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STATE OF OREGON
SECRETARY OF STATE
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BEFORE THE SECRETARY OF STATE
OF THE
STATE OF OREGON

IN THE MATTER OF FAILURE OF)
NO SPECIAL RIGHTS COMMITTEE)
TO FILE A SUFFICIENT POST ELECTION)
STATEMENT OF CONTRIBUTIONS AND EXPENDITURES)
FOR THE GENERAL ELECTION OF 1988)

FINAL ORDER

Due notice, as prescribed by law, for failure to file a sufficient Post Election Statement of Contributions and Expenditures by the deadline, dated January 17, 1989, was sent to No Special Rights Committee, attn: Robert S. McDaniel. An opportunity for a hearing was provided in such notice. Written testimony in the form of a notarized statement was submitted in lieu of a personal appearance at a public hearing. The Secretary of State's hearings officer, Marilynne T. Keyser, Deputy Secretary of State, considered the evidence submitted in the notarized statement in reaching her opinion.

FINDINGS OF FACT

1. A Post Election Statement of Contributions and Expenditures was filed by No Special Rights Committee in the office of the Secretary of State on or before December 8, 1988, 5:00 p.m., as provided under ORS 260.073.
2. This Post Election Statement of Contributions and Expenditures was required to include certain information on contributions and expenditures as provided under ORS 260.083.
3. A final notice prior to proposing a penalty was sent to No Special Rights Committee, attn: Robert S. McDaniel, on December 19, 1988 as the statement was missing required information. A request was made that the committee file a statement with the complete information no later than December 30, 1988.
4. A Notice of Insufficient Filing was sent by certified mail with return receipt to No Special Rights Committee, attn: Robert S. McDaniel, on January 17, 1989 as the following omitted information was not provided by the deadline: 8 occupations, 10 names and addresses of employers and 1 detailed purpose of an expenditure.
5. This notice was received by the committee on January 18, 1989 and signed for by C. Hubbard.
6. The amount of the contributions reported was \$65,136.62. The amount of the expenditures reported was \$59,959.96.
7. A request for a hearing was received by this office.
8. On January 26, 1989 this office received a notarized letter submitted in lieu of a personal appearance at a public hearing.

9. The notarized statement was reviewed and considered and made a permanent part of the record. The cause of the insufficient filing, as explained by Bonnie J. Mabon in the notarized statement, was as follows: She stated that she again attempted to get all the information that was requested. She has now called the people, as well as having already asked for the information twice by mail. She enclosed an amended report which provided the new contributor information she had received and provided the itemization of check #1350. Ms. Mabon is the new treasurer designated on an amended statement of organization filed January 26, 1989.
10. The following previously omitted information was provided for the hearing: 4 occupations, 5 names and addresses of employers and 1 detailed purpose of an expenditure.
11. The Secretary of State will reduce the maximum civil penalty authorized by ORS 260.232(6) for an insufficient filing to an amount not to exceed \$15 per omitted item. The penalty will be further reduced or waived if at least one of the following mitigating circumstances is present:
 - a) the insufficiency of a statement is due to a personal emergency such as illness or death in the family; or
 - b) the insufficiency of a statement is due to an error by the filing officer; or
 - c) the candidate or committee treasurer has not committed more than one previous violation; or
 - d) omitted information is submitted before or during a contested case hearing on the proposed penalty.
12. The Secretary of State has record of two previous insufficient filings by this treasurer during the two year period beginning the 250th day before the 1988 Primary Election.

CONCLUSIONS OF LAW

The Secretary of State may impose a civil penalty, as provided in ORS 260.232, for failure to include in a statement filed under ORS 260.058 to 260.156 the information required under ORS 260.083. The civil penalty shall be not more than five percent of the total contributions or total expenditures required to be reported in the statement, whichever is greater, for each day after the day on which the statement is due until the day a sufficient statement is filed or omitted information is supplied. Notwithstanding the provisions of ORS 260.232, for insufficient filings, the Secretary of State has adopted the policy of assessing a penalty based on the number of omissions and the number of insufficient filings by a candidate or committee treasurer, not to exceed the maximum penalty provided under ORS 260.232.

The Secretary of State proposes a civil penalty of \$285.00 (19 X \$15) for this violation.

OPINION

After having reviewed the evidence and information currently on file in this office, and given due consideration thereto, it is the finding of the hearings officer that there has been a violation of Oregon election law. The explanation provided in the notarized statement is not an adequate excuse for failure to file a sufficient statement by the deadline. Since there have been two or more previous violations by this treasurer and additional efforts were expended to obtain omitted information, the penalty will be \$15.00 per omission, less \$1.00 for every omitted item provided for the hearing.

