

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 an Insufficient Contribution and
Expenditure Report by NO CITY NEEDED!, Virginia
Babcock, Treasurer, for the First Pre-Election for the
November 7, 2006, General Election

)
) Final Order
)
) Case No. NT9373
)

November 21, 2007

NO CITY NEEDED! (005545)
Virginia Babcock, Treasurer
14521 SW Pinot Ct
Tigard, OR 97224-1516

Dear Ms. Babcock:

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

On September 11, 2007, the secretary notified NO CITY NEEDED! (committee) that it had failed to file a sufficient first pre-election contribution and expenditure 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 221), applicable during the reporting period, was filed with the Washington County Assessment & Taxation Department, Elections Office (filing officer) on September 8, 2006. The statement reported Virginia Babcock as the treasurer and 14521 SW Pinot Ct, Tigard, OR 97224-1516 as the address to which all committee correspondence was to be sent.
2. The committee filed a first pre-election report with the filing officer on September 29, 2006.

3. On October 2, 2006, the filing officer sent the committee an exam letter for the report. The exam letter stated that any amendment adding or deleting a contribution or expenditure or changing the amount of a previously reported contribution or expenditure must be submitted by October 30, 2006, to avoid penalties.
4. On December 7, 2006, an amendment to the committee's report was filed. The amendment reported a new entry, an in-kind contribution reported as received on September 11, 2006, from Louis J. Babcock in the amount of \$200.00. This amendment added or deleted a contribution or expenditure or changed the amount of a previously reported contribution or expenditure on the report and was filed 26 business days after the new transaction deadline.
5. On September 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 treasurer at the above-referenced address. The notice proposed a civil penalty of \$52.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Louis Babcock on September 12, 2007.
6. On September 24, 2007, the secretary received a notarized letter from H. Virginia Babcock in lieu of a personal appearance at a public hearing.
7. The letter—attached as Exhibit A—was reviewed, considered, and made part of the record.

ULTIMATE FINDINGS OF FACT

Virginia Babcock, Treasurer, failed to file a sufficient first pre-election contribution and expenditure report for the November 7, 2006, General Election.

CONCLUSIONS OF LAW

Treasurer Virginia Babcock's failure to file a sufficient first pre-election contribution and expenditure report for the November 7, 2006, General Election violated ORS 260.073, ORS 260.083 and OAR 165-012-0005.

OPINION

The NO CITY NEEDED!'s first pre-election contribution and expenditure report, filed on September 29, 2006, was insufficient.

A maximum \$10,000 civil penalty may be imposed for this violation. The *2006 Campaign Finance Manual*, which contains a penalty calculation matrix on page 110, is designated in OAR 165-012-0005 as the procedure manual for Oregon campaign finance regulations.

After reviewing and considering the evidence and information on file in this office, the hearings officer finds that there has been a violation of Oregon election law. The explanation provided in the notarized testimony does not adequately mitigate the failure to file a sufficient report.

Ms. Babcock indicated that after she filed the committee's first pre-election report the exam letter indicated that the report was sufficient. The \$200.00 voter pamphlet fee was not included because the expenditure was paid for by Louis Babcock and was not intended as a PAC expense.

Ms. Babcock spoke with staff at the Washington County Assessment & Taxation Department, Elections Office immediately after receiving notification that a complaint had been filed with the secretary. Because the voter pamphlet argument referenced that it was being submitted by the committee, Ms. Babcock filed an amendment on December 7, 2006 to show the in-kind contribution from Louis J. Babcock, however, the amendment was filed after the new transaction deadline for the first pre-election report.

Ms. Babcock emphasized that all reports were reviewed by the filing officer and accepted as correct. She states that she was not advised by the filing officer to file a Statement of Independent Expenditures (PC 10) when the voter pamphlet argument was filed. In this circumstance, the PC 10 could not have been filed because the committee had "knowledge" of Mr. Babcock's expenditure. An independent expenditure is defined in part as a communication in support or opposition to a clearly identified candidate or measure. The expenditure can not be made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of any political committee or any agent of a political committee supporting or opposing a measure. The contributor, Louis J. Babcock, is the husband of the treasurer therefore, the filing officer did not err in their advice.

The maximum penalty of \$10,000 is reduced to 1% of the amount of the change of each transaction multiplied by the number of business days the amendment was filed late, up to 100 days.

ORDER

It is ordered that a penalty of \$52.00 ($\$200.00 \times 1\% \times 26$ days) 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 NT9373 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.

Jennifer Hertel, Compliance Specialist

DATE of Service: _____