

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 T.J. Reilly for State Senate, Thomas J. Reilly, Candidate,) Final Order by Default
Jaqueline M. Reilly, Treasurer, for the First Supplement to)
the Second Pre-Election for the November 7, 2006, General) Case No. L9201
Election)

July 27, 2007

T.J. Reilly for State Senate (005322)
Thomas J. Reilly, Candidate / Jaqueline M. Reilly, Treasurer
10300 SE Cresthill Rd
Portland, OR 97266

Dear Mr. Reilly:

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

On May 16, 2007, the secretary notified the T.J. Reilly for State Senate (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 10300 SE Cresthill Rd, Portland, OR 97266. The statement reported Jaqueline M. Reilly as the treasurer and 15220 SE Hartnell Ave, Milwaukie, OR 97267 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 with the secretary on October 30, 2006, listing an expenditure to Optimus Communications LLC on October 24, 2006, in the amount of \$4,660.62 and identified the expenditure was paid with check #1167. The post-election report filed December 5, 2006, identified this expenditure paid with check #1168 and in the amount of \$4,388.32, a difference of \$272.30, making this portion of the first supplement to the second pre-election report 24 business days late.
3. On May 16, 2007, the secretary sent the committee a Notice of Proposed Civil Penalty based on the amount \$4,388.62, which the secretary believed to be an expenditure not previously reported because the amount and check number had been reported differently on the first supplement to the second pre-election report. 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 \$1,053.12 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Thomas Reilly on May 25, 2007.
4. On May 16, 2007, the secretary sent the committee an Amended Notice of Proposed Civil Penalty based on the amount \$4,388.62, which the secretary believed to be an expenditure not previously reported because the amount and check number had been reported differently on the first supplement to the second pre-election report. 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 *maximum* 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 Thomas Reilly on May 25, 2007.
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

Thomas J. Reilly, Candidate, and Jaqueline M. Reilly, Treasurer, failed to file a complete first supplement to the second pre-election contribution and expenditure report for the November 7, 2006, General Election.

CONCLUSIONS OF LAW

Candidate Thomas J. Reilly's and Treasurer Jaqueline M. Reilly's failure to file a complete first supplement to the second pre-election contribution and expenditure report for the November 7, 2006, General Election 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.

The amended notice of proposed civil penalty erroneously stated a calculated penalty for the late report as \$1,053.12 ($\$4,388.32 \times 1\% \times 24$ days), and a maximum penalty of \$1,000.00. The actual calculated penalty should have been \$65.28 ($\$272.30 \times 1\% \times 24$ days), because the penalty for a change to a previously reported amount on a first supplement to the second pre-election report is based on the additional activity or the amount of the change.

ORDER

It is ordered that a penalty of \$65.28 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 L9201 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: July 27, 2007

c: Jaqueline M. Reilly, Treasurer
15220 SE Hartnell Ave
Milwaukie, OR 97267