

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 Central Oregonians for Affordable Housing, Tim Knopp, ) Final Order  
Treasurer, for the Second Pre-Election for the )  
November 7, 2006, General Election ) Case No. L9044

June 8, 2007

Central Oregonians for Affordable Housing (005490)  
Tim Knopp, Treasurer  
61396 S Hwy 97 #203  
Bend, OR 97702

Dear Mr. Knopp:

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

On April 12, 2007, the secretary notified Central Oregonians for Affordable Housing (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. 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 secretary as a secondary filing officer on September 5, 2006. The statement reported Tim Knopp as the treasurer and 61396 S Hwy 97 #203, Bend, OR 97702 as the address to which all committee correspondence was to be sent. The statement designated Deschutes County as the principal filing officer.
2. The committee was required to file a second pre-election report with the secretary on October 26, 2006.
3. The secretary sent the committee a notice that it had failed to file a timely report on October 27, 2006. The notice was sent by first class mail to the treasurer at the above-referenced address.

4. The secretary received the report on October 30, 2006, which is two business days after the date on which the report was due.
5. The committee reported total contributions of \$6,000.00 and total expenditures of \$25,850.00 during the accounting period for the report.
6. On April 12, 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 \$51.70 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Sonia Burns on April 16, 2007.
7. On April 27, 2007, the secretary received a notarized letter from Tim Knopp in lieu of a public hearing.
8. The letter—attached as Exhibit A—was reviewed, considered, and made part of the record.
9. The secretary has record of no previous late filings during the two-year period beginning September 15, 2005.

#### ULTIMATE FINDINGS OF FACT

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

#### CONCLUSIONS OF LAW

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

#### OPINION

The Central Oregonians for Affordable Housing's second pre-election contribution and expenditure report, filed on October 30, 2006, was late. It was due by 5:00 p.m., October 26, 2006.

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.

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 report by the deadline. The testimony asserts that Central Oregonians for Affordable Housing did submit the second pre-election contribution and expenditure report timely and that the mitigating circumstance which caused the late filing is filing officer error.

Attached to the testimony are a copy of the notice of late report, two fax cover sheets (one dated October 23, 2006, and one dated October 30, 2006), a copy of the first pre-election amendment and a copy of the second pre-election report. The testimony states that on October 30, 2006, the committee had a discussion with the Elections Division and determined by fax record reports that the contribution and expenditure report was received on October 23, 2006.

The Elections Division reviewed the fax log. An entry on October 23, 2006, recorded receipt of a fax from Central Oregonians for Affordable Housing, and that two pages were received – the first pre-election amendment and a cover sheet. After reviewing the contribution and expenditure file for the committee, there are only two pages date-stamped October 23, 2006; a fax transmittal coversheet dated October 23, 2006, “Re: Secondary Filing Amendment” and a PC 9 amendment form. When the second pre-election report was faxed on October 30, 2006, the fax transmittal coversheet was identified as “Re: Second Filing”. The Elections Division has no record of receiving the second pre-election report before October 30, 2006.

The fax cover sheets are not proof that the report was faxed by the deadline; they are not even confirmation sheets indicating that a fax actually was transmitted. Page 7 of the *2006 Campaign Finance Manual* states: “A fax transmittal confirmation indicating a successful transmission does not guarantee or prove a report was filed timely.” The hearings officer does not find filing officer error in the case. While this is an unfortunate incident, it is not a mitigating circumstance in which the secretary would reduce or waive the penalty.

Under the penalty matrix, the maximum statutory penalty of \$10,000 is reduced to 1% of the total contributions or total expenditures—whichever is greater—for each business day the report was late as this is the first late violation by the treasurer. Additionally, the penalty for late filing with a secondary filing officer is 10% of what the penalty would be if filed late with the principal filing officer, only if the report is filed timely with the principal filing officer. In this case, the report was timely filed with the principal filing officer.

#### ORDER

It is ordered that a penalty of \$51.70 ( $\$25,850.00 \times 1\% \times 2 \text{ days} \times 10\%$ ) 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 L9044 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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Jennifer Hertel, Compliance Specialist

DATE of Service: \_\_\_\_\_