

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 Friends of Howard L. Owens, Howard L. Owens,) Final Order by Default
Candidate, Pat Wolfard, Treasurer, for the First Supplement)
for the Second Pre-Election for the May 16, 2006,) Case No. L9070
Primary Election)

March 9, 2007

Friends of Howard L. Owens (005240)
Howard L. Owens, Candidate / Pat Wolfard, Treasurer
115 Rogue River Hwy #309
Grants Pass, OR 97527

Dear Mr. Owens:

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

On November 30, 2006, the secretary notified the Friends of Howard L. Owens (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 1, 2006. The mailing address provided on the Statement of Organization for the candidate was 115 Rogue River Hwy #309, Grants Pass, OR 97527. The statement reported Pat Wolfard as the treasurer and 305 NE 6th St #488, Grants Pass, OR 97526 as the address to which all committee correspondence was to be sent.
2. The committee was required to file a first supplement to the second pre-election report with the secretary on May 8, 2006, disclosing contributions exceeding an aggregate of \$500 from a single source and expenditures exceeding an aggregate of \$1,000 to a single payee between May 1 and 7, 2006.

3. On May 16, 2006, the committee filed a first supplement to the second pre-election report with the secretary disclosing contributions of \$800.00 making it six business days late.
4. Additionally, the secretary discovered that the committee should have included an contribution of \$1,000.00 from United Auto Workers on May 6, 2006, on the first supplement to the second pre-election report because the aggregate for the payee exceeded \$500.00 during the accounting period for the report. This contribution was first disclosed on the committee's post-election report filed on June 15, 2006, making this portion of the report 27 business days late.
5. On November 30, 2006, 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 \$318.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Howard Owens on December 8, 2006.
6. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing.
7. The proposed penalty notice was reviewed and it was determined the civil penalty should be \$100.00 based on the amount of the total contributions required to be included in the report and the maximum penalty allowed.
8. The secretary has record of no previous late filings during the two-year period beginning September 15, 2005.

ULTIMATE FINDINGS OF FACT

Howard L. Owens, Candidate, and Pat Wolfard, Treasurer, failed to file a timely first supplement for the second pre-election contribution and expenditure report for the May 16, 2006, Primary Election.

CONCLUSIONS OF LAW

Candidate Howard L. Owens's and Treasurer Pat Wolfard's failure to file a timely first supplement for the second pre-election contribution and expenditure report for the May 16, 2006, Primary Election violated ORS 260.058.

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.

Although the calculated penalty for the late report is \$318.00 ($\$800.00 \times 1\% \times 6 \text{ days}$), the penalty matrix sets a maximum penalty of \$100.00 when the total contributions or total expenditures—whichever is greater—is between \$0 and \$2,000.

ORDER

Payment of the proposed civil penalty of \$100.00 was received in the office of the Secretary of State on December 12, 2006. This Order will serve as your receipt and this matter is now considered closed.

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.

Jan Flowers, Compliance Specialist

DATE of Service: _____

c: Pat Wolfard, Treasurer
305 NE 6th St #488
Grants Pass, OR 97526