

1 **IN THE CIRCUIT COURT OF STATE OF OREGON**
2 **FOR THE COUNTY OF MARION**

3
4 **SETH ALLEN WOOLLEY, an**
5 **Oregon Elector and Taxpayer,**

6
7 **Plaintiff,**

8
9 **v.**

10
11 **KATE BROWN,**
12 **Secretary of State of Oregon,**

13
14 **Defendant.**

Case No. _____

COMPLAINT

DECLARATORY RELIEF
(ORS 28.010)

APPEAL OF SECRETARY OF
STATE ACTION (ORS 246.910)

APPEAL OF DECISION IN OTHER
THAN CONTESTED CASE (ORS
183.484)

COMPEL AGENCY ACTION
REQUIRED BY LAW
(ORS 183.490)

(not subject to mandatory
arbitration)

15
16
17 Plaintiff alleges:

18 **INTRODUCTION**

- 19 1. Plaintiff seeks declaratory and injunctive relief from the decision of the
20 Secretary of State to refuse to address whether Charles Hales, who states his
21 current residence as 7136 S.E. 27th Avenue, Portland, Oregon:
- 22 A. unlawfully voted in Oregon several times since the beginning of
23 2004;
 - 24 B. unlawfully registered to vote in Oregon in 2008;
 - 25 C. made false swearings on his voter registration card filed on March
26 18, 2008;

1 D. made false swearings in signing each of his vote-by-mail envelopes
2 submitted in Oregon since the beginning of 2004; and/or

3 E. violated Portland City Code § 2.08.050 and Portland City Charter §
4 2-202 and is not legally qualified to be a candidate for Mayor of
5 Portland or to serve in that office.

6 JURISDICTION

7 2. This court has jurisdiction of this cause under ORS 246.910; ORS 28.010, *et*
8 *seq.*; and ORS 14.175.

9 3. This court has additional jurisdiction of this cause under ORS 183.484 and
10 ORS 183.490.

11 4. This action is timely filed within 60 days of the date of the Secretary of
12 State's determination.

13 VENUE

14 5. Venue is proper in Marion County. ORS 246.910(1); ORS 183.484.

15 PARTIES

16 6. Complainant Seth Alan Woolley is an elector of Oregon who resides at 3403
17 N.E. Stanton Street in Portland, Oregon.

18 FACTS

19 7. Charles Hales resigned his position as an elected Portland City Commissioner
20 in April 2002.

21 8. THE OREGONIAN reported on June 27, 2011:

22 "From 2004 to 2009, Hales and his wife, Nancy, claimed residency
23 in Stevenson, Wash. They filed tax returns claiming their home in
24 Washington -- which, unlike Oregon, has no personal income tax.

1 At the same time, Hales kept voting in Oregon elections."
2

3 9. WILLAMETTE WEEK reported on April 11, 2012:
4

5 Between 2004 and 2009, Hales told Oregon tax officials that
6 Stevenson, Wash., was his residence.
7

8 10. WILLAMETTE WEEK on June 27, 2011, reported receiving email from Charles
9 Hales, stating (emphasis added):

10 After our marriage, Nancy and I lived in her home in Stevenson
11 and in our condo on Hayden Island. Starting in 2004 and until
12 2009, we filed our joint federal and Oregon tax returns as residents
13 of Washington.
14

15 11. WILLAMETTE WEEK reported on April 4, 2012, that Charles Hales continued
16 to file his income tax returns for the year 2009 as a resident of Washington:

17 As WW first reported last summer, Hales created a problem for
18 himself (and saved some money) by claiming Washington
19 residency for tax purposes in 2008 and 2009. Unlike Oregon,
20 which has one of the nation's highest income tax rates,
21 Washington does not levy income taxes. * * *

22
23 The tax returns [2008-2010] he provided WW show that Hales
24 saved him about \$30,000 in Oregon income taxes for the two years
25 he claimed Washington residency.
26

27 12. Charles Hales remained registered to vote in Oregon at an address on Hayden
28 Island until March 18, 2008. On that date, he filed a form to register to vote
29 as a resident of Oregon residing at 7136 S.E. 27th Avenue in Portland.

30 13. THE OREGONIAN reported on June 27, 2011:

31 During that time [2004-09], he claimed residency in Stevenson
32 [WA], where his second wife owned a home, which meant salary
33 earned outside Oregon was not taxable. But he voted in 15 of 19
34 Multnomah County elections, listing a condominium on Hayden
35 Island as his residence in October 2002 and changing it in March
36 2008 to the Eastmoreland home he purchased a year earlier.
37

1 14. Charles Hales after March 18, 2008, and before the 2012 general election had
2 not filed another Oregon voter registration application.

3 **JURISDICTION OF SECRETARY OF STATE TO ENFORCE VOTER**
4 **REQUIREMENTS**
5

6
7 15. The Secretary of State has jurisdiction to consider this Complaint pursuant to
8 ORS 246.110 (which designates the Secretary of State as the state's "chief
9 elections officer") and ORS 260.345 (which requires the Secretary of State to
10 investigate every written complaint alleging that a violation of an election law
11 has occurred). ORS 260.345(3) requires:

12 (3) Upon receipt of a complaint under subsection (1) or (2) of this
13 section the Secretary of State or Attorney General immediately
14 shall examine the complaint to determine whether a violation of an
15 election law or rule has occurred and shall make any investigation
16 the Secretary of State or Attorney General considers necessary.

17 16. This jurisdiction is not limited to violations of election laws adopted by the
18 Oregon Legislature; it applies to all election laws, including those of the City
19 of Portland.

20 17. The Secretary of State has refused to investigate the Complaint filed by
21 Plaintiff on September 27, 2012, and is in derogation of her duty to do so.

22 18. The Complaint filed by Plaintiff on September 27, 2012, is attached to this
23 Complaint and is fully incorporated into this Complaint. It documents the
24 following violations of law by Charles Hales.

1 19. The Secretary of State's response to the Complaint filed by Plaintiff on
2 September 27, 2012, is an order in other than a contested case and is attached
3 to this Complaint.

4
5 **VIOLATION NO. 1: Charles Hales unlawfully voted in Oregon, several**
6 **times, during the years 2004 through 2009.**
7

8 20. This violation of law is set forth in the attached Complaint filed by Plaintiff
9 with the Secretary of State on September 27, 2012, which is fully
10 incorporated into this Complaint by reference.

11
12 **VIOLATION NO. 2: Charles Hales continued to vote unlawfully in Oregon**
13 **after changing his residence and domicile back to Oregon as of 2010.**
14

15 21. This violation of law is set forth in the attached Complaint filed by Plaintiff
16 with the Secretary of State on September 27, 2012, which is fully
17 incorporated into this Complaint by reference.

18
19 **VIOLATION NO. 3: Charles Hales made a false swearing in his voter**
20 **registration application filed on March 18, 2008.**
21

22 22. This violation of law is set forth in the attached Complaint filed by Plaintiff
23 with the Secretary of State on September 27, 2012, which is fully
24 incorporated into this Complaint by reference.

25
26 **VIOLATION NO. 4: Charles Hales made false swearings in signing each of**
27 **his vote-by-mail envelopes submitted in Oregon since the beginning of 2004.**
28

29 23. This violation of law is set forth in the attached Complaint filed by Plaintiff
30 with the Secretary of State on September 27, 2012, which is fully
31 incorporated into this Complaint by reference.

1 **VIOLATION NO. 5: Charles Hales violated Portland City Code § 2.08.050**
2 **and Portland City Charter § 2-202 and is not legally qualified to become a**
3 **candidate for Mayor of Portland or to serve in that office.**
4

5 24. This violation of law is set forth in the attached Complaint filed by Plaintiff
6 with the Secretary of State on September 27, 2012, which is fully
7 incorporated into this Complaint by reference.

8 **FIRST CLAIM FOR RELIEF: DECLARATORY RELIEF**
9

10 25. Plaintiff realleges and incorporates herein the allegations contained in ¶¶ 1-
11 24.

12 26. Plaintiff is entitled to a determination under ORS 28.010, ORS 246.910),
13 ORS 183.484, and/or ORS 183.490 that Charles Hales has violated the laws
14 of Oregon, as detailed above.
15

16 **SECOND CLAIM FOR RELIEF: REVIEW OF ORDER IN OTHER THAN**
17 **A CONTESTED CASE**
18

19 27. Plaintiff realleges and incorporates herein the allegations contained in ¶¶ 1-
20 24.

21 28. Plaintiff is entitled under ORS 183.484 to judicial review of the Secretary of
22 State's determination in other than a contested case that Charles Hales is not
23 in violation of the laws of Oregon, as detailed above.
24

25 **THIRD CLAIM FOR RELIEF: INJUNCTIVE RELIEF**
26

27 29. Plaintiff realleges and incorporates herein the allegations contained in ¶¶ 1-
28 24.
29

1 30. Plaintiff is entitled to an injunction requiring the Secretary of State to enforce
2 the laws of Oregon against the violations shown above.
3

4 WHEREFORE, Plaintiff prays for the following relief:

- 5 1. An order declaring that:
- 6 A. Charles Hales has violated the laws of Oregon, as detailed above.
- 7 B. The Secretary of State erred in concluding that no violations had
8 occurred.
- 9 2. An order of injunction, ordering that Defendant shall pursue and enforce the
10 violations of law detailed above.
- 11 3. An order awarding Plaintiff his costs against Defendant pursuant to OCRP
12 68B, ORS 20.120, and ORS 20.190.
- 13 4. An order imposing all other and further relief as to which Plaintiff may be
14 entitled and which the Court may deem just and equitable.
15

16 Dated: March 18, 2013

17 Seth Alan Woolley
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Pro Se