

BILL BRADBURY  
SECRETARY OF STATE



ELECTIONS DIVISION  
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SALEM, OREGON 97310-0722  
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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 Derrick Kitts, Derrick Kitts, ) Final Order by Default  
Candidate, Derrick Kitts, Treasurer, for the First Pre-Election )  
for the November 2, 2004, General Election ) Case No. I8415  
)

January 26, 2006

Committee to Elect Derrick Kitts (004081)  
Derrick Kitts, Candidate / Derrick Kitts, Treasurer  
PO Box 1946  
Hillsboro, OR 97123

Dear Representative Kitts:

This is a Final Order by Default issued by the Secretary of State (secretary) for your failure to file a sufficient first pre-election contribution and expenditure report for the November 2, 2004, General Election.

On November 16, 2005, the secretary notified the Committee to Elect Derrick Kitts (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 December 5, 2003. The mailing address provided on the Statement of Organization for the candidate was PO Box 1946, Hillsboro, OR 97123. The statement reported Derrick Kitts as the treasurer and c/o Lori Piercy 29993 Maple Dr, Rainier, OR 97048 as the address to which all committee correspondence was to be sent.
2. The committee filed a first pre-election report with the secretary on September 27, 2004.
3. On October 12, 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 October 21, 2004, to avoid penalties for failure to file a sufficient report.

4. On the day following the October 21, 2004, amendment deadline, the committee's report was still missing the following required information: the name of one contributor and the address for one contributor (2 items).
5. On October 25, 2004, an amendment to the committee's report was filed. The amendment provided two items of previously insufficient information.
6. On November 16, 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 addresses. The notice proposed a civil penalty of \$15.00 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 November 17, 2005.
7. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing.
8. The secretary has record of one previous insufficient filing during the two-year period beginning September 15, 2003.

#### ULTIMATE FINDINGS OF FACT

Derrick Kitts, Candidate, and Derrick Kitts, Treasurer, failed to file a sufficient first pre-election contribution and expenditure report for the November 2, 2004, General Election.

#### CONCLUSIONS OF LAW

Candidate Derrick Kitts's and Treasurer Derrick Kitts's failure to file a sufficient first pre-election contribution and expenditure report for the November 2, 2004, General Election violated ORS 260.068, 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 second violation by the candidate, the penalty is \$15.00 per omission, less 50% for every omitted item provided prior to the issuance of the proposed penalty notice.

#### 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: \_\_\_\_\_

c: Derrick Kitts, Treasurer  
c/o Lori Piercy  
29993 Maple Dr  
Rainier, OR 97048