

BILL BRADBURY
SECRETARY OF STATE

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 by Default
Report by the Constitution Party of Oregon, Carole Dianna)
Winegarden, Treasurer, for the First Pre-Election for the) Case No. I8414
November 2, 2004, General Election)

October 28, 2005

Constitution Party of Oregon (003934)
Carole Dianna Winegarden, Treasurer
PO Box 9127
Brooks, OR 97305

Dear Ms. Winegarden:

This is a Final Order by Default 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 July 28, 2005, the secretary notified the Constitution Party of Oregon (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; 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 221), applicable during the reporting period, was filed with the secretary on May 1, 2003. The statement reported Carole Dianna Winegarden as the treasurer and 107 Jefferson St, Oregon City, OR 97045-2500 as the address to which all committee correspondence was to be sent.
2. The committee filed a first pre-election report with the secretary on September 28, 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 three contributors (3 items).
5. On July 28, 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 treasurer at the above-referenced address. The notice proposed a civil penalty of \$30.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Lon T. Mabon on August 2, 2005. The certified card designated a different delivery address for committee correspondence, PO Box 9127, Salem, OR 97305. However, an amended Statement of Organization (filed on June 10, 2005), updated the mailing address for committee correspondence to PO Box 9127, Brooks, OR 97305.
6. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing.
7. The secretary has record of no previous insufficient filings during the two-year period beginning September 15, 2003.

ULTIMATE FINDINGS OF FACT

Carole Dianna Winegarden, Treasurer, failed to file a sufficient first pre-election contribution and expenditure report for the November 2, 2004, General Election.

CONCLUSIONS OF LAW

Treasurer Carole Dianna Winegarden's failure to file a sufficient first pre-election contribution and expenditure report for the November 2, 2004, General Election violated ORS 260.073, ORS 260.083 and OAR 165-012-0005. A civil penalty may be imposed for this violation under ORS 260.232(1)(b).

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.

Since this is the first violation by the treasurer, 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: _____