

BILL BRADBURY
SECRETARY OF STATE



ELECTIONS DIVISION
JOHN LINDBACK
DIRECTOR
255 CAPITOL ST NE, STE 501
SALEM, OREGON 97310
ELECTIONS — (503) 986-1518

BEFORE THE SECRETARY OF STATE
OF THE
STATE OF OREGON

In the matter of an Insufficient Contribution and Expenditure)
Report by the Committee to Elect Gene Whisnant, Gene) Final Order by Default
Whisnant, Candidate, Woodie Thomas, Treasurer, for the)
Second Pre-Election for the May 16, 2006, Primary Election) Case No. I9429

September 19, 2008

Committee to Elect Gene Whisnant (004653)
Gene Whisnant, Candidate / Woodie Thomas, Treasurer
PO Box 3565
Sunriver, OR 97707

Dear Representative Whisnant:

This is a Final Order by Default issued by the Secretary of State (secretary) for your failure to file a sufficient second pre-election contribution and expenditure report for the May 16, 2006, Primary Election.

On June 4, 2008, the secretary notified the Committee to Elect Gene Whisnant (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 220), applicable during the reporting period, was filed with the secretary on September 15, 2003. The statement reported Woodie Thomas as the treasurer and PO Box 3565, Sunriver, OR 97707 as the mailing address for both candidate and committee correspondence.
2. The committee filed a second pre-election report with the secretary on May 4, 2006.
3. On May 19, 2006, 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 June 1, 2006, to avoid penalties for failure to file a sufficient report.

4. On the day following the June 1, 2006, amendment deadline, the committee's report was still missing the following required information: a sufficient name for one contributor (1 item).
5. On June 11, 2007, the secretary received an amended SEL 220 updating the committee mailing address to 61218 Dayspring Dr, Bend OR 97702 and the candidate mailing address to 17960 Hickory Ln, Sunriver, OR 97707.
6. On June 4, 2008, 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 \$10.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Josie Whisnant on June 10, 2008.
7. On June 11, 2008, the secretary received written testimony from Woodie Thomas. The testimony disputes the amendment was filed late and a paper copy of the amendment was provided. The secretary verified that an electronic report had not been received because the committee was required to file electronic reports. The testimony provided was not notarized, but had it been notarized, the final outcome would not have changed.
8. On June 19, 2008, the secretary received an amended SEL 220 updating the candidate mailing address to PO Box 3565, Sunriver, OR 97707.
9. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing.
10. The secretary has record of no previous insufficient filings during the two-year period beginning September 15, 2005.

ULTIMATE FINDINGS OF FACT

Gene Whisnant, Candidate, and Woodie Thomas, Treasurer, failed to file a sufficient second pre-election contribution and expenditure report for the May 16, 2006, Primary Election.

CONCLUSIONS OF LAW

Candidate Gene Whisnant's and Treasurer Woodie Thomas's failure to file a sufficient second pre-election contribution and expenditure report for the May 16, 2006, Primary Election violated ORS 260.058, 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 *2006 Campaign Finance Manual*, which contains a penalty calculation matrix on pages 108 and 109, is designated in OAR 165-012-0005 as the procedure manual for Oregon campaign finance regulations.

Since this is the first violation by the candidate, 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.

Stacey Jackson, Compliance Specialist

DATE of Service: September 19, 2008

c: Woodie Thomas, Treasurer
61218 Dayspring Dr
Bend, OR 97702