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April 30, 2012

Stephen Trout
Director of Elections
Oregon Secretary of State
255 Capitol Street NE, Suite 501
Salem, Or 97310

Dear Mr. Trout:

I read in the April 26, 2012, edition of THE PORTLAND MERCURY, an article by Denis C. Theriault, which states:

Of course, Holton's campaign may have its own issues with eyebrow-raising in-kind contributions. Holton is renting a headquarters downtown but has acknowledged using space at Lane Powell, the sprawling white-collar law firm that hired him after he left the US attorney's office, to do some of his campaign work. That constitutes a gift, and it hasn't appeared on his state finance records.

Schoene said Lane Powell will tally up the times when Holton made calls or did other campaign business in its offices and send an invoice after the campaign. Meaning voters wouldn't otherwise know that Holton is taking contributions from a law firm whose clients include Wells Fargo until after they potentially cast their ballots for him.

I asked Schoene why, in the name of providing timely information to voters, Lane Powell wasn't submitting more periodic invoices that would show up in state records before election day.

"You have a choice," she said. "And this is the choice we made.... We've decided to work with Lane Powell at the end of the campaign."

The article seems to suggest that Jillian Shoene, a spokeswoman for the Holton for Oregon campaign, consulted with election officials before responding to THE PORTLAND MERCURY with the assertion that the campaign

could choose not to report in-kind contributions until after "the end of the campaign."

The campaign finance community would benefit from a public clarification of the applicable law. I am sure you agree that the use of a downtown Portland office, (which may include telephone, meeting room, reception, and other facilities), does constitute an in-kind contribution from the Lane Powell firm, under the definition of "contribution" in ORS 260.005(3). An example of the value of such an office to a campaign is provided by the reporting of Katherine Heekin, who was a candidate for Attorney General of Oregon for a period of 30 days (from January 12 to February 9, 2012). She reported on February 10, 2012, an in-kind contribution of \$2,300 for "office space and office supplies" from her law firm for that one-month period.

Every such contribution must be reported according to the schedule set forth in ORS 260.057(2). During the period more than 42 days prior to the election at issue, every such contribution must be reported within 30 days of its receipt. During the period beginning with the 42nd calendar day before the election (in this case, April 12, 2012), every such contribution must be reported within 7 days of its receipt.

In my view, failing to report the receipt of any known in-kind contribution in accordance with the reporting deadlines of ORS 260.057(2) is a violation of ORS 260.057. It would also appear to constitute a failure to report an expenditure under ORS 260.083(3).

According to the CAMPAIGN FINANCE MANUAL 2012 (p. 38), adopted as a rule by the Secretary of State, the "transaction date" for an in-kind contribution is: "The date the committee first has knowledge of the in-kind contribution." For use of office space and/or facilities for campaign work by the candidate and/or campaign staff, the committee would have knowledge of the in-kind contribution at the same time that the office space and/or facilities were being used. This is not a case where someone makes an in-kind contribution that is unknown to the candidate or his campaign at the time that the contribution occurs.

Perhaps Ms. Schoene believes that an in-kind contribution need not be reported until and unless the contributor quantifies the size of the in-kind contribution. I believe that is not the case. Each in-kind contribution must be reported on the statutory schedule, and it is up to the reporting committee to

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quantify it at the time it is reported. Oregon law requires that contributions "other than money" be valued at "fair market value." ORS 260.156(1).

If Oregon law allowed campaigns not to report in-kind contribution until they are quantified or invoiced by the contributor, as Ms. Schoene seems to believe, then entire campaigns could be run by means of in-kind contributions not reported until after the election, thereby entirely defeating the purpose of the campaign finance reporting system.

I request that you issue a public clarification of the law and rules applicable to the reporting of in-kind contributions and whether a campaign may decline to report them until "the end of the campaign."

Sincerely

Daniel W. Meek