

BILL BRADBURY
SECRETARY OF STATE



ELECTIONS DIVISION
JOHN LINDBACK
DIRECTOR
255 CAPITOL ST NE, STE 501
SALEM, OREGON 97310
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 Debra Vogt for Circuit Court Judge, Debra Vogt,) Final Order by Default
Candidate, Marc Spence, Treasurer, for the Second Pre-)
Election for the May 16, 2006, Primary Election) Case No. I9415

September 19, 2008

Debra Vogt for Circuit Court Judge (005247)
Debra Vogt, Candidate / Marc Spence, Treasurer
125 E 8th Ave
Eugene, OR 97401

Dear Judge Vogt:

This is a Final Order by Default issued by the Secretary of State (secretary) for your failure to file a sufficient second pre-election contribution and expenditure report for the May 16, 2006, Primary Election.

On June 4, 2008, the secretary notified Debra Vogt for Circuit Court Judge (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 February 17, 2006. The statement reported Marc Spence as the treasurer and 160 E Broadway, Ste 200, Eugene, OR 97401 as the mailing address for both candidate and committee correspondence.
2. The committee filed a second pre-election report with the secretary on May 4, 2006.
3. On May 19, 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 June 1, 2006, to avoid penalties for failure to file a sufficient report.

4. On the day following the June 1, 2006, amendment deadline, the committee's report was still missing the following required information: sufficient occupational information for one contributor, the signature of the candidate or treasurer (2 items) and detailing expenditures of \$7,500.00 made by the agent on behalf of the committee.
5. On June 2, 2006, an amendment to the committee's report was filed. The amendment provided one item of previously insufficient information and a report of Expenditures Made by an Agent (form PC 9).
6. On June 4, 2008, 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 \$60.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was returned "attempted, not known" by the post office on June 13, 2008.
7. On June 10, 2008, Mr. Spence was contacted by phone after committee mail was returned by the post office, and he indicated 747 Willamette St, Eugene, OR 97401 as the mailing address for both the candidate and the committee correspondence.
8. On June 10, 2008, the secretary re-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 \$60.00 and allowed the committee 20 days to request a hearing. The notice sent by certified mail was received and signed for by Paige Gilbert on June 11, 2008.
9. On July 11, 2008, the secretary received an amended SEL 220 updating the candidate's mailing address to 125 E 8th Ave, Eugene, OR 97401 and the mailing address for the committee to 747 Willamette St, Eugene, OR 97401.
10. The committee did not request a public hearing or submit notarized testimony in lieu of a public hearing.
11. The secretary has record of one previous insufficient filing during the two-year period beginning September 15, 2005.

ULTIMATE FINDINGS OF FACT

Debra Vogt, Candidate, and Marc Spence, Treasurer, failed to file a sufficient second pre-election contribution and expenditure report for the May 16, 2006, Primary Election.

CONCLUSIONS OF LAW

Candidate Debra Vogt's and Treasurer Marc Spence's failure to file a sufficient second 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 second violation by the candidate, the penalty is \$15.00 per omission plus 1% of agent expenditures, 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 a penalty of \$60.00 is assessed. If your payment is not received within 60 days, the Order will be forwarded to our accounting division for collection and may subsequently be sent to the Oregon Department of Revenue.

Please refer to case number I9415 when mailing your payment.

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.

Stacey Jackson, Compliance Specialist

DATE of Service: September 19, 2008

c: Marc Spence, Treasurer
747 Willamette St
Eugene, OR 97401

Kevin G. Vogt, Correspondence Recipient
125 E 8th Ave
Eugene, OR 97401