

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 Citizens for Alan Brown, Alan Brown, Candidate,) Final Order by Default
Donna L. Butler, Treasurer, for the Second Supplement to)
the Second Pre-Election for the November 7, 2006, General) Case No. L9216
Election)

July 27, 2007

Citizens for Alan Brown (002868)
Alan Brown, Candidate / Donna L. Butler, Treasurer
1155 SW Coast Hwy
Newport, OR 97365

Dear Mr. Brown:

This is a Final Order by Default 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 May 16, 2007, the secretary notified Citizens for Alan Brown (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 October 27, 2005. The mailing address provided on the Statement of Organization for the candidate was 1155 SW Coast Hwy, Newport, OR 97365. The statement reported Donna L. Butler as the treasurer and PO Box 1304, Silverton, OR 97381 as the address to which all committee correspondence was to be sent.
2. The committee submitted a timely second supplement to the second pre-election report with the secretary on November 3, 2006; however, three additional expenditures should have been included on the report:
 - \$125.00 to CF Strategies on November 2, 2006, an expenditure first disclosed on a second supplement to the second pre-election report filed on November 6, 2006, which is one business day after the report was due;

- \$4,385.22 to Lowell's Print-Inn on October 31, 2006, an expenditure first disclosed on a second supplement to the second pre-election report filed on November 7, 2006, which is two business days after the report was due; and
 - \$2,877.60 to Lowell's Print-Inn on October 30, 2006, an expenditure first disclosed on a second supplement to the second pre-election report filed on November 17, 2006, which is nine business days after the report was due.
3. 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 candidate and was sent by first class mail to the treasurer at the above-referenced addresses. 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 Ann Illingworth on May 17, 2007.
 4. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing.
 5. The secretary has record of one previous late filing during the two-year period beginning September 15, 2005.

ULTIMATE FINDINGS OF FACT

Alan Brown, Candidate, and Donna L. Butler, Treasurer, failed 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 Alan Brown's and Treasurer Donna L. Butler's failure to file a complete second 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 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 \$1,043.84 —[(\$125.00 x 3% x 1 day) + (\$4,385.22 x 3% x 2 days) + (\$2,877.80 x 3% x 9 days)] – the penalty matrix sets a maximum penalty of \$1,000.00 when the total contributions or total expenditures—whichever is greater—is between \$2,000.01 and \$10,000.

ORDER

Citizens for Alan Brown (002868)
Alan Brown, Candidate / Donna L. Butler, Treasurer
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It is ordered that a penalty of \$1,000.00 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 L9216 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.

Nancy Ferry, Compliance Specialist

DATE of Service: _____

c: Donna L. Butler, Treasurer
PO Box 1304
Silverton, OR 97381