

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 Atkinson for Governor, Jason A. Atkinson, Candidate,) Final Order by Default
Jessica Bean, Treasurer, for the Second Supplement to the)
Second Pre-Election for the May 16, 2006, Primary Election) Case No. L9081

March 9, 2007

Atkinson for Governor (002864)
Jason A. Atkinson, Candidate / Jessica Bean, Treasurer
PO Box 8709
Medford, OR 97504

Dear Senator Atkinson:

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 May 16, 2006, Primary Election.

On November 30, 2006, the secretary notified Atkinson for Governor (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 August 12, 2005. The statement reported Jessica Bean as the treasurer and PO Box 8709, Medford, OR 97504 as the mailing address for both candidate and committee correspondence.
2. The committee submitted a timely second supplement to the second pre-election report on May 12, 2006. However, an two additional contributions (\$46.11 from Matt Evans on May 10, 2006, and \$93.96 from Matt Evans on May 11, 2006) should have been included on the report.
3. The committee first reported the contributions required to be included on the second supplement to the second pre-election report on its post-election report filed on June 15, 2006, making this portion of the report 23 business days late.

4. On November 30, 2006, 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 \$100.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Lacynda S. Good on December 20, 2006.
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 two previous late filings during the two-year period beginning September 15, 2005.

ULTIMATE FINDINGS OF FACT

Jason A. Atkinson, Candidate, and Jessica Bean, Treasurer, failed to file a timely second supplement to the second pre-election contribution and expenditure report for the May 16, 2006, Primary Election.

CONCLUSIONS OF LAW

Candidate Jason A. Atkinson's and Treasurer Jessica Bean's failure to file a timely second supplement to the second pre-election contribution and expenditure report for the May 16, 2006, Primary Election violated ORS 260.058.

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 5% of the total contributions or total expenditures—whichever is greater—for each business day the report was late as this is the third late violation by the candidate.

Although the calculated penalty for the late report is \$161.00 ($\$140.07 \times 5\% \times 23$ 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 L9081 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: Jessica Bean, Treasurer
PO Box 8709
Medford, OR 97504