

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 Friends of Gary George, Gary George, Candidate, ) Final Order by Default  
Donna L. Butler, Treasurer, for the Second Supplement to )  
the Second Pre-Election for the November 2, 2004, General ) Case No. L8159  
Election )

October 28, 2005

Friends of Gary George (002407)  
Gary George, Candidate / Donna L. Butler, Treasurer  
15195 NE Ribbon Ridge Rd  
Newberg, OR 97132

Dear Senator George:

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

On August 19, 2005, the secretary notified Friends of Gary George (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 February 23, 2004. The mailing address provided on the Statement of Organization for the candidate was 15195 NE Ribbon Ridge Rd, Newberg, OR 97132. The statement reported Donna L. Butler as the treasurer and PO Box 1304, Silverton, OR 97381 as the address to which all committee correspondence was to be sent.

2. The committee submitted a timely second supplement to the second pre-election report on October 29, 2004; however, an two additional expenditures should have been included on the report. The committee reported the expenditures required to be on the second supplement to the second pre-election report (\$475.00 and \$1,500.00 to George Advertising Inc. on October 28, 2004) on a second supplement to the second pre-election report filed on November 1, 2004, which is one business day after the second supplement to the second pre-election report was due.
3. The committee reported no contributions and total expenditures of \$1,975.00 on the report.
4. 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 addresses. The notice proposed a civil penalty of \$19.75 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Kathy George on August 20, 2005.
5. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing.
6. The secretary has record of no previous late filings during the two-year period beginning September 15, 2003.

#### ULTIMATE FINDINGS OF FACT

Gary George, Candidate, and Donna L. Butler, Treasurer, failed to file a timely second supplement to the second pre-election contribution and expenditure report for the November 2, 2004, General Election.

#### CONCLUSIONS OF LAW

Candidate Gary George's and Treasurer Donna L. Butler's failure to file a timely second supplement to the 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.

The calculated penalty for the late report is \$19.75 ( $\$1,975.00 \times 1\% \times 1 \text{ day}$ ). Because the appropriate penalty is under \$50, no penalty will be assessed.

#### ORDER

It is ordered that no penalty be assessed.

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: \_\_\_\_\_

c: Donna L. Butler, Treasurer  
PO Box 1304  
Silverton, OR 97381