

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) Final Order
Report by Boone for State Representative (Deborah),)
Deborah Boone, Candidate, Dorene White, Treasurer, for the) Case No. I8431
First Pre-Election for the November 2, 2004, General Election)

January 27, 2006

Boone for State Representative (Deborah) (004846)
Deborah Boone, Candidate / Dorene White, Treasurer
PO Box 637
Cannon Beach, OR 97110

Dear Representative Boone:

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 2, 2004, General Election.

On November 16, 2005, the secretary notified Boone for State Representative (Deborah) (committee), pursuant to ORS 260.232(2), that it had failed to file a sufficient 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 March 24, 2004. The statement reported Dorene White as the treasurer and PO Box 637, Cannon Beach, OR 97110 as the mailing address for both candidate and committee correspondence.
2. The committee filed a first pre-election report with the secretary on September 24, 2004.
3. On October 12, 2004, the secretary sent the committee an exam letter that itemized the areas where the report was not in compliance. The committee was asked to submit the necessary amended information by October 21, 2004, to avoid penalties for failure to file a sufficient report.

4. On the day following the October 21, 2004, amendment deadline, the committee's report was still missing the following required information: sufficient occupational information for one contributor (1 item).
5. On November 16, 2005, 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 \$10.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Bill Boone on November 17, 2005.
6. On December 2, 2005, the secretary received a notarized letter from Deborah A. Boone 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.
8. The secretary has record of no previous insufficient filings during the two-year period beginning September 15, 2003.

ULTIMATE FINDINGS OF FACT

Deborah Boone, Candidate, and Dorene White, Treasurer, failed to file a sufficient first pre-election contribution and expenditure report for the November 2, 2004, General Election.

CONCLUSIONS OF LAW

Candidate Deborah Boone's and Treasurer Dorene White's failure to file a sufficient first pre-election contribution and expenditure report for the November 2, 2004, General Election violated ORS 260.068, ORS 260.083 and OAR 165-012-0005. A civil penalty may be imposed for this violation under ORS 260.232(1)(b).

OPINION

Boone for State Representative (Deborah)'s first pre-election contribution and expenditure report, filed on September 24, 2004, was insufficient. An exam letter was sent to the committee detailing the insufficiencies of the report and an amendment to the report was required to be filed by October 21, 2004. The committee failed to file an amendment which satisfied all the items listed on the exam letter by the deadline.

A maximum \$10,000 civil penalty may be imposed for this violation. The *2004 Campaign Finance Manual*, which contains a penalty calculation matrix on pages 104 and 105, 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 submitted by Representative Boone does not adequately mitigate the failure to file a sufficient report by the deadline. The testimony explains that the candidate had previously listed "contractor" as an occupation on contribution and expenditure reports and had not been notified that this particular occupation was insufficient. She also stated that she looked at the *2004 Campaign Finance Manual* and did not find "contractor" listed in the unacceptable occupational descriptions. She assumed that the Elections Division had made a mistake in asking for additional occupational information for this particular report.

The list of 'acceptable' and 'unacceptable' occupational descriptions in the manual is not complete, because it would be impossible to list every occupation. It is a sample list intended to explain what is meant by the nature of an individual's primary job or business. When the Elections Division requests additional information on the exam letter, it must be addressed by either filing an amendment or by contacting the Elections Division, if a candidate or treasurer believes that the Division has identified an insufficiency in error, rather than assuming it is a mistake and taking no action. While this is unfortunate, it is not a mitigating circumstance in which the secretary would waive or reduce the penalty.

Since this is the first violation by the candidate, the penalty is \$10.00 per omission.

ORDER

It is ordered that no penalty be assessed because the appropriate penalty is under \$50.

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: Dorene White, Treasurer
PO Box 637
Cannon Beach, OR 97110