

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 Carl Wieneke, Carl W. Wieneke,) Final Order by Default
Candidate, Donna L. Butler, Treasurer, for the First)
Supplement to the Second Pre-Election for the May 16, 2006,) Case No. L9076
Primary Election)

March 9, 2007

Friends of Carl Wieneke (005334)
Carl W. Wieneke, Candidate / Donna L. Butler, Treasurer
1208 Independence Ct
Woodburn, OR 97071

Dear Mr. Wieneke:

This is a Final Order by Default issued by the Secretary of State (secretary) for your failure to file a timely first supplement to 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 Carl Wieneke (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 March 7, 2006. The mailing address provided on the Statement of Organization for the candidate was 1208 Independence Ct, Woodburn, OR 97071. 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 first supplement to the second pre-election report on May 8, 2006. However, an additional expenditure (\$1,402.14 account payable to Gateway Communications, Inc. on May 2, 2006) should have been included on the report.
3. The committee first reported the expenditure required to be included on the first supplement to the second pre-election report on its post-election report filed on June 15, 2006, making this portion of the report 27 business day late.

4. 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 \$100.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Carl Wieneke on December 5, 2006.
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, 2005.

ULTIMATE FINDINGS OF FACT

Carl W. Wieneke, Candidate, and Donna L. Butler, Treasurer, failed to file a timely first supplement to the second pre-election contribution and expenditure report for the May 16, 2006, Primary Election.

CONCLUSIONS OF LAW

Candidate Carl W. Wieneke's and Treasurer Donna L. Butler's failure to file a timely first supplement to 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 \$378.54 ($\$1,402.14 \times 1\% \times 27$ 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

It is ordered that a penalty of \$100.00 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 L9076 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.

Stacey Jackson, Compliance Specialist

DATE of Service: March 9, 2007

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