

**2008
ANNUAL REPORT
TO THE
GOVERNOR AND THE GENERAL ASSEMBLY**



**TENNESSEE
REGISTRY OF ELECTION FINANCE**

MARCH 2009

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INTRODUCTION

The Registry

The Tennessee Registry of Election Finance (Registry) was created by the General Assembly and Governor in 1989 as an independent entity of state government. The Registry currently is responsible for the enforcement of the following laws:

- Campaign Financial Disclosure Act (T.C.A. §2-10-101, et seq.)
- Campaign Contribution Limits Act (T.C.A. §2-10-301, et seq.)
- Gubernatorial Inauguration Finance Disclosure Act (T.C.A. §2-10-401, et seq.)

The Registry's board consists of a six member board appointed to five (5) year terms. Registry members receive no compensation; however, each member is reimbursed for travel expenses pursuant to state travel regulations. Registry members are appointed by the Governor and General Assembly. Below is a list of current Registry members with their appointing authority, city of residence and term expiration:

- Governor
 - Patricia Heim, Nashville, December 31, 2011
 - Wade Hinton, Chattanooga, December 31, 2011
- Senate Democratic Caucus
 - Lee Anne Murray, Nashville, December 31, 2012
- Senate Republican Caucus
 - Darlene McNeece, Loudon, December 31, 2007
- House Democratic Caucus
 - George Harding, Lebanon, December 31, 2009
- House Republican Caucus
 - William Long, Jr., Nashville, December 31, 2009

The Registry normally meets on the second Wednesday of each month. A meeting agenda is posted on the Registry's web site, www.state.tn.us/tref, one week in advance of any meeting. In addition, a notice of the Registry meeting is posted in the window of the Registry's first floor offices in Parkway Towers. Agendas are available in the Registry office and can be mailed to anyone who requests one. The Registry meetings are held in the Registry's office and are open to the public. Minutes of past meeting are available at the Registry's website after they have been approved by the Registry.

The Registry staff consists of an executive director and five additional staff. The staff of six employees operates the Registry office on a day to day basis. In addition to handling notification and input of campaign financial disclosure filings, some of the Registry's staff responsibilities include verifying the accuracy of the campaign finance filings,

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aiding filers with questions, answering questions from the press and public looking for information, advising Administrators of Elections on local election questions and working with the General Assembly and Governor on the statutes the Registry enforces.

The Registry is administratively attached to the Secretary of State's office. The Secretary of State assists the Registry in administrative matters such as receipts, disbursements, budget, travel, personnel, information services and audit. This step was taken as a cost saving move and allows the Registry to operate without the costs of having their own administrative staff.

RESPONSIBILITIES

Campaign Finance Filings

One of the main purposes for the creation of the Registry in 1989 was to house campaign financial disclosure filings. The Campaign Financial Disclosure Act requires candidates for state office, multi-candidate committees (PACs) and single-measure committees (referendum committees) to file campaign finance reports with the Registry.

Candidates and PACs now file campaign financial disclosure reports at the same time based on the reporting year. In state election years (even numbered years) candidates and PACs file six (6) campaign finance reports. These reports consist of four (4) quarterly reports and two (2) pre-election reports that are filed 10 days before the primary and general election. In non-election years (odd numbered years) candidates and PACs file two (2) semi-annual campaign finance reports.

Candidates, PACs and single-measure committees are required to file detailed information about their contributions and expenditures on the campaign finance reports. For example, for every contribution received over \$100 the report must contain detailed information including the name, address, occupation and employer of the contributor; date of contribution and amount of the contribution. Similar information is required for expenditures of over \$100.

Enforcement

The main goal of the Registry is for all campaign financial disclosure reports to be filed in a timely and accurate manner. The Registry staff reviews all campaign financial disclosure reports for errors. When reports are filed with minor errors, the Registry returns these reports for correction and allows the filer a reasonable amount of time to correct the report.

In addition to checking for minor disclosure errors, the Registry cross-checks disclosure reports to ensure that all contributions reported as being given by PACs are reported as being received by candidates.

The Registry also reviews campaign disclosure reports for compliance with the Contribution Limits Act. The Contribution Limits Act sets limits on the amount of contributions a candidate may receive from individuals and PACs.

When a filer does not file on time or when any other campaign finance statute is violated, the Registry has civil penalty authority. Late filing of a report up to 30 days late is a class one violation subject to civil penalties of up to \$25 a day for each day the report is filed late. Filing a report over 30 days late or any other violation of the Campaign Financial Disclosure Act is a class two violation normally subject to a civil penalty of up to \$10,000. A violation of the Contributions Limits Act is subject to a civil penalty of up to \$10,000 or 115% of the amount of all contributions made or accepted excess of the limitations.

RESPONSIBILITIES

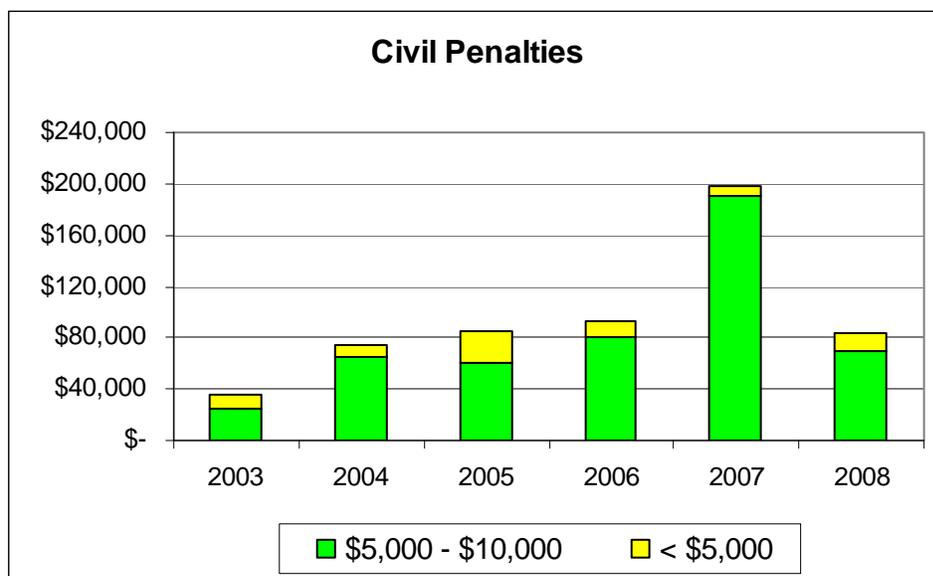
The Registry goes through several steps before assessing a civil penalty against an individual or organization. For example, a two week notification is sent to any candidate, PAC, or single measure committee owing a disclosure report notifying them of the report due and the due date. If the report is not filed by the due date, the Registry sends a certified notice to the individual or group notifying them that they have five (5) days to file the required report or civil penalties will begin to accrue. If the required report is filed during this five (5) day period no action will be taken by the Registry.

Any late filing, beyond the five (5) day grace period, or any other violation of the campaign finance statutes will be presented by the Registry staff to the Registry for action. At this point, the Registry can vote to issue a show cause notice or to take no action. Before making this decision, the Registry will consider all the facts in the matter including whether the person or organization has had previous matters before the Registry in the past.

If the Registry votes to issue a show cause notice, a letter is sent to the individual or organization notifying them of the allegations in the matter and the maximum civil penalty that may be assessed. In addition, the individual or organization is notified that they may respond in a sworn statement or appear in person at the Registry's next meeting to explain why civil penalties should not be assessed against them.

Before assessing a civil penalty, the Registry will consider all information provided to them in response to the show cause notice. Most of the civil penalties assessed by the Registry are small. The largest civil penalty assessments are in cases where there is no response to the show cause notice and/or when an individual or group have had multiple violations of the statutes enforced by the Registry.

Breaking down the Registry civil penalty assessments between large civil penalties, \$5,000 and greater and the under \$5,000 civil penalties, it is easy to see that a small



number of penalties make up a large percentage of the civil penalty assessments. For example, in 2008 the chart to the right shows that the Registry assessed \$70,000 (84%) in

RESPONSIBILITIES

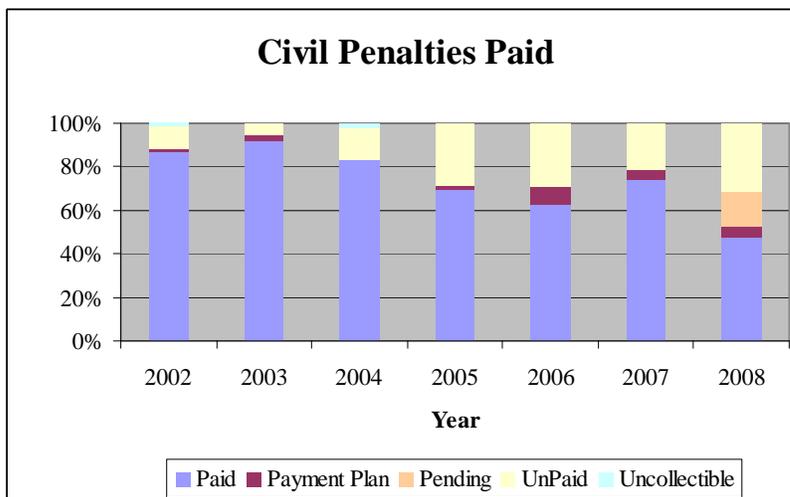
the seven (7) civil penalty assessments where the civil penalty was \$5,000 or greater. The remaining \$13,475 in civil penalties was assessed in 41 cases with each civil penalty being less than \$5,000. The trend is the same for the six years shown in the chart. Overall during this six year period, approximately 86% of the total amount of civil penalties were assessed in just over 13 % of the civil penalty cases. This is mainly due to the large amount of civil penalties assessed in cases where the candidate or organization did not respond to the Registry's attempts to allow them to explain what caused their violation of the campaign finance statutes.

After any assessment of a civil penalty, the individual or group assessed the civil penalty has the right to request a reconsideration of the civil penalty assessment against them. The individual must notify the Registry in writing of the request for reconsideration within 14 days of the issuance of the Registry's civil penalty order.

In addition to the right to request a reconsideration from the Registry, anyone assessed a civil penalty may request a contested case hearing pursuant to the Uniform Administrative Procedures Act.

A candidate that is assessed a civil penalty or fails to file a campaign financial disclosure report is ineligible to qualify to run for state or local office until the penalty is paid and/or the report is filed.

A PAC that fails to file campaign financial disclosure reports for two (2) consecutive reporting periods, fails to pay a civil penalty assessment within 90 days of becoming final or no longer has an active mailing address may be administratively terminated. In addition, if the civil penalty is not paid within 30 days, the PAC is prohibited from receiving or making campaign contributions.



After a civil penalty assessment becomes final, the Registry makes every attempt to collect the civil penalty. In addition to the restrictions placed on candidates and PACs with outstanding civil penalties mentioned above, the Registry forwards every unpaid civil penalty assessment to the State

Attorney General for collection 30 days after the assessment becomes final. The Registry and the State Attorney General have collected or are receiving payments on approximately 77% of the civil penalties assessed since 2002. As can be seen in the chart

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above, the percentage of civil penalties paid increases as the State Attorney General pursues the matters.

The Registry also has the authority to assess civil penalties based on sworn complaints filed with our office. The Registry follows the same procedures with a sworn complaint as it does with a late filing. All information available will be examined before any action is taken in a case involving a sworn complaint.

Education and Information

Two of the main functions of the Registry are to educate and to provide information to our customer base. This includes candidates, PACs, political parties, press and the general public. The Registry staff attempts to accomplish these functions through several methods.

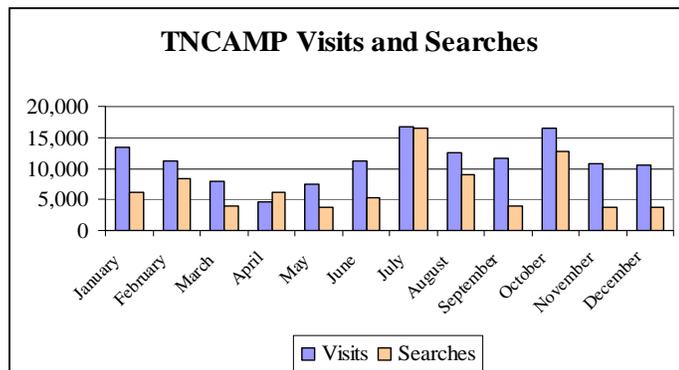
The best tool the Registry has to educate and inform is our website (www.state.tn.us/tref). The Registry is continuously updating and making improvements to our website to ensure that we provide the best information available to our customer base in a cost efficient method.

For educational purposes, the website includes guides for candidates, PACs, single measure committees (referendum committees) and citizens. In addition, the web site contains filing calendars, blank reporting forms and links to the Registry's statutes and rules.

The Registry also uses the website to provide our customer base with the most up to date campaign finance information. The information includes summary data on every state candidate's campaign finance information since the 1996 election and campaign contributions made by PACs since 1996. In addition to the campaign finance summary information, the website contains a list of registered PACs, list of qualified candidates, lists of candidates and PACs who have failed to file campaign financial disclosure reports and copies of campaign audits.

In addition to the Registry's main website, the Registry maintains a website (www.tennesseeanytime.org/tncamp/index.html) that allows the public to view campaign financial disclosure statements beginning with the 2004 elections on the Internet and to do searches on the data contained in these reports.

The campaign financial disclosure viewing site, which has been operational since June 2004, had 134,493 visits in 2008. In



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addition, there were 83,416 searches conducted by the public on the campaign finance data in TNCAMP. As the public continues to become more aware of the information available on the campaign financial disclosure viewing site and the variety of ways that the data can be retrieved, the Registry expects the number of users to continue to increase.

While the websites are a good starting point for educational purposes, the Registry staff uses several more direct methods to educate its customer base. The most obvious method is making sure that staff members are available to answer questions received by telephone and e-mail.

The Registry staff conducts seminars for candidates and committees on the campaign finance disclosure laws. These seminars are usually held throughout the state and not only include education on the laws but a detailed discussion on how to complete the campaign financial disclosure reports.

The Registry staff also regularly attends conferences and seminars put on by other groups. The staff annually attends the Tennessee Association of County Election Officials' seminars held on a statewide and regional basis. The Registry hopes that the training received at these seminars can be passed on to both state and local candidates by the Administrators of Elections.

Another seminar attended annually by the Registry staff is the Tennessee Lobbyist Association (TLA) seminar. While lobbyist registration and disclosure is now handled by the Tennessee Ethics Commission, many lobbyists are involved with PACs. As a result of the lobbyist's involvement with PACs, the TLA has requested the Registry to update them on campaign finance statutes at their annual seminar.

The Registry also publishes separate campaign financial disclosure guidelines for candidates and PACs. The booklets include frequently asked question sections, campaign financial disclosure laws and campaign finance rules. These booklets are made available to candidates, PACs and to the Administrators of Elections. In a cost saving attempt, the Registry has also made the guidelines available on our web site for printing by any interested party.

YEAR IN REVIEW

Electronic Filing Update

Changes made to the campaign financial disclosure reports filing schedules and the information required in the campaign financial disclosure reports necessitated an update to the Registry's internet based electronic filing system (TNCAMP). In addition to adding more features to the filing system for candidates and PACs, the Registry took this opportunity to update the public search features for the public.

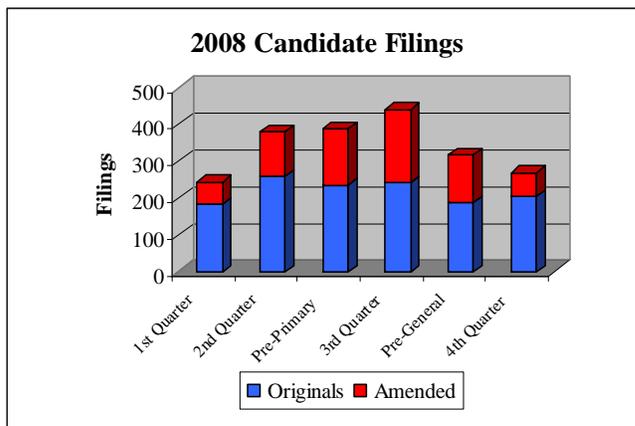
The search capabilities of the site were expanded in 2008. Now you may not only search for complete campaign financial disclosure reports filed by candidates and PACs, but you may search for specific data contained in those reports by a variety of categories. For example, you may now search for contributions by contributor name, type of contributor, occupation, employer and zip code. There are also several ways to restrict the results, for example, identifying specific reports to include in the results. The ability to search for expenditures was also enhanced. You can now search for expenditures by vendor names and zip codes.

Once you have decided what to search for, you may now choose which specific fields you want the system to display in your results. Once your results are displayed, you may view and sort them on-line or you may download the data to your computer.

Filings

Candidates

In 2008, state elections were held for state senate in the even numbered districts, state representatives for all districts. While 2008 is not a standard election year for candidates for supreme court, court of appeals, court of criminal appeals or district attorney general, elections were held for some of these offices to fill vacancies.



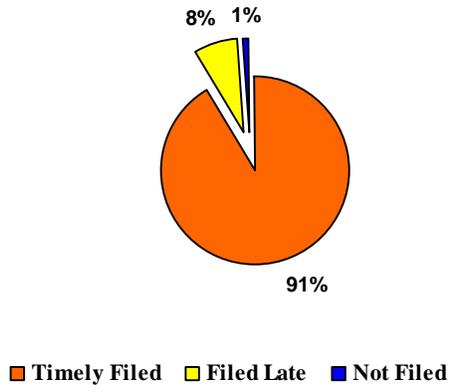
The Registry received 1,305 original campaign financial disclosure reports from 2008 candidates in 2008. In addition, the Registry received 733 amended (corrected) campaign financial disclosure reports from 2008 candidates. Candidates may be required to file up to six campaign financial disclosure reports in an election year. The chart to the left shows the breakdown of original and amended

campaign financial disclosure reports filed by 2008 candidates.

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In addition to the 2008 candidates, candidates with open campaign accounts from past elections (1990 through 2007) and candidates with open accounts for future elections (2010 and 2012) were required to file mid-year and year-end supplemental campaign financial disclosure reports in 2008.

Candidate Filings



For the 2008 year, candidates from past, present and future elections were required to file 1,501 campaign financial disclosure reports (Summary information is included in Appendix A for candidates running in the 2008 elections). Of the 1,501 reports required to be filed with the Registry 1,371 were filed timely. Certified letters were sent out for the remaining 130 reports that were not filed timely

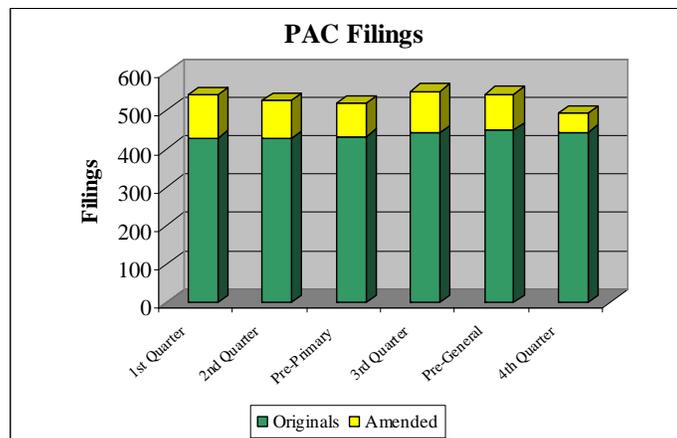
notifying the candidate that civil penalties could be assessed if the required report was not filed within five days of their receipt of the notice. Out of the 130 disclosures that were not filed timely, 16 still have not filed. The 16 reports still outstanding consist of one pre-primary report, four third quarter reports, one pre-general report and eight fourth quarter reports.

The candidates failing to file the pre-primary, third quarter reports and the pre-general report have been assessed civil penalties by the Registry and will be ineligible to qualify for election until the reports are filed and the civil penalties are paid.

Multi-Candidate Committee (PACs)

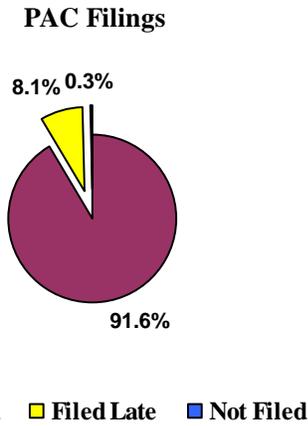
Since 2006, PACs have been required to file six campaign financial disclosure reports annually during an election year and two reports during non-election years with the Registry. These reports disclose receipts and the contributions they made to candidates.

The Registry received 2,621 original campaign financial disclosure reports from PACs in



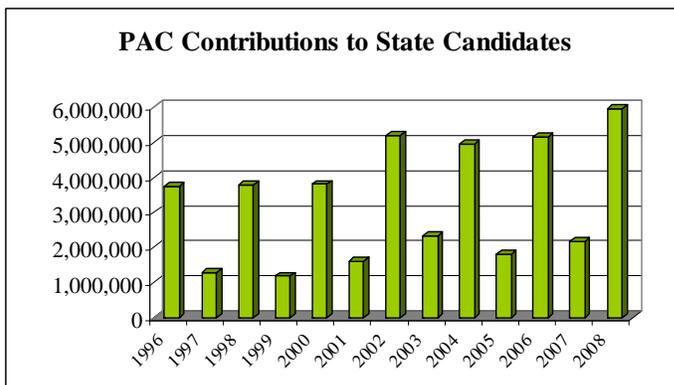
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2008. In addition, the Registry received 548 amended campaign financial disclosure reports from PACs in 2008. The chart on the previous page shows the breakdown of original and amended campaign financial disclosure reports filed by PACs in 2008.



During 2008, PACs were required to file a total of 2,628 campaign financial disclosure reports with the Registry for the six reporting periods. Out of the 2,628 disclosure reports required to be filed with the Registry 2,408 were filed timely. Certified letters were sent to the remaining 220 PACs. Out of 220 late PAC reports for 2008, only seven have still not been filed. The seven outstanding reports consist of one PAC failing to file a third quarter and pre-general campaign financial disclosure report and five PACs failing to

file their fourth quarter report. The PAC failing to file the third quarter and pre-general reports has been assessed civil penalties by the Registry and will be administratively terminated pursuant to Registry rules. At the time of printing, the Registry is still pursuing the remaining five PACs that have not filed the fourth quarter report.



PACs registered with the Registry made contributions totaling \$5,962,430 to state candidates during the 2008 year (Appendix B contains a detailed list of contributions made by the PAC to candidates). As can be seen in the chart, PAC contributions in 2008 were the most they have ever been since the Registry began to track the data in 1996. This continues a

trend where total PAC contributions seem to vary little over three election cycles before raising in the next election cycle.

In addition to the direct monetary and in-kind contributions shown in the chart above, PACs made independent expenditures totaling \$2,601,205 in 2008. Independent expenditures reported by the PACs are expenditures made to support or oppose a candidate that are made without consulting the candidates or the candidates' committees and are not subject to contribution limits. Due to the changes made to TNCAMP, the Registry for the first time can now easily identify independent expenditures made by PACs.

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Cross-Indexing

The Registry continued its cross indexing process of comparing contributions to candidates reported by PACs with the contributions reported as being received by candidates. As of the printing of this report, the Registry has discovered 109 PAC contributions for 2008 that were not reported by candidates on their original campaign finance disclosure reports. This represents approximately 1.7% of the total number (6,456) of PAC contributions made in 2008. The Registry also located 16 contributions (less than 1%) made by PACs to candidates that were reported by the candidate but not originally reported by the PAC.

All candidates and PACs are required by the Registry to correct any omission. If a candidate makes the correction timely and the omissions do not exceed the exemption of up to two omissions per calendar year totaling no more than \$2,000, the Registry takes no action. If a candidate fails to correct the omission or the omissions exceed the exemption, the matter is presented to the Registry for possible civil penalties.

Audits

The Registry is required to conduct campaign audits on approximately 2% of all legislative candidates for each election cycle. Districts are selected by random draw until the 2% of legislative candidates are selected. The Registry was required to select at least five candidates for audit for 2008. House of Representative District 84 (1 candidate) and Senate District 14 (6 candidates) were chosen before the 2% was achieved.

In addition to random campaign audits, the Registry is required to audit the unitemized contributions on a campaign finance report for any candidate who lists more than 30% of their total contributions as unitemized contributions and the amount is greater than \$5,000. For 2008, there were three candidate reports that met the requirement for audit.

The campaign finance audits and unitemized contribution audits will be conducted during 2009. The results of the audits will be posted on the Registry's website.

Citizen's Guide

In 2008, the Registry added a Citizen's Guide to its website. The guide may be viewed on the website or printed. The main purpose of the guide is to advise citizens on how they may legally take an active part in the state and local election process and be in compliance with Tennessee campaign finance statutes.

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Awards

Each year for the past five (5) years a collaboration between UCLA School of Law, the Center for Governmental Studies and the California Voter Foundation has produced a report entitled *Grading State Disclosure*. This study is supported by The Pew Charitable Trusts. The complete report is available at www.campaigndisclosure.org.

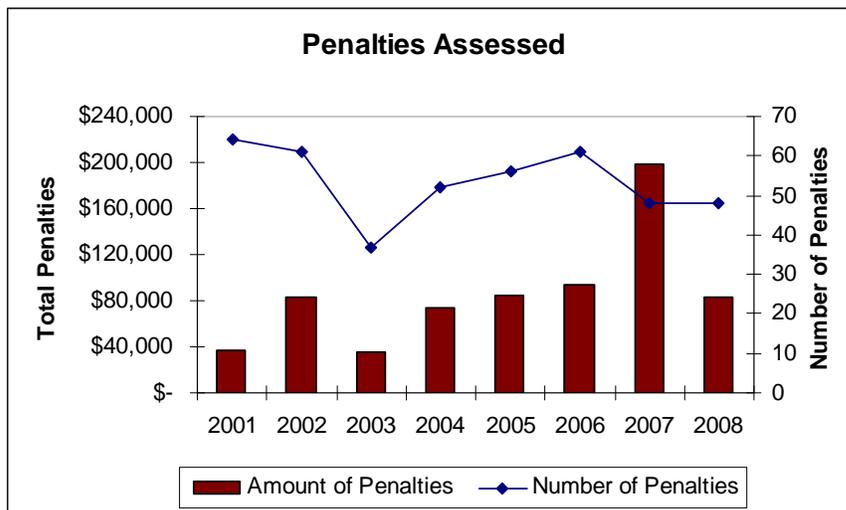
The study is broken down into four components, Campaign Disclosure Law, Electronic Filing Program, disclosure content accessibility and Online Contextual & Technical Usability. Each component is given a grade and a ranking in comparison with the other states.

As part of the 2008 report, the study identified the most overall improved states in the five years since the study began. Tennessee received the most improved state since the study began in 2003. During the five year period, Tennessee has risen from the 46th ranked state to the 13th ranked state in the study of campaign finance.

In addition, to being the most overall improved state during the five year period, Tennessee was also the most improved state in two categories. Tennessee was rated as the state with the most improved Campaign Finance Laws between 2003 and 2008. This is due to Gov. Bredesen, the state legislature and the Registry working together to implement changes in the campaign statutes.

Lastly, Tennessee was also ranked as the most improved state in the last five years in the Disclosure Content Accessibility category. The ranking in this category is based on the how much campaign finance data is available to the public and how easily the data is accessible to the general public.

Civil Penalties

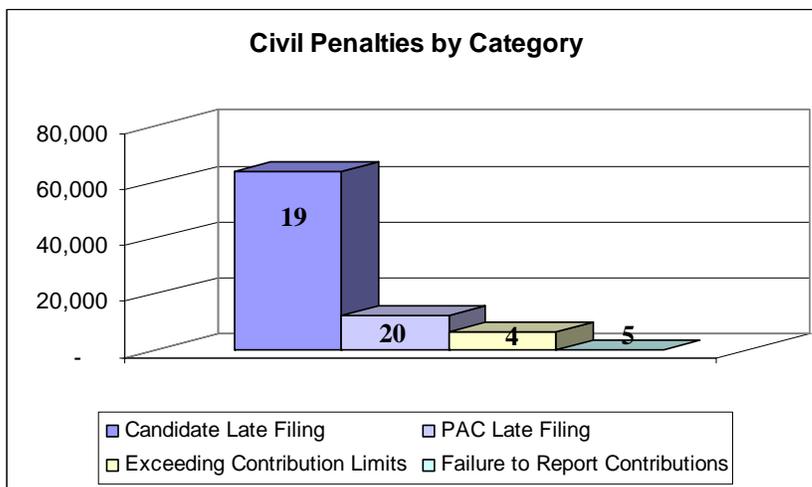


To ensure compliance with the statutes that the Registry is mandated to enforce, the Registry assessed civil penalties against 48 individuals and organizations in 2008. In 14 of the cases the violations were class 1 violations, which

YEAR IN REVIEW

carry a maximum penalty of \$25 a day for each day a campaign financial disclosure report is filed late. The other 34 cases were either class 2 violations or violations of the Campaign Contributions Limit Act. These violations carry civil penalties ranging from a maximum penalty of \$10,000 per violation, 15% of the amount in controversy if the amount in controversy is greater than \$10,000 or 115% of the amount of all contributions made or accepted in excess of the limitations.

In 2008, the 48 civil penalty assessments by the Registry totaled \$83,475. As the chart above shows, this compares with civil penalty assessments of \$85,242 for 2005, \$93,450 for 2006 and \$197,900 for 2007. When taking into account that the Registry assessed a \$120,000 civil penalty in 2007, the amount of civil penalties assessed from 2004 to 2008 varies very little.



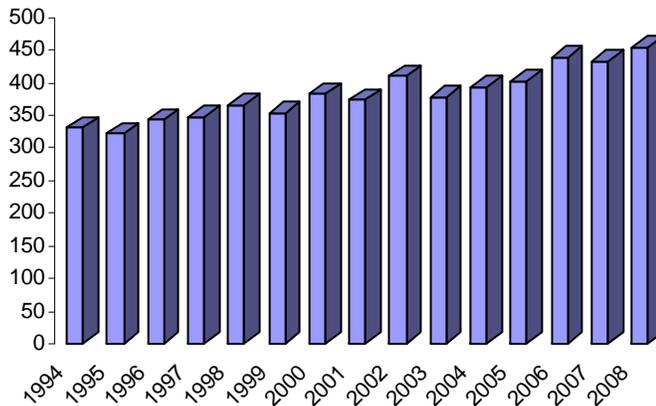
The chart below shows the breakdown by type of violation of the 48 civil penalty assessments by the Registry in 2008. The number on each bar shows the number of penalties assessed for each type of penalty. As can be seen in the chart, the majority of civil penalties assessed by

the Registry are for late filings by candidates and PACs.

FUTURE

With the demands on the Registry increasing every year, the Registry will need to continue to become more efficient in order to meet its mandated duties. The number of

Register PACs



PACs registered with the Registry at the end of 2008 was at an all time high of 454. As can be seen in the chart the number of registered PACs has increased over 30% in the last 10 years. For every new PAC there are six additional reports filed with the Registry in an election year that

must be reviewed for errors and cross-indexed. In addition to more filings, campaigns are becoming more complicated. The increased number of filings along with more complicated campaigns will require the Registry to be more efficient to handle its mandated duties without increasing its staff size.

Goals

The Registry hopes to continue to improve services to its customers in the future. The continued promotion of the Registry's electronic filing and viewing system is one of the main ways the Registry can better serve the public. This will not only improve the timeliness and accuracy of reports filed in our office but it will aid the Registry in making the information available in a more timely basis to the public.

Another goal of the Registry is to reduce the number of reports filed late and the number of reports that are filed with errors. The reduction in late reports and reports with errors will not only allow the Registry to make the information available to the public sooner but it will reduce the Registry's costs. The error checking system built into TNCAMP will continue to be improved to help the Registry reduce costs with more timely and accurate reports.

The Registry will continue to work with PACs to encourage them to file their campaign financial disclosure reports electronically. This will reduce the time the Registry spends hand entering reports which will allow that time to be used for other duties.