



**TENNESSEE BUREAU OF ETHICS AND CAMPAIGN FINANCE  
REGISTRY OF ELECTION FINANCE**

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**Board Requested Audit of  
Terry Clayton  
Election Cycle 2018**



# STATE OF TENNESSEE



## BUREAU OF ETHICS AND CAMPAIGN FINANCE REGISTRY OF ELECTION FINANCE

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March 13, 2019

Members of the Registry of Election Finance  
404 James Robertson Parkway, Suite 104  
Nashville, TN 37243-1360

Registry Members,

Transmitted herewith are the agreed upon procedures for the campaign finance audit of Terry Clayton's campaign activities for House of Representatives, District 54 from the beginning of the candidate's 2018 election cycle through the 2018 Third Quarter reporting period (on or about March 6, 2018 to September 30, 2018). This audit was conducted pursuant to T.C.A. §2-10-207(1).

The procedures were developed to aid the Registry of Election Finance in its responsibilities to monitor and enforce Tennessee's Campaign Financial Disclosure Law and Campaign Contribution Limits Law. The candidate is responsible for complying with campaign finance laws and the accuracy of campaign financial disclosures. The sufficiency of these procedures is solely the responsibility of the Bureau of Ethics and Campaign Finance's audit group. Consequently, we make no representation regarding the sufficiency of the agreed upon procedures described in the report for any other purpose than aiding the Registry.

This report is intended for the information and use of the Members of the Tennessee Registry of Election Finance as outlined; and is not intended to be and should not be used by anyone other than the Registry without understanding the objectives, purposes, and underlying assumptions. This report, however, is a public record.

Sincerely,

Jay Moeck, CPA, CFE  
Audit Director

STATE OF TENNESSEE  
BUREAU OF ETHICS AND CAMPAIGN FINANCE  
REGISTRY OF ELECTION FINANCE

**Audit Highlights**  
Terry Clayton  
Board Requested Audit

**AUDIT OBJECTIVES**

The objectives of the audit were to determine Terry Clayton's compliance with certain provisions of campaign finance disclosure laws and regulations; compliance with certain provisions of campaign contribution limit laws and regulations; accuracy and completeness of the disclosures on the 2018 First Quarter, 2018 Second Quarter, 2018 Pre-Primary, and 2018 Third Quarter Campaign Financial Disclosure Statements; and to recommend appropriate actions to correct any deficiencies.

**FINDING(S)**

- 1. In violation of T.C.A. §2-10-105(f), Terry Clayton failed to maintain sufficient campaign records to support activities associated with contributions. Insufficient records resulted in the campaign: failing to report contributions, failing to itemized contribution from contributors who contributed more than \$100 during a reporting period; failing to report contributions in the proper reporting period; failing to be able to verify the disposition of campaign funds received; failing to maintain records to support the contributor name or amount; and receiving contributions over the cash limit.**
- 2. Terry Clayton violated T.C.A. §2-10-105(a) by failing to report \$3,774.54 in expenses.**
- 3. Terry Clayton violated T.C.A. §2-10-107(a)(2)(B) by failing to itemize \$982.18 in expenditures.**
- 4. Terry Clayton violated T.C.A. §2-10-105(a), by failing to report \$2,045.12 in campaign contributions associated to campaign purchases made with funds other than the campaign account.**
- 5. In violation of T.C.A. §2-10-105(f), Terry Clayton failed to maintain sufficient campaign records to support that \$2,014.81 in expenses were incurred by the campaign.**

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## **INTRODUCTION**

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### **AUDIT AUTHORITY**

Tennessee Code Annotated (T.C.A.) §§2-10-206, 2-10-207, 2-10-212 and 2-10-213 which authorize the Registry of Election Finance (the “Registry”) to conduct investigations and audits of campaign activities and the related disclosures made on campaign financial disclosure statements filed with the Registry. The audit was initiated on a vote by the Members of the Registry at their October 10, 2018 meeting after review of a sworn complaint concerning the disclosures of Terry Clayton’s 2018 campaign for House of Representatives, District 54.

### **AUDIT PURPOSE**

The Registry’s audits provide a tool to the Registry to evaluate candidate’s compliance with certain provisions of campaign finance disclosure laws and regulations; compliance with certain provisions of campaign contribution limit laws and regulations; and accuracy and completeness of his campaign disclosures. In addition, the audits assist the Registry with the enforcement of campaign finance limit laws and campaign finance disclosure laws. Finally, the audit reports are intended to assist the candidate and the State of Tennessee with promoting governmental accountability and integrity.

### **AUDIT SCOPE**

During non-election years, Tennessee’s campaign financial disclosure law requires candidates to make biannual financial disclosures as of the date of the first contribution or first expenditure, whichever occurs earlier. The biannual reporting periods are from January 16 to June 30 and July 1 to January 15 of each year. During election years, the disclosures expand to quarterly, pre-primary, and pre-general reports. Therefore, the audit reviewed Terry Clayton’s disclosures on his 2018 First Quarter, 2018 Second Quarter, 2018 Pre-Primary, and 2018 Third Quarter Campaign Financial Disclosure Statements.

## CAMPAIGN OVERVIEW

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### CAMPAIGN ORGANIZATION

Terry Clayton was a candidate in the August 2, 2018 primary election for House of Representatives District 54. Mr. Clayton filed an Appointment of Political Treasurer Statement with the Registry on March 6, 2018 appointing Homer Wheaton as political treasurer.

The candidate's first financial disclosure for the 2018 campaign was the 2018 First Quarter report filed on May 5, 2018. As of January 15, 2019, Mr. Clayton's most recent financial disclosure was the 2018 Third Quarter report, which he filed on October 11, 2018. The Third Quarter report indicated \$145.10 cash on hand, no outstanding obligations, and \$24,400 in outstanding loans. The candidate has not completed his 2018 election filings.

### OVERVIEW OF FINANCIAL ACTIVITIES

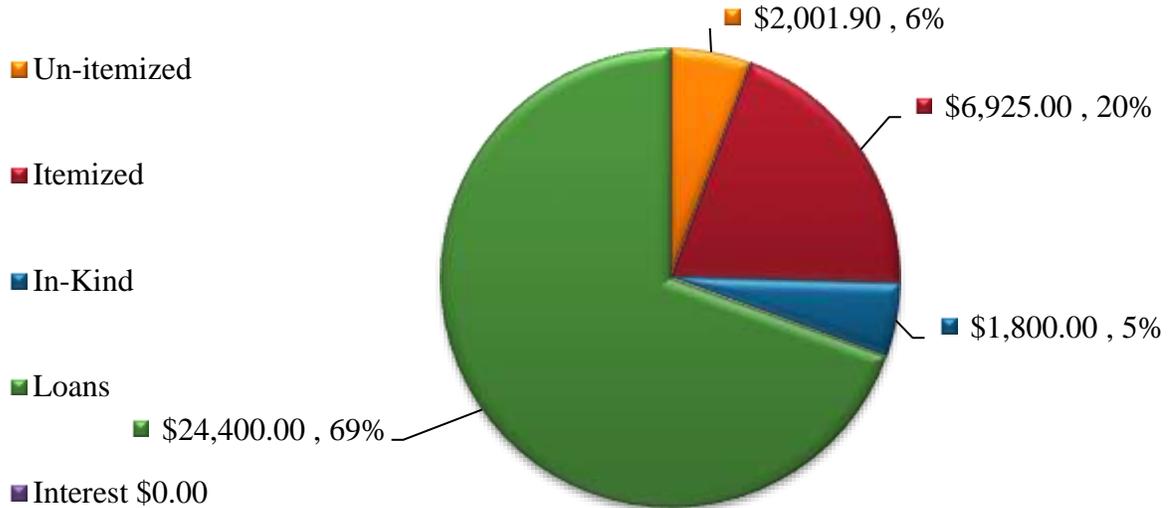
The following financial amounts are a summary of the financial disclosures made by the candidate. The summarized amounts are from the following disclosure reports: 2018 First Quarter, 2018 Second Quarter, 2018 Pre-Primary, and 2018 Third Quarter reports after amendments. The amounts displayed are for informational purposes only.

<u>Summary of Financial Activity</u>		
<u>(Un-audited Amounts)</u>		
Cash on hand at March 6, 2018		\$0.00
Receipts		
Unitemized	\$2,001.90	
Itemized	6,925.00	
Loans received	24,400.00	
Interest	0.00	
Total receipts		<u>\$33,326.90</u>
Disbursements		
Unitemized	2,717.90	
Itemized	30,463.90	
Loans principal payments	0.00	
Obligation payments	0.00	
Total disbursements		<u>\$33,181.80</u>
Cash on hand at September 30, 2018		<u>\$145.10</u>
Loans outstanding at September 30, 2018		\$24,400.00
Obligations at September 30, 2018		\$0.00
Total in-kind contributions received		\$1,800.00

## CHARTS

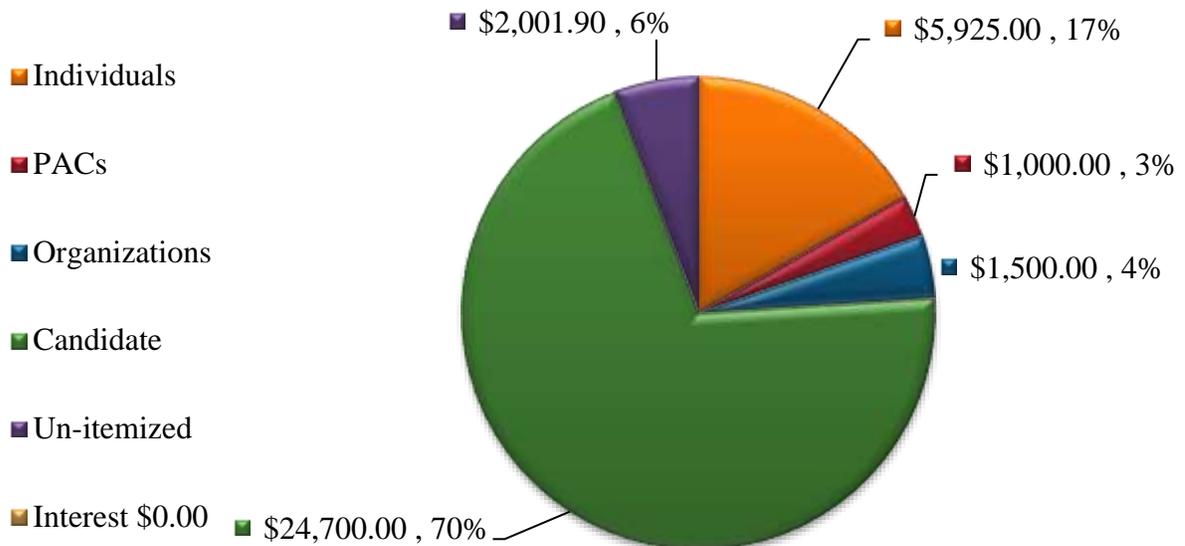
### 2018 ELECTION CAMPAIGN CONTRIBUTIONS

The following chart shows the contributions reported by the candidate for the 2018 election campaign.



### 2018 ELECTION CONTRIBUTIONS BY SOURCE

The following chart shows the monetary contributions reported by the candidate for the 2018 election campaign. Organizations in this chart represent non-profit organizations, non-PAC campaign organizations, or businesses.



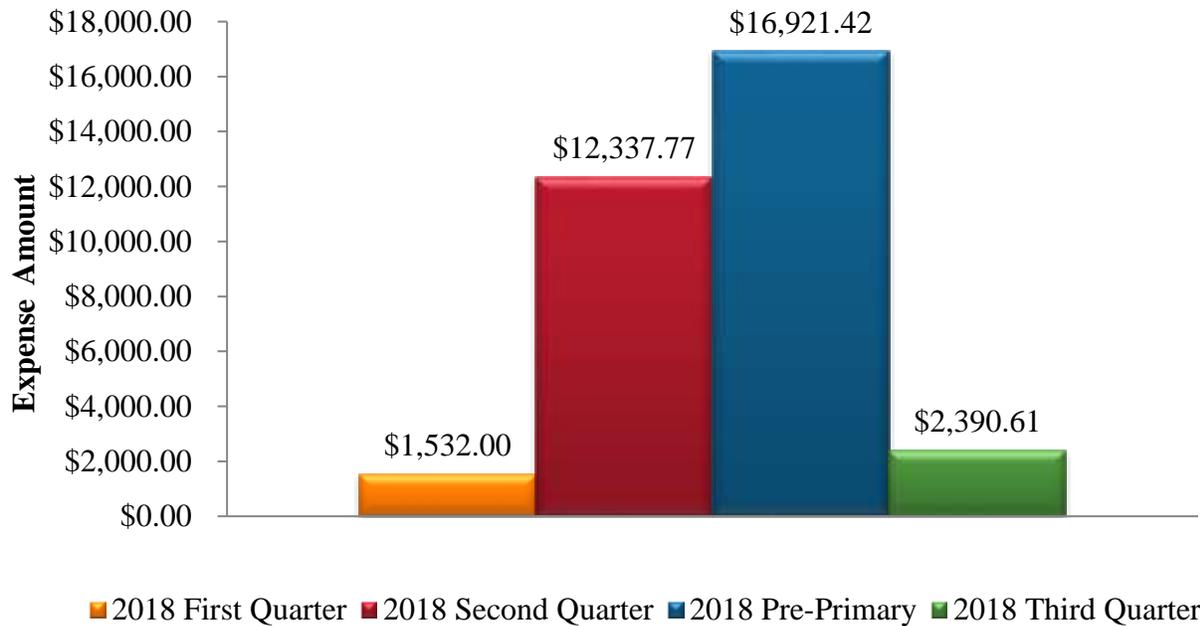
## **2018 ELECTION CONTRIBUTIONS BY REPORTING PERIOD**

The following chart shows the contributions that the candidate reported for the 2018 election campaign by reporting period.



## **2018 ELECTION EXPENSES BY REPORTING PERIOD**

The following chart shows the expenses that the candidate reported for the 2018 election campaign by reporting period.



## **OBJECTIVES, METHODOLOGIES, CONCLUSIONS**

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### **CONTRIBUTIONS AND RECEIPTS**

#### ***Audit Objectives:***

The objectives of our audit of contributions and loans were to determine whether:

- all campaign contributions from individuals and Political Action Committees (PACs) were within campaign limits;
- all contributions were from non-prohibited sources;
- all contributions received were reported, reported in the proper period, reported in compliance with T.C.A. §§2-10-105 and 2-10-107, and reported in compliance with the Registry's rules;
- all monetary contributions were supported by bank statements and deposit slips;
- all in-kind contributions were supported by donation letter or other appropriate supporting documentation;
- all interest and other investment earnings received were reported, reported in the proper period, and supported by bank or investment statements;
- all loans received were reported to the Registry, reported in the proper period, report in compliance with T.C.A. §§2-10-105 and 2-10-107, and reported in compliance with the Registry's rules; and
- all loans received from lending institutions were supported by loan agreements.

#### ***Audit Methodology:***

The Registry obtained Terry Clayton's 2018 Campaign Financial Disclosure Statements from March 6, 2018 to September 30, 2018. We requested Mr. Clayton provide his campaign records to support all contributions, loans, and interest that he received during his 2018 election campaign. Mr. Clayton's campaign records for contributions included bank statements, deposit slip copies, contributor check copies, and copies of checks written from the candidate personal accounts to support loans. The following steps were performed on Mr. Clayton's campaign documentation:

- The documentation was reviewed to determine if the candidate's monetary contributions and interest received from January 16, 2018 to September 30, 2018 totaled \$9,176.90.

- A reconciliation of monetary contributions reported to funds deposited into the campaign accounts was prepared to determine if the candidate deposited all funds into a campaign bank account and properly reported the funds in his campaign account on his campaign disclosures.
- A listing of all monetary contributions was prepared and compared to the candidate's disclosures reported during the election to determine if campaign contributions from individuals and PACs complied with campaign contribution limits, T.C.A. §2-10-301, et seq.; contributions were properly reported; contributions were reported in the proper period; contributions were reported in compliance with T.C.A. §§2-10-105 and 2-10-107; and contributions were reported in compliance with the Registry's rules.
- In-kind contributions by contributor was compared to the candidate's itemized contributions reported during the election to determine if campaign contributions from individuals and PACs complied with campaign contribution limits, T.C.A. §2-10-301, et seq.
- The documentation was reviewed to determine if the candidate's loans received from January 16, 2018 to September 30, 2018 totaled \$24,400.
- A list of loans received and payments made by source was prepared and compared to the candidate's bank statements to determine if the candidate deposited all loan proceeds into a campaign bank account and made all payments from campaign funds.
- The list of loans was reviewed to determine if all loan activity was reported to the Registry, reported in the proper period, reported in compliance with T.C.A. §§2-10-105 and 2-10-107, and all loans were in compliance with the Registry's rules.

***Audit Conclusion:***

Terry Clayton's 2018 Campaign Financial Disclosure Statements from January 16, 2018 to September 30, 2018 indicated the campaign received \$33,326.90 in monetary contribution which included \$24,400 in loans from the candidate. The candidate campaign records indicated that he received contributions totaling \$33,195.64. The difference between the amounts disclosure and amounts received is \$131.26 and is the result of the candidate maintaining insufficient records to support activities associated with campaign contributions. The insufficient records resulted in the campaign: failing to report contributions; failing to itemized contribution from contributors who contributed more than \$100 during a reporting period; failing to report contributions in the proper reporting period; failing to be able to verify the disposition of campaign funds received; failing to maintain records to support the contributor name or amount; and receiving contributions over the cash limit (Finding 1).

## **FINDING**

- 1. In violation of T.C.A. §2-10-105(f), Terry Clayton failed to maintain sufficient campaign records to support activities associated with contributions. Insufficient records resulted in the campaign: failing to report contributions, failing to itemized contribution from contributors who contributed more than \$100 during a reporting period; failing to report contributions in the proper reporting period; failing to be able to verify the disposition of campaign funds received; failing to maintain records to support the contributor name or amount; and receiving contributions over the cash limit.**

The following errors were a result of Terry Clayton's campaign maintaining insufficient campaign records to support contributions:

- A \$110 contribution check, dated June 29, 2018, was received by the campaign. This contribution appears not to have been reported but due to the incomplete campaign records being maintained this cannot be confirmed.
- A \$1,000 contribution was reported as being received from a PAC. The PAC also disclosed making the contribution. The audit cannot confirm the contribution was deposited into the campaign account.
- A \$500 contribution (amount received was \$480.25 due to deduction of fees) was received by a check, through an online service, dated June 17, 2018. The contribution was reported on the Second Quarter report but the audit cannot identify the deposit of the \$480.25 check into the campaign account.
- Ten contributions totaling \$3,375 were reported on campaign financial disclosure reports for which no record or deposit can be identified.
- Two contributions totaling \$400 were reported on the Third Quarter report and while copies of the checks were provided, it cannot be verified that the contributions were deposited into the campaign bank account.
- A contribution of \$500 was reported on the Third Quarter report; however, only \$250 can be verified as being received. The \$250 (amount received was \$240.12 due to deduction of fees) was received by a check, through an online service, dated July 1, 2018. The audit cannot verify that this check was deposited into the campaign bank account. In addition, there is no record of the additional \$250.
- A fundraising event was held in late June 2018. Based on the records maintained, it appears that the campaign received \$750 in contributions (not including \$213 in fees) for the event. Because incomplete records were maintained for the event, it appears but cannot be verified, that itemized contributions we reported incorrectly, cash contributions were over the limit and contributions were reported in the incorrect period.

- A loan of \$17,000 was reported on the Second Quarter report but only \$16,000 can be verified as being deposited into the campaign account.
- A \$250 contribution was received, through an online service, on July 7, 2018. The audit determined the online service issued a \$240.12 check (\$250 less a \$9.88 services fee). This contribution was never reported as an itemized contribution which would be required based on the amount. As the candidate maintained no records to show unitemized contributions reported, the audit cannot determine if the contribution was ever reported as an unitemized contribution although it could be in the \$1,216.15 reported during the period.

## **DISBURSEMENTS AND OBLIGATIONS**

### ***Audit Objectives:***

The objectives of our audit of disbursements and obligations were to determine whether:

- all disbursements and obligations were supported by vendor receipts, canceled checks, and bank statements;
- all disbursements and obligations were made for non-prohibited activities; and
- all disbursements and obligations were reported, reported in the proper period, reported in compliance with T.C.A. §§2-10-107 and 2-10-114, and reported in compliance with the Registry rules.

### ***Audit Methodology:***

The Registry obtained Terry Clayton's 2018 Campaign Financial Disclosure Statements from January 16, 2018 to September 30, 2018. We requested Mr. Clayton provide campaign records to support all expenses during his 2014 election campaign. Mr. Clayton's campaign records for expenses included bank statements, cancelled checks and vendor receipts/invoices. The following steps were performed on his campaign documentation:

- The documentation was reviewed to determine if the candidate's disbursements from January 16, 2018 to September 30, 2018 totaled \$33,181.80.
- A list of disbursements were prepared and compared to the candidate's bank statements. Also compared were copies of cleared checks to determine if the candidate expended all funds from the campaign bank account.
- The listing of disbursements was compared to the candidate's campaign disclosures and the bank statements to determine if all disbursements were reported.

- All expenditures were reviewed to determine if all expenditures were reported, reported in the proper period, reported in compliance with T.C.A. §§2-10-107 and 2-10-114, and reported in compliance with the Registry’s rules.

***Audit Conclusion:***

Terry Clayton’s 2018 Campaign Financial Disclosure Statements from January 16, 2018 to September 30, 2018 indicated that he had expenses totaling \$33,181.80. The campaign account showed disbursements of \$31,702.54. The difference between the amount reported and disbursed from the campaign account was \$1,479.26. The errors listed below were noted by the audit and are the reason for the difference along with other additional expenses which were not properly reported:

1. The candidate failed to report \$3,774.54 in expenses incurred by the campaign (Finding 2). Relatedly, the candidate improperly reported several expense amounts resulting in net unreported amount of \$0.68. No detail findings for the improperly reported expenses amounts was presented as the errors represent less than 1% of the transactions the candidate reported.
2. Included in the \$3,774.54 above were expenditures of \$1,995.12 where campaign expenditures were paid from non-campaign funds (Finding 2). In addition, not all campaign expenses that were paid from non-campaign sources were reported as contributions to the campaign (Finding 4).
3. The candidate failed to itemize \$932.18 in expenses where the vendor was paid more than \$100 during a reporting period (Finding 3).
4. The candidate reported \$2,014.8 in expenses that have no support to indicate they were incurred by the campaign. For expenses that were incurred, Mr. Clayton failed to maintain receipts, invoices, or other vendor records to verify that the expenditures were made for campaign purposes and were properly disclosed for \$1,530.17 in unitemized expenses reported (approximately 56.3% of the total reported) and for \$24,489.92 in itemized expenses reported (approximately 80.4% of the total reported). Finally, \$1,183.38 in unreported expenses were also not properly reported (Finding 5).

**FINDINGS**

**2. Terry Clayton violated T.C.A. §2-10-105(a) by failing to report \$3,774.54 in expenses.**

Terry Clayton failed to report \$3,774.54 in disbursements for his 2018 campaign. The campaign records indicate the candidate failed to disclose thirty-nine transactions related to disbursements. Included in the unreported expenditures are seven expenses totaling \$1,995.12 which were paid for by non-campaign sources and the related contributions were not reported (Finding 4). The failure to report these expenditures violated T.C.A. §2-10-105(a), which requires a candidate to prepare a statement of all expenditures made by or on behalf of the candidate.

**3. Terry Clayton violated T.C.A. §2-10-107(a)(2)(B) by failing to itemize \$982.18 in expenditures.**

Terry Clayton improperly reported 22 transactions, totaling \$982.18, as unitemized expenditures when an individual or vendor was paid more than \$100 during a reporting period. T.C.A. §2-10-107(a)(2)(B) requires expenses to be itemized when a vendor/individual is paid more than \$100 during a reporting period. All twenty-two of the transactions were below \$100 individually but when aggregated with other expenditures made to the same payee in the reporting period were over the \$100 threshold requiring itemization.

**4. Terry Clayton violated T.C.A. §2-10-105(a), by failing to report \$2,045.12 in campaign contributions associated to campaign purchases made with funds other than the campaign account.**

Terry Clayton failed to report \$2,045.12 in contributions received during his 2018 election campaign where campaign purchases were made with non-campaign account funds. When a campaign expenditure is made from non-campaign funds, an offsetting contribution from the source of payment must be disclosed. The failure to report contributions received is a violation of T.C.A. §2-10-105(a) which requires all contributions received to be reported on campaign finance reports.

The campaign records show that several online credit card and cash purchases were made by a campaign employee for campaign expenses where the funds used were not from the campaign account. Expenditures paid from non-campaign funds requiring an offsetting contribution to be disclosed by the campaign are as follows:

- Campaign expenditures of \$50 and \$250 were made to a design firm from a PayPal account and credit card account. Per statements from the candidate, the accounts were verified as being those of a campaign employee.
- The campaign records show five receipts for expenditures, in cash, totaling \$245.12. There is no equivalent draw of cash from the campaign accounts for these transactions. The candidate indicated a campaign employee was responsible for the purchases.
- The campaign contracted to rent a location for a fundraising event. The records appear to show a \$1,500 initial payment for the rent was provided by a campaign employee in cash (Records show a second payment of \$1,650 payment was made by campaign check). Although the audit cannot confirm the \$1,500 cash payment, based on statements made by both Mr. Clayton and the campaign employee and the records provided it appears the \$1,500 was paid by the campaign employee in cash.

**5. In violation of T.C.A. §2-10-105(f), Terry Clayton failed to maintain sufficient campaign records to support that \$2,014.81 in expenses were incurred by the campaign.**

The review of Mr. Clayton's campaign records for all reported and unreported expenses showed that Mr. Clayton failed to maintain any vendor related documents for:

- \$1,530.17 in unitemized expenses (approximately 56.3% of the total reported unitemized expenses).
- \$24,489.92 in itemized expenses (approximately 80.4% of the total reported itemized expenses).
- \$1,183.38 in unreported expenses (Finding 2).

Without vendor related documents such as contracts, receipts, invoices, or other relevant documents (donation letters, payroll record, etc), the audit cannot confirm the purpose for of a transaction and thus the audit cannot assess whether an expense is allowable per the campaign finance statutes.

In addition, Mr. Clayton reported \$2,014.81 in expenses that have no support to indicate they were incurred by the campaign. There is no supporting record or disbursement from the campaign account. Included in the \$2,014.81 are:

- \$1,650 (mentioned in Finding 4) that appears to be a double reported expense for rent for a fundraising venue.
- \$300 in total payments to two individuals.
- \$64.81 related to various unitemized expenses.

Mr. Clayton violated T.C.A. §2-10-105(f), which requires candidates to retain all records used to complete financial disclosure statements for two (2) years after the date of the election to which the records refer or the date of the statement, whichever is later. Without supporting documentation the audit cannot determine if these are actual campaign expenses and the source of the payment.

**RECOMMENDATION TO CANDIDATE**

Terry Clayton should amend his 2018 Campaign Financial Disclosure Statements to ensure that he properly reports all contributions that have been received and disbursements made. Also, he should amend his reports to properly disclose contributions and expenditures over \$100 in the aggregate in a reporting period as itemized. Also, Mr. Clayton should verify that all funds received and not currently disbursed are being properly maintained in a campaign account that is in compliance with T.C.A. §2-10-131.

The candidate should develop a campaign record-keeping system that adequately meets the requirements of the campaign financial disclosure statutes. The system should ensure that the campaign reports contributions and expenses fully and correctly. In addition, the record keeping system should include the retention of all vendor invoices/receipts and other documentation to show funds disbursed from the campaign are allowable. Finally, the candidate should reconcile the campaign bank account or other account records to the campaign disclosure statements to ensure that all campaign finance activities are properly recorded and reported.

## **RECOMMENDATION TO REGISTRY**

We recommend the Members of the Registry consider the findings for possible further action. We recommend the Registry approve the audit performed as being sufficient and complete. Finally, we recommend the Registry post the audit report to the Registry's web site notwithstanding whether a significant penalty is assessed, as outlined in T.C.A. §2-10-212(f). The report and related findings will assist current and future candidates in understanding the audit process, the purposes of Registry statutes and rules, and the types of procedures needed to comply with campaign finance laws.

## **RESOLUTIONS**

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### **REGISTRY OF ELECTION FINANCE ACTIONS**

The Members of the Registry of Election Finance will review the 2018 Board Requested Audit of Terry Clayton during the March 13, 2019 regular monthly meeting. Approval and any subsequent actions taken by the board will be documented in the board minutes.