

BILL BRADBURY  
SECRETARY OF STATE

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 an Insufficient Contribution and Expenditure )  
Report by the Committee to Elect Thomas Spear, Thomas M. ) Final Order by Default  
Spear, Jr, Candidate, Cliff Lu, Treasurer, for the Post-Election )  
for the May 18, 2004, Primary Election ) Case No. I8380  
)

October 19, 2005

Committee to Elect Thomas Spear (004920)  
Thomas M. Spear, Jr, Candidate / Cliff Lu, Treasurer  
1533 NW West Hills Ave  
Bend, OR 97701

Dear Mr. Spear:

This is a Final Order by Default issued by the Secretary of State (secretary) for your failure to file a sufficient post-election contribution and expenditure report for the May 18, 2004, Primary Election.

On July 1, 2005, the secretary notified the Committee to Elect Thomas Spear (committee), pursuant to ORS 260.232(2), that it had failed to file a sufficient 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 24, 2004. The statement reported Cliff Lu as the treasurer and 1533 NW West Hills Ave, Bend, OR 97701 as the mailing address for both candidate and committee correspondence.
2. The committee filed a post-election report with the secretary on June 17, 2004.
3. On July 2, 2004, the secretary sent the committee an exam letter that itemized the areas where the report was not in compliance. The committee was asked to submit the necessary amended information by July 15, 2004, to avoid penalties for failure to file a sufficient report.

4. On the day following the July 15, 2004, amendment deadline, the committee's report was still missing the following required information: the signature of the candidate or treasurer (1 item).
5. On July 1, 2005, 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 \$10.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Janine Spear on July 19, 2005.
6. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing.
7. The secretary has record of no previous insufficient filings during the two-year period beginning September 15, 2003.

#### ULTIMATE FINDINGS OF FACT

Thomas M. Spear, Jr, Candidate, and Cliff Lu, Treasurer, failed to file a sufficient post-election contribution and expenditure report for the May 18, 2004, Primary Election.

#### CONCLUSIONS OF LAW

Candidate Thomas M. Spear, Jr's and Treasurer Cliff Lu's failure to file a sufficient post-election contribution and expenditure report for the May 18, 2004, Primary Election violated ORS 260.058, ORS 260.083 and OAR 165-012-0005. A civil penalty may be imposed for this violation under ORS 260.232(1)(b).

A maximum \$10,000 civil penalty may be imposed for this violation. The *2004 Campaign Finance Manual*, which contains a penalty calculation matrix on pages 104 and 105, is designated in OAR 165-012-0005 as the procedure manual for Oregon campaign finance regulations.

Since this is the first violation by the candidate, the penalty is \$10.00 per omission.

#### ORDER

It is ordered that no penalty be assessed because the appropriate penalty is under \$50.

#### 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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Jennifer Hertel, Compliance Specialist

DATE of Service: October 19, 2005

c: Cliff Lu, Treasurer  
1533 NW West Hills Ave  
Bend, OR 97701