

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 Kulongoski for Governor 2006, Ted Kulongoski,) Final Order
Candidate, Tom D'Amore, Treasurer, for the Second)
Supplement to the Second Pre-Election for the) Case No. L9173
November 7, 2006, General Election)

August 15, 2007

Kulongoski for Governor 2006 (002374)
Ted Kulongoski, Candidate / Tom D'Amore, Treasurer
PO Box 399
Portland, OR 97207

Dear Governor Kulongoski:

This is a Final Order issued by the Secretary of State (secretary) for your failure to file a complete second supplement to the second pre-election contribution and expenditure report for the November 7, 2006, General Election.

On May 16, 2007, the secretary notified Kulongoski for Governor 2006 (committee), pursuant to ORS 260.232(2), that it had failed to file a complete report and that the secretary may impose a civil penalty. An opportunity for a hearing was provided in that notice. The committee submitted written testimony in the form of a notarized statement in lieu of a personal appearance at a public hearing. Accordingly, after consideration of the applicable law and evidence presented, Jennifer Hertel, Hearings Officer with the Elections Division, 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 January 13, 2006. The statement reported Tom D'Amore as the treasurer and PO Box 399, Portland, OR 97207 as the mailing address for both candidate and committee correspondence.

2. The committee submitted a timely second supplement to the second pre-election report with the secretary on November 3, 2006.
3. Upon review of the post-election report filed on December 7, 2006, the secretary determined that an additional expenditure (\$3,336.32 to KeyMerchants on October 31, 2006) should have included on the report.
4. On May 16, 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. The notice proposed a civil penalty of \$1,000.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by the committee on June 12, 2007.
5. On June 29, 2007, the secretary received a notarized letter from Kevin Neely in lieu of a public hearing.
6. On July 17, 2007, the committee filed an amendment to the post-election report for the 2006 General Election. The amendment corrected the date of the expenditure to KeyMerchants, changing it to November 7, 2006.
7. The letter—attached as Exhibit A—was reviewed, considered, and made part of the record.
8. The secretary has record of one previous late filing during the two-year period beginning September 15, 2005.

ULTIMATE FINDINGS OF FACT

Ted Kulongoski, Candidate, and Tom D'Amore, Treasurer, were not required to file this expenditure on a second supplement to the second pre-election contribution and expenditure report for the November 7, 2006, General Election.

CONCLUSIONS OF LAW

Candidate Ted Kulongoski's and Treasurer Tom D'Amore's did not violate ORS 260.068.

OPINION

After reviewing and considering the evidence and information on file in this office, the hearings officer finds that there has been no violation of Oregon election law. The testimony explains that the expenditure was erroneously reported as being made on October 31, 2006, which is the date the transaction was directly withdrawn from the bank. Mr. Neely explains that the committee should have reported the transaction on November 7, 2006, the date the committee received the invoice (the KeyMerchant statement) disclosing the debit for this expenditure. An amendment to the committee's post-election report was received on July 17, 2007, amending the date of the expenditure. Since the committee has certified that the expenditure was not received during the accounting period of October 30 through November 2, 2006, it was not required to be reported on the second supplement to the second pre-election report.

ORDER

It is ordered that no penalty be assessed because there is no violation of election law.

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.

Jennifer Hertel, Compliance Specialist

DATE of Service: _____

c: Tom D'Amore, Treasurer
PO Box 399
Portland, OR 97207