OFFICE OF THE SECRETARY OF STATE

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 an Insufficient Contribution and Expenditure Report by the Committee to Elect Derrick Kitts, Derrick Kitts, Candidate/Treasurer, for the First Pre-Election for the May 16, 2006, Primary Election	)))))	Final Order by Default Case No. I9330

November 15, 2007

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

Dear Mr. 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 May 16, 2006, Primary Election.

On September 5, 2007, 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 2, 2004. The statement reported Derrick Kitts, the candidate, as the treasurer and PO Box 1946, Hillsboro, OR 97123 as the address to which all committee correspondence was to be sent. The same Statement of Organization indicates that a copy of all mail be sent to c/o Lori Piercy, 29993 Maple Dr., Rainier, OR 97048.

2. The committee filed a first pre-election report with the secretary on April 10, 2006.

3. On April 25, 2006, 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 May 4, 2006, to avoid penalties for failure to file a sufficient report.

4. On the day following the May 4, 2006, amendment deadline, the committee's report was still missing the following required information: a complete address for one expenditure (1 item).

5. On June 7, 2006, an amendment to the committee's report was filed. The amendment provided one item of previously insufficient information.

6. On September 5, 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 addresses. The notice proposed a civil penalty of $5.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Derrick Kitts on September 7, 2007.

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 no previous insufficient filings during the two-year period beginning September 15, 2005.

ULTIMATE FINDINGS OF FACT

Derrick Kitts, Candidate/Treasurer, failed to file a sufficient first pre-election contribution and expenditure report for the May 16, 2006, Primary Election.

CONCLUSIONS OF LAW

Candidate/Treasurer Derrick Kitts's failure to file a sufficient first pre-election contribution and expenditure report for the May 16, 2006, 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 *2006 Campaign Finance Manual,* which contains a penalty calculation matrix on pages 108 and 109, 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, less 50% for every omitted item submitted after the amendment deadline but prior to the deadline for a candidate or treasurer to request a hearing.

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.

_____
Candy Broucek, Compliance Specialist

DATE of Service: _____

cc: Lori Piercy
29993 Maple Drive
Rainier OR 97048