OFFICE OF THE SECRETARY OF STATE

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SECRETARY OF STATE

ELECTIONS DIVISION

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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 Mike Schaufler for State Representative, Michael W. Schaufler, Candidate/Treasurer, for the First Supplement to the Second Pre-Election for the November 7, 2006, General Election	)))))	Final Order by Default Case No. L9204

August 15, 2007

Mike Schaufler for State Representative (004454)
Michael W. Schaufler, Candidate/Treasurer
12910 SE Ridgecrest Rd
Happy Valley, OR 97236

Dear Representative Schaufler:

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 November 7, 2006, General Election.

On July 11, 2007, the secretary notified Mike Schaufler for State Representative (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 November 1, 2003. The statement reported Michael W. Schaufler, the candidate, as the treasurer and 12910 SE Ridgecrest Rd, Happy Valley, OR 97236 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 December 7, 2006, because it received a contributions exceeding $500 from a single source between October 23 and November 2, 2006.

3. The committee reported the contributions required to be on the first supplement to the second pre-election report ($1,500.00 from Wells Fargo & Co Oregon PAC on October 23, 2006 and $750.00 from Oregon Local Grocery Committee on October 27, 2006) on its post-election report filed on December 6, 2006, which is 25 business days after the first supplement to the second pre-election was due.

4. On July 11, 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/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 returned unclaimed and the post-office indicated it gave first notice on July 12, 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 one previous late filing during the two-year period beginning September 15, 2005.

ULTIMATE FINDINGS OF FACT

Michael W. Schaufler, Candidate/Treasurer, failed to file a timely First Supplement to the Second Pre-Election contribution and expenditure report for the November 7, 2006, General Election.

CONCLUSIONS OF LAW

Candidate/Treasurer Michael W. Schaufler's failure to file a timely 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 3% of the total contributions or total expenditures—whichever is greater—for each business day the report was late as this is the second late violation by the candidate.

Although the calculated penalty for the late report is $1,687.50 ($2,250.00 x 3% x 25 days), the penalty matrix sets a maximum penalty of $1,000.00 when the total contributions or total expenditures—whichever is greater—is between $2,000.01 and $10,000.

ORDER

Payment of the proposed civil penalty of $1,000.00 was received in the office of the Secretary of State on July 19, 2007. 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.

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Stacey Jackson, Compliance Specialist

DATE of Service: August 15, 2007