre-election contribution and expenditure report for the November 7, 2006, General Election.

#### CONCLUSIONS OF LAW

Treasurer Nan Heim's failure to file a timely second supplement to the second pre-election contribution and expenditure report for the November 7, 2006, General Election violated ORS 260.073.

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 treasurer.

Although the calculated penalty for the late report is \$510.00 ( $\$1,000.00 \times 3\% \times 17$  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 L9164 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: \_\_\_\_\_