

OFFICE OF THE
SECRETARY OF STATE

BILL BRADBURY
SECRETARY OF STATE



ELECTIONS DIVISION

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 the)
Committee to Re-Elect Rick Kotulski, Rick Kotulski, Candidate,) Final Order by Default
Louann Wakefield, Treasurer, for the 2006 September)
Supplemental) Case No. L8881
)

May 31, 2007

Committee to Re-Elect Rick Kotulski (000524)
Rick Kotulski, Candidate / Louann Wakefield, Treasurer
772 NE Clear Creek Way
Fairview, OR 97024

Dear Mr. Kotulski:

This is a Final Order by Default issued by the Secretary of State (secretary) for your failure to file a timely 2006 September Supplemental contribution and expenditure report.

On March 9, 2007, the secretary notified the Committee to Re-Elect Rick Kotulski (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 December 26, 1989. The statement reported Louann Wakefield as the treasurer and 38815 SE Gordon Creek Rd Corbett Oregon 97019 as the mailing address for both candidate and committee correspondence.
2. The committee was required to file a 2006 report with the secretary on September 11, 2006.
3. The secretary sent the committee a notice that it had failed to file a timely report on September 12, 2006. 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 November 20, 2006, which is 50 business days after the date on which the report was due.
5. The committee reported no contributions and total expenditures of \$188.94 during the accounting period for the report.
6. On December 4, 2006 the committee filed a discontinuing statement of organization (SEL 220) with the secretary, updating the committee's mailing address to 772 NE Clear Creek Way Fairview Oregon 97024.
7. On March 9, 2007, 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. This notice was addressed to 722 NE Clear Creek Way and should have been 772 NE Clear Creek Way in Fairview OR 97024. The notice proposed a civil penalty of \$94.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Rick Kotulski on March 10, 2007.
8. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing.
9. The secretary has record of no previous late filings during the two-year period beginning September 15, 2005.

ULTIMATE FINDINGS OF FACT

Rick Kotulski, Candidate, and Louann Wakefield, Treasurer, failed to file a timely 2006 contribution and expenditure report for the September Supplemental.

CONCLUSIONS OF LAW

Candidate Rick Kotulski's and Treasurer Louann Wakefield's failure to file a timely 2006 contribution and expenditure report for the September Supplemental violated ORS 260.068.

By statute, 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 104–106, 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 \$94.00 ($\$188.94 \times 1\% \times 50$ 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 L8881 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.

Candy Broucek, Compliance Specialist

DATE of Service: _____

c: Louann Wakefield, Treasurer
772 NE Clear Creek Way
Fairview, OR 97024