

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 a Late Contribution and Expenditure Report )  
by Wirth for State Representative, Kelley Wirth, Candidate, ) Final Order by Default  
Sonya N. Reichwein, Treasurer, for the Second Pre-Election )  
for the November 2, 2004, General Election ) Case No. L8016  
)

October 28, 2005

Wirth for State Representative (003563)  
Kelley Wirth, Candidate / Sonya N. Reichwein, Treasurer  
PO Box 607  
Corvallis, OR 97339

Dear Representative Wirth:

This is a Final Order by Default issued by the Secretary of State (secretary) for your failure to file a timely second pre-election contribution and expenditure report for the November 2, 2004, General Election.

On August 19, 2005, the secretary notified Wirth for State Representative (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 April 12, 2004. The statement reported Sonya N. Reichwein as the treasurer and PO Box 607, Corvallis, OR 97339 as the mailing address for both candidate and committee correspondence.
2. The committee was required to file a second pre-election report with the secretary on October 21, 2004.
3. The secretary sent the committee a notice that it had failed to file a timely report on October 22, 2004. The notice was sent by first class mail to the candidate and treasurer at the above-referenced address.

4. The secretary received the report on October 25, 2004, which is two business days after the date on which the report was due.
5. The committee reported total contributions of \$12,675.00 and total expenditures of \$15,062.96 during the accounting period for the report.
6. On August 19, 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 candidate and was sent by first class mail to the treasurer at the above-referenced address. The notice proposed a civil penalty of \$301.26 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was returned unclaimed and the post-office stated it gave first notice on August 20, 2005.
7. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing.
8. The secretary has record of no previous late filings during the two-year period beginning September 15, 2003.

#### ULTIMATE FINDINGS OF FACT

Kelley Wirth, Candidate, and Sonya N. Reichwein, Treasurer, failed to file a timely second pre-election contribution and expenditure report for the November 2, 2004, General Election.

#### CONCLUSIONS OF LAW

Candidate Kelley Wirth's and Treasurer Sonya N. Reichwein's failure to file a timely second pre-election contribution and expenditure report for the November 2, 2004, General Election violated ORS 260.068.

By statute, 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 101 and 102, 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 1% of the total contributions or total expenditures—whichever is greater—for each business day the report was late as this is the first late violation by the candidate.

#### ORDER

It is ordered that a penalty of \$301.26 ( $\$15,062.96 \times 1\% \times 2 \text{ days}$ ) 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 L8016 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.

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Jennifer Hertel, Compliance Specialist

DATE of Service: October 28, 2005

c: Sonya N. Reichwein, Treasurer  
PO Box 607  
Corvallis, OR 97339