



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

**Campaign Finance Audit of
Scott McCormick
Election Year 2018**



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STATE OF TENNESSEE



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January 13, 2022

Members of the Registry of Election Finance
404 James Robertson Parkway, Suite 104
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Registry Members,

Transmitted herewith are the agreed upon procedures for the campaign finance audit of Scott McCormick's 2018 election campaign for House of Representatives District 96. This audit was conducted pursuant to the requirements of T.C.A. §2-10-212.

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 matter of public record.

Sincerely,

Jay Moeck, CPA, CFE
Director of Audit

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

Audit Highlights
Scott McCormick
2018 Campaign Finance Audit

AUDIT OBJECTIVES

The objectives of the audit were to determine Scott McCormick'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 Second Quarter, 2018 Pre-Primary, 2018 Third Quarter, 2018 Pre-General, and 2018 Fourth Quarter Campaign Financial Disclosure Statements; and to recommend appropriate actions to correct any deficiencies.

FINDING(S)

1. **Scott McCormick failed to disclose \$1,250 in monetary campaign contributions and \$13,202.96 in in-kind contributions received by the campaign in non-compliance with T.C.A. §§2-10-105 and 2-10-107.**
2. **Scott McCormick improperly disclosed the contributor for \$4,250 in contributions reported in non-compliance with T.C.A. § 2-10-107(a)(2)(A). Of these, all contributions were from business entities and funds were drawn on business accounts but were reported as contributions from individuals.**
3. **Scott McCormick improperly disclosed the vendor for \$19,616 in expenses reported in non-compliance with T.C.A. § 2-10-107. Of these, all expenses were paid through another entity and reimbursed by the campaign.**
4. **Scott McCormick failed to provide a supporting receipt, invoice, or other supporting document for \$63,655.47 in expenses related to the 2018 election campaign. The failure to maintain such records is noncompliant with T.C.A. §§ 2-10-212(c) and 2-10-105(f), which require the candidate to retain and maintain such disbursement records to support services and goods were received and the purpose disclosures made were proper.**
5. **Scott McCormick failed to provide a disbursement record (such as a check, credit card payment, etc.) for \$2,950.92 of the reported expenses. Scott McCormick failed to report a disbursement(s) for \$3,183.92 to himself, presumably for some or all the unsupported expenses. The transactions appear to be non-compliant with at least one of the following:**

- **The failure to maintain disbursement records for the \$2,950.92 in expenses is noncompliant with T.C.A. §§ 2-10-212(c) and 2-10-105(f). This instance is similar to Finding 3, however, the auditor is unable to confirm that the funds were actually disbursed and, if disbursed, is unable to determine the recipient(s) of this \$2,950.92 in expenditures. (Note: The same \$2,950.92 is included in Finding 3 as the expenses are also unsupported by receipt or invoice.)**
- **The failure to maintain records to support the disbursement of the \$3,183.92 for a reimbursement of expenses is also noncompliant with T.C.A. §§ 2-10-212(c) and 2-10-105(f). In this instance, the candidate has no supporting records to indicate the disbursement was for campaign expenses and thus in compliance with T.C.A. § 2-10-114, which outlines the allowable and prohibited uses of campaign funds by the candidate.**
- **The failure to report the \$3,183.92 in disbursements is noncompliant with T.C.A. §§2-10-105 and 2-10-107.**
- **Although no support was provided to indicate the \$2,950.92 in reported expenses noted above are related to the \$3,183.92 in reimbursements noted above, there are some indicators that they are related; as such, if they are related, Scott McCormick failed to report candidate campaign contributions to the campaign each time an expense was paid personally and was non-compliant with T.C.A. §§2-10-105 and 2-10-107. Further, if these funds are related, Scott McCormick was also non-complaint with T.C.A. §2-10-107 by improperly reporting the available balance at the end of several reporting periods.**
- **If the \$2,950.92 in reported expenses were not incurred, Scott McCormick's disclosures are non-compliant with T.C.A. §§2-10-105 and 2-10-107 because these reports improperly include un-incurred expenses and improperly reduce the available balance at the end of several reporting periods. Relatedly, if these expenses were not incurred by the campaign, then the disbursement of the \$3,183.92 to the candidate would be non-complaint with T.C.A. § 2-10-114 (b)(1), which prohibits the disbursement of campaign funds for any purpose other than as a campaign expenditure or contribution and specifically prohibits the disbursement of campaign funds for the candidate's personal use.**

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INTRODUCTION

AUDIT AUTHORITY

Tennessee Code Annotated (T.C.A.) §§ 2-10-206, 2-10-212 authorize the Registry of Election Finance (the “Registry”) to conduct audits of campaign financial disclosure statements filed with the Registry. The audit was initiated based on T.C.A. § 2-10-212(2), which requires the Registry to audit approximately two percent of all candidates for the general assembly.

AUDIT PURPOSE

The Registry’s campaign finance audits were developed to assist and encourage candidate compliance with campaign disclosure laws. The audit process assists the Registry in providing timely and accurate campaign information to government officials and the public. The Registry’s audits provide a tool to the Registry to evaluate the effectiveness of the campaign financial disclosure process. 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 Scott McCormick’s disclosures on the 2018 Second Quarter, 2018 Pre-Primary, 2018 Third Quarter, 2018 Pre-General, and 2018 Fourth Quarter Campaign Financial Disclosure Statements.

CAMPAIGN OVERVIEW

CAMPAIGN ORGANIZATION

Scott McCormick was a candidate in the November 4, 2018 general election for House of Representatives, District 96. Scott McCormick filed an Appointment of Political Treasurer Statement with the Registry on April 9, 2018 appointing himself as political treasurer. On July 2, 2018, the appointment was amended to name Billy Orgel as political treasurer. This was again amended on July 1, 2019 to rename Scott McCormick treasurer.

The candidate's first financial disclosure for the 2018 campaign was the 2018 Second Quarter Disclosure statement filed on July 10, 2018. As of February 1, 2021, the most recent financial disclosure was the 2020 Annual Year-End Supplemental Disclosure Statement filed on January 30, 2021. The disclosure indicated no cash on hand, no outstanding obligations, and no outstanding loans, thus the report completed the filing requirement for the 2018 election.

OVERVIEW OF FINANCIAL ACTIVITIES

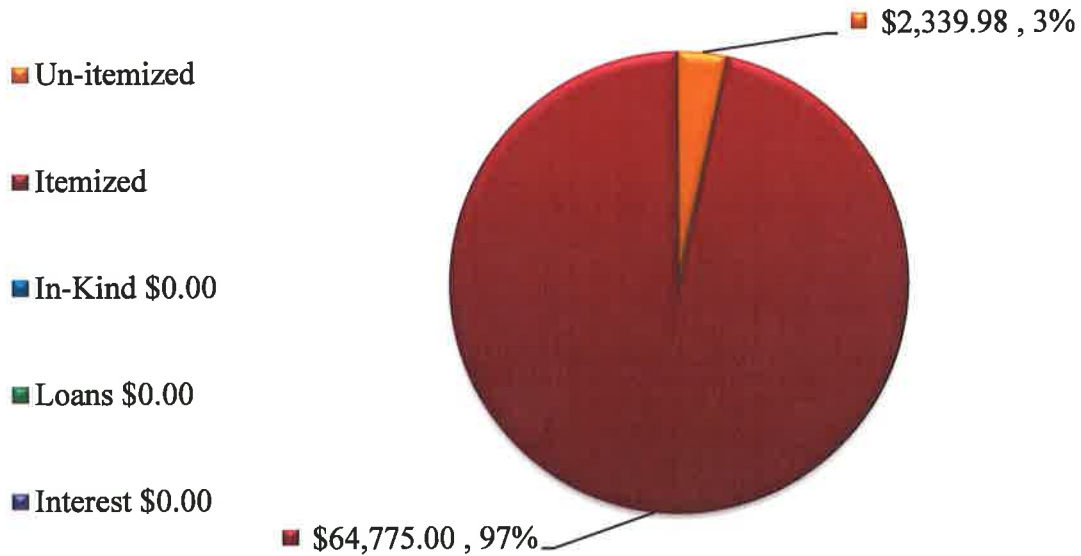
The following financial amounts are a summary of the financial disclosures made by the candidate. The summarized amounts are from the following disclosure reports: 2018 Second Quarter, 2018 Pre-Primary, 2018 Third Quarter, 2018 Pre-General, and 2018 Fourth Quarter reports after amendments. The amounts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

<u>Summary of Financial Activity</u>		
<u>(Un-audited Amounts)</u>		
Cash on hand at April 1, 2018		\$0.00
Receipts		
Un-Itemized	\$2,339.98	
Itemized	64,775.00	
Loans received	0.00	
Interest	0.00	
Total receipts		<u>\$67,114.98</u>
Disbursements		
Un-Itemized	1,569.33	
Itemized	62,106.14	
Loans principal payments	0.00	
Obligation payments	0.00	
Total disbursements		<u>\$63,675.47</u>
Cash on hand at January 15, 2019		<u>\$3,439.51</u>
Loans outstanding at January 15, 2019		\$0.00
Obligations at January 15, 2019		\$0.00
Total in-kind contributions received		\$0.00

CHARTS

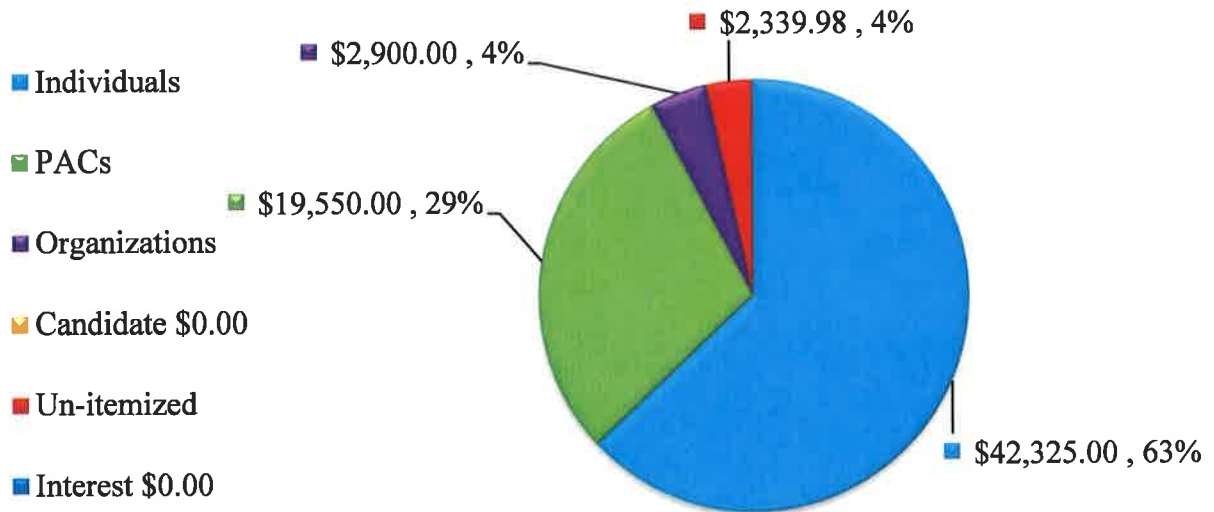
2018 ELECTION CAMPAIGN CONTRIBUTIONS

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



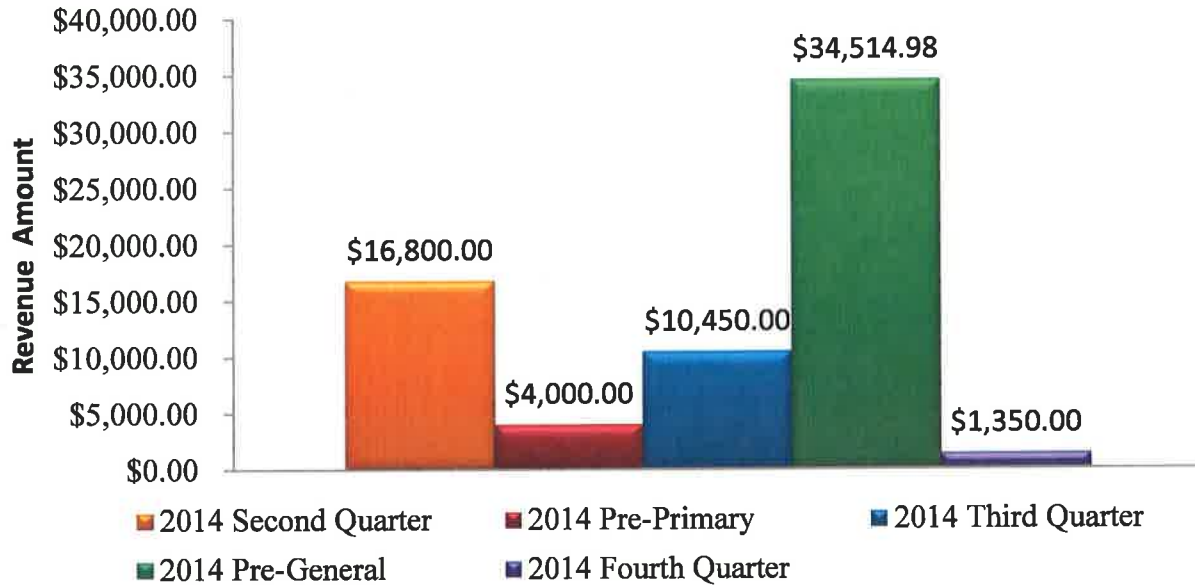
2018 ELECTION CONTRIBUTIONS BY SOURCE

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.



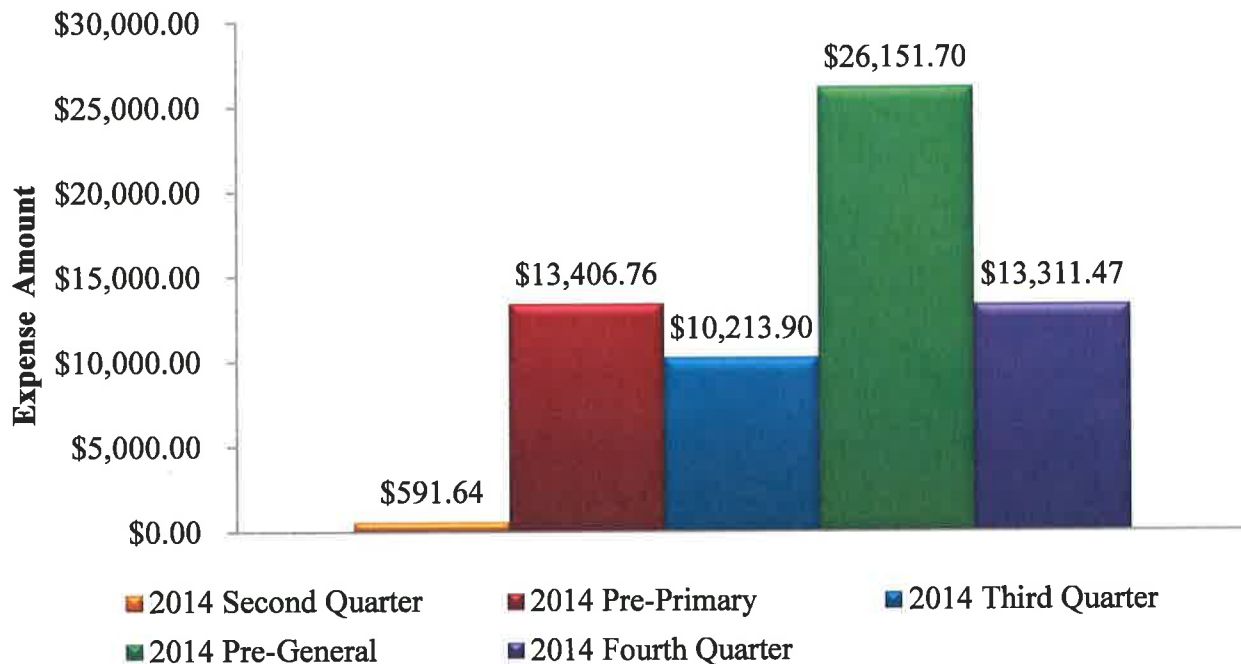
2018 ELECTION CONTRIBUTIONS BY REPORTING PERIOD

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 2014 election campaign by reporting period.



OBJECTIVES, METHODOLOGIES, CONCLUSIONS

CONTRIBUTIONS AND RECEIPTS

Audit Objectives:

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

- all campaign contributions from individuals and multi-candidate campaign committees (commonly referred to as PACs) were within campaign limits;
- all contributions were from non-prohibited sources;
- all contributions received were reported, reported in the proper period, and reported in compliance with T.C.A. §§2-10-105 and 2-10-107;
- 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, and reported in compliance with T.C.A. §§2-10-105 and 2-10-107; and
- all loans received from lending institutions were supported by loan agreements.

Audit Methodology:

The Registry obtained Scott McCormick's 2018 Campaign Financial Disclosure Statements from April 1, 2018 to January 15, 2019. We requested Scott McCormick to provide all campaign records to support contributions, loans, and interest received during the 2018 election campaign for House of Representatives. Scott McCormick's campaign records for contributions included bank statements and bank deposit detail reports. The following steps were performed on the campaign documentation provided:

- The documentation was reviewed to determine if the candidate's monetary contributions and interest received from April 1, 2018 to January 15, 2019 totaled \$67,114.98.
- 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 the campaign account on the campaign disclosures.

- Listings of itemized and unitemized monetary contributions were 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.; if contributions were properly reported; if contributions were reported in the proper period; and if contributions were reported in compliance with T.C.A. §§2-10-105 and 2-10-107.
- In-kind contributions by contributor were 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 April 1, 2018 to January 15, 2019 totaled \$0.00.

Audit Conclusion:

Scott McCormick's 2018 Campaign Financial Disclosure Statements from April 1, 2018 to January 15, 2019 indicated that the candidate received \$67,114.98 in monetary contributions. The candidate campaign records indicated that contributions deposited totaled \$68,147.98. In addition to the deposited contributions, another \$217 was received by an online service for the campaign and retained to pay services fees. The total reported contributions were \$67,114.98, and the total contributions received were \$68,364.98, resulting in a difference of \$1,250. The difference is the result of Scott McCormick's failure to report \$1,250 in monetary campaign contributions received. The failure to report campaign contributions is noncompliant with T.C.A. §§2-10-105 and 2-10-107. The details of this noncompliance are detailed in Finding 1.

In addition to the failure to report all contributions received, Scott McCormick's campaign finance disclosure statements and campaign records indicate that Scott McCormick improperly disclosed the contributor for \$4,250 in contributions reported in non-compliance with T.C.A. § 2-10-107(a)(2)(A). The details of this noncompliance are detailed in Finding 2. The campaign disclosures indicated that Scott McCormick received no in-kind contributions; however, the audit test work indicated that Scott McCormick's campaign received \$13,202.96 of in-kind contributions from a registered multicandidate campaign committee (hereafter and commonly referred to as a PAC). Scott McCormick's failure to report these in-kind contributions appears noncompliant with T.C.A. §§2-10-105 and 2-10-107. The details of this noncompliance are detailed in Finding 1.

The campaign disclosures indicated that Scott McCormick's campaign received no loans during the audit period. However, the campaign records do indicate that the candidate may have paid several expenses personally through the various reporting periods of the campaign. Further, there is an indication that these expenses were reimbursed in late January after the election year. As such, these transactions could indicate possible unreported loans from the candidate, which are considered to be unreported contributions pursuant to T.C.A. § 2-10-102(4). The details of these transactions appear in Finding 5. Finding 5 is in the Disbursements & Obligations section of this report.

FINDING(S)

- 1. Scott McCormick failed to disclose \$1,250 in monetary campaign contributions and \$13,202.96 in in-kind contributions received by the campaign in non-compliance with T.C.A. §§2-10-105 and 2-10-107.**

Scott McCormick failed to disclose \$1,250 in monetary contributions received during the 2018 election campaign. In addition, Scott McCormick failed to report \$13,202.96 in in-kind contributions received. Failing to report contribution activity is non-compliant with the following statutes.

- T.C.A. §2-10-105(a) requires all contributions received to be reported on a campaign finance report. Contributions are defined in T.C.A. §2-10-102 (4) and include both monetary and non-monetary sources
- T.C.A. §2-10-107(a) requires the disclosures of all contributions received during a period in an itemized or unitemized format designated by the statute.
- T.C.A. §2-10-107(e) requires the disclosures of unexpended balance each reporting period. Unexpended balance is reported by the candidate on the campaign finance disclosure statements as the period's ending balance and relates only to monetary contributions and expenses.
- T.C.A. §§2-10-107(c) and 2-10-107(d) requires the disclosures of all in-kind contributions received during a period in a format separate to other reporting which format and requirements are designated in the statute.

MONETARY CONTRIBUTIONS

The \$1,250 in monetary contributions received and not reported were from three separate contributors with each contribution being over \$100, thus requiring detailed disclosure. The following are the details of the unreported monetary contributions.

1. On September 28, 2018, the campaign bank account shows the deposit of a check written on September 11, 2018 by a Tennessee registered PAC for \$500. The audit test work indicates that this check was not disclosed. Although the exact date of receipt cannot be determined, based on the written date of September 11, 2018 and the deposit date of September 28, 2018, the check would have been received during the 2018 Third Quarter reporting period. The contribution amount does not appear to be reported in either the unitemized or itemized amounts for any period after audit reconciliation test work. Further, the PAC was not reported as an itemized contributor on any disclosure.
2. On October 26, 2018, the campaign bank account shows the deposit of a check written on October 22, 2018 by a business entity for \$500. The audit test work indicates the check was not disclosed. Although the exact date of receipt cannot be determined, based on the written date of October 22, 2018 and the deposit date of October 26, 2018, the check would have been received during the 2018 Pre-General reporting period. The contribution amount does not appear to be reported in either

the unitemized or itemized amounts for any period after audit reconciliation test work. This entity made other contributions which were reported by the candidate and supported by additional check(s).

3. Also on October 26, 2018, the campaign bank account shows the deposit of another check written on October 22, 2018 by a candidate campaign account for \$250. The audit test work indicates the check was not disclosed. Although the exact date of receipt cannot be determined, based on the written date of October 22, 2018 and the deposit date of October 26, 2018, the check would have been received during the 2018 Pre-General reporting period. The amount does not appear to be reported in either the unitemized or itemized amounts for any period after audit reconciliation test work. Neither the candidate's campaign, nor the candidate's name, was reported as a contributor on any disclosure.

The candidate reported a total of \$67,114.98 in monetary contributions. The \$1,250 in unreported contributions represent approximately 1.8% of monetary contributions reported.

IN-KIND CONTRIBUTIONS

As the following information also relates to certain PAC disclosures and possible questions may arise concerning the adequacy of those disclosures, the Audit Director notes the following information for the Members of the Register of Election Finance and readers of this report prior to detailing the information related to the Scott McCormick campaign audit.

Pass-through expense reporting:

The Registry's Audit Staff has been aware of pass-through expense reporting by PACs for several years. Pass-through expenses are expenses paid by the PAC, but do not relate to PAC campaign activity. These expenses are then subsequently reimbursed by a candidate or another PAC. Usually such activity is used to help with cost related to repetitive work or to utilize bulk discounts provided by vendors. Essentially, the PAC becomes a facilitator (usually for multiple candidates) to have services provided but paid by one source. Such activity is not restricted by the campaign finance statutes if all activity stays at market value transactions. The pass-through expenses are not reportable campaign activity of the PAC that facilitates the transactions but are reportable campaign expenses of the candidate or PAC that ultimately pays for the services.

It is sometimes helpful to think of these transactions being similar to the use of a credit card or reimbursing a campaign worker for purchases made for the campaign. In both these cases, the credit card or campaign worker is facilitating a transaction for the campaign by temporarily paying an expense with its purchasing power or sources of funds until final payment is received from the campaign. The important item of note in these instances is that the expense is a candidate campaign expense and, as such, is reportable by the candidate. The expense is reported based on the actual vendor who provided the service, as the activity is a reimbursement type activity outlined in T.C.A. §2-10-107(f) or as noted in T.C.A. §2-10-107(a)(2)(B) for other similar activity. Due to the requirements to maintain records by campaign noted in the statute, it

is important candidates obtain all relevant records (i.e. invoices and receipts to support the expenses incurred) and report all expenses incurred from the vendor or PAC facilitator.

There are some restrictions that can cause the pass-through activity to become reportable by the PAC. These include but may not be limited to the following:

- The pass-through expenses cannot be discounted by the facilitating PAC or the difference would appear to be a reportable in-kind expense to the candidate by the PAC and a reportable in-kind contribution to the campaign.
- The vendor cannot discount the services beyond those discounts made available to all clients or below recognizable market values. If this occurs, the discount becomes an in-kind contribution from the vendor and is reportable by the candidate.
- Finally, reimbursements must be timely to the expense occurrence. Although timeliness of such activity is not specified by statute, the Registry's promulgated rules and the Registry's prior rulings in similar circumstances make clear that these reimbursements must be made within a reasonable and contemporaneous time frame. Expenses paid by an entity (including PACs) for a campaign that are not promptly reimbursed could be interpreted to be loan contributions of the entity to the campaign as defined by T.C.A. §2-10-102 (4). Such loans would be reportable by the PAC as in-kind contribution to the campaign and an in-kind contribution by the candidate. The subsequent reimbursement then becomes a loan payment and a return of PAC contributions.

As noted, pass-through expenses are not reportable PAC activity, as they do not represent PAC campaign activity as currently defined, nor should such activity have an effect on the available balance of the PAC, as funds should be disbursed and reimbursed promptly. As such, a PAC would not be required to disclose such activity; however, some PACs have elected to show the "outs" and "ins" of the PACs funds in a reporting period as expenses and then the return as expenses adjustment. This would be allowable under the statute and guidance provided by the Registry's staff.

One such PAC that has elected to show those activities is the Tennessee Legislative Campaign Committee ("TLCC"), which is noted in the audit report. The audit did not review the PACs records for the purpose of determining proper compliance with pass-through transactions and in-kind contributions, as the PAC is not the subject to the audit. However, the Audit Director reviewed the PAC disclosures concerning the items in this report (some of those disclosures appearing in this report). Based on the Audit Director's review, those disclosures, on their face, appear to be proper for pass-through related transactions. However, no assessment of the underlying transactions for the PAC's proper reporting is being provided.

In-Kind Reporting - House Republican Caucus:

This audit report indicates that the House Republican Caucus, a registered PAC, paid \$13,202.96 in expenses on behalf of the Scott McCormick campaign in 2018. The audit indicates that the expenses represent in-kind contributions to the campaign. The audit did not

review the PACs records for the purpose of determining proper compliance with in-kind expenses reporting. However, the Audit Director reviewed the PAC disclosures concerning the items in this report. Based on the Audit Director's review, those disclosures, on their face, appear to be non-complaint with in-kind expense reporting outlined in T.C.A. §§2-10-107(c) and 2-10-107(d). However, as the PAC's disclosure statements are from 2018 and the PAC was not the subject of the audit, the disclosures and related disclosure statements of the PAC appear to be within the "statutory safe harbor" provisions in TCA §2-10-206(4). As a result, no memo concerning possible House Republican Caucus non-compliance was prepared for the Members consideration and no additional test work was performed related to the PACs disclosures.

Unreported In-Kind Contributions – Scott McCormick Campaign

The in-kind contributions that were unreported by the Scott McCormick campaign represent two separate series of transactions paid for by the House Republican Caucus. Each contribution appears to be over \$100, thus requiring detailed disclosure by the candidate. The activities were noted during the audit test work that reviews PAC and candidate contribution activity. During that review, the audit noted several adjustments reported by the TLCC for expenses that were pass-through expenses for Scott McCormick's campaign. (This pass-through activity was also misreported by the campaign and is detailing in Finding 3.) In reconciling those activities, the audit noted two additional expenses that were incurred by the TLCC but were reimbursed by the House Republican Caucus (hereafter "HRC"), and still appear to relate to the Scott McCormick campaign.

The first series of transactions relate to an expense reported by the TLCC on November 12, 2018 for \$5,423.60 (on the 2018 Fourth Quarter Disclosure Statement). TLCC reported the expense paid to Jamestown Associates with the purpose "Direct Mail – S McCormick" (The disclosure was **not** marked to indicate the PAC was making an in-kind or independent expenditure on behalf of the candidate, but was marked "neither", which indicates a normal PAC expense or pass-through activity). The TLCC disclosure shows an adjustment related to this expense on November 19, 2018, indicating that the expenditure was reimbursed by the HRC. The disclosure indicates that the vendor is House Republican Caucus with the purpose "the Direct Mail – S. McCormick" and the amount \$5,423.60.

The second series of transactions also relate to an expense reported on the TLCC's disclosures on November 19, 2018 for \$7,779.36. Again, this activity was reported on the 2018 Fourth Quarter disclosure and identifies Jamestown Associates as the vendor and identifies the purpose for the expenditure as "Direct Mail – S McCormick". The TLCC's disclosure again shows a related adjustment, also on November 19, 2018, indicating that the expenditure was reimbursed by the HRC. The disclosure indicates a reimbursement from the House Republican Caucus with the purpose "the Direct Mail – S. McCormick" and the amount \$7,779.36.

Also noted on the TLCC disclosures were four expenses that were pass-through expenses paid for by the Scott McCormick campaign. The HRC's disclosure statement for the 2018 Fourth Quarter discloses two payments to the TLCC for the purpose of "advertising", one on October 26, 2018 for \$74,749.96 and the second on November 18, 2020 for \$23,671.62. These

payments appear to relate to several payments made for campaign expenses, including the two for Scott McCormick.

Based on the review and audit test work performed, it appears the Scott McCormick campaign was using the TLCC to facilitate several campaign advertising expenses, several of which the campaign reimbursed, creating pass-through expenses for the campaign. However, two of these expenses were paid by the HRC on the campaign's behalf. These two expenses were also pass-through expenses for the TLCC. However, the expenses were also in-kind contributions by the HRC to the Scott McCormick campaign. As the TLCC only was a facilitator for these transactions and was reimbursed by the HRC, the HRC was required by statute to report the in-kind expenses (or obligations) from the actual vendor who provided the services as follows: Vendor: Jamestown Associates, Purpose: "Direct Mail" or "Direct Mail - S McCormick". Then, the HRC should have selected the expenses as in-kind and selected "Scott McCormick" from the list of state level candidates. This data should have been repeated for both transactions, in the amounts of \$5,423.60 and \$7,779.36, respectively.

The audit notes that the dates reported by the TLCC and HRC would be unusual for a campaign media ad, as they occur after the date for the general election, which was held on November 6, 2018. As the TLCC is reported pass-through transaction, the dates are not relevant for campaign finance disclosure purpose. However, the HRC should report the expenses properly and it is unlikely that the dates reported by the TLCC (11/12 and 11/19) or the payment date by the HRC (11/18) reported on its disclosures are proper. The expense date should be the date the expense was incurred or contracted and the amount projectable due to the statutes related to reporting expenses and obligations. This date is likely on the invoice or contract for the media ad services and was likely prior to November 6, 2018. This date could also be related to the other payment date reported by the HRC of October 26, 2018. The actual date could not be determined by the Auditor, due to a lack of data provided for campaign expenses and in-kind contributions received.

Relatedly, as the HRC had an in-kind expense to the Scott McCormick campaign, the campaign also had reportable in-kind contributions. The campaign's reportable in-kind contributions would be from the HRC, the description would be the combination "direct mail advertising" reported by the TLCC and HRC and would be in the amounts of \$5,423.60 and \$7,779.36, respectively. The date would be the date reported by the HRC of the expense incurred or obligation date. However, Scott McCormick's disclosures statements report no in-kind contributions received. As such, Scott McCormick campaign failed to report \$13,202.96 in in-kind contributions received from advertising expenses paid on the campaign's behalf by the HRC.

The audit also noted that the candidate may have also been required to file an interim report of contributions during the days prior to the general election. Depending on the timing of the transactions, if either or both in-kind contributions occurred between October 28, 2018 and November 6, 2018, the contribution would be required to be reported under the terms outlined in T.C.A. §2-10-105(h) on the interim report of contributions and loans, as the amount of the contributions both exceed the \$5,000 limit pursuant to the statute. The interim disclosures are additional disclosures required in addition to the usual 6 reporting periods during an election

year. Therefore, a contribution appearing on an interim disclosure will also appear on the more common quarterly and pre-election disclosure reports during an election year.

The candidate reported a total of \$0 in in-kind contributions. The \$13,202.96 in unreported contributions represents approximately 19.6% of the total contributions reported of \$67,114.98. When unreported monetary contributions of \$1,250 and the unreported in-kind contributions of \$13,202.96 are added to the supported and reported contributions of \$67,114.98, the campaign received \$81,567.94 in total contributions, a percentage increase of 21.5%.

2. Scott McCormick improperly disclosed the contributor for \$4,250 in contributions reported in non-compliance with T.C.A. § 2-10-107(a)(2)(A). Of these, all contributions were from business entities and funds were drawn on business accounts but were reported as contributions from individuals.

Scott McCormick improperly disclosed the contributor for eight checks, totaling \$4,250, received during the 2018 election campaign. Failure to properly report contributor data is non-compliant with T.C.A. §2-10-107(a), which requires the disclosure of all contributions received during a period in an itemized or unitemized format designated by the statute. The statute defines itemized disclosure of the name of the contributor. In each case, the contribution was received on a business check with the business name and appears to be drawn from business general/operating funds. Tennessee's campaign finance statutes allow business entities to make campaign contributions to candidates. As such, the check would appear to indicate that a campaign contribution is being made by the entities noted in the header and check source data. The candidate provided no additional evidence to indicate the checks did not represent the funds from the check source (including no record to indicate the source of the contribution was from the personal funds of an owner or partners). As a result, the campaign records support the business as the source of the contribution and thus the business is the contributor required to be reported per T.C.A. §2-10-107(a). The following are the details of the improperly reported contributions.

1. On the 2018 Second Quarter disclosure statement, the campaign reported a contribution from Chris Byrd for \$250. The supporting records indicate the contribution was from Dillard Security Services, LLC.
2. On the 2018 Second Quarter disclosure statement, the campaign reported a contribution from Alan Crone for \$500. The supporting records indicate the contribution was from The Crone Law Firm, PLC.
3. On the 2018 Second Quarter disclosure statement, the campaign reported contributions from TC Farnsworth, Jr in the amount of \$166.67, TC Farnsworth, III in the amount of \$166.67, and Michael Mullis in the amount of \$166.66. The supporting records indicate the total \$500 in contributions was from Farnsworth Investment Company.
4. On the 2018 Second Quarter disclosure statement, the campaign reported a contribution from Jeff McEvoy for \$500. The supporting records indicate the contribution was from Home Surety Title & Escrow LLC.

5. On the 2018 Second Quarter disclosure statement, the campaign reported a contribution from Johnny Pitts for \$500. The supporting records indicate the contribution was from Lipscomb Pitts Insurance, LLC.
6. On the 2018 Second Quarter disclosure statement, the campaign reported a contribution from Greg Siskin for \$500. The supporting records indicate the contribution was from Endoco DB Ultimate Dental.
7. On the 2018 Pre-General disclosure statement, the campaign reported another contribution from Alan Crone for \$1,000. The supporting records indicate the contribution was from The Crone Law Firm, PLC again.
8. On the 2018 Pre-General disclosure statement, the campaign reported a contribution from Montgomery Martin for \$500. The supporting records indicate the contribution was from Montgomery Martin Contractors LLC.

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's rules.

Audit Methodology:

The Registry obtained Scott McCormick's 2018 Campaign Financial Disclosure Statements from April 1, 2018 to January 15, 2019. We requested Scott McCormick provide campaign records to support all expenses during the 2018 election campaign. Scott McCormick's campaign records for expenses included bank statements and cancelled checks. The following steps were performed on his campaign documentation:

- The documentation was reviewed to determine if the candidate's disbursements from April 1, 2018 to January 15, 2019 totaled \$63,675.47.
- A list of disbursements was prepared and compared to the candidate's bank statements and copies of cleared checks to determine if the candidate expended all funds from the campaign bank account.
- The list of disbursements was compared to the candidate's campaign disclosures and the bank statements to determine if all disbursements were reported.
- A listing of itemized and unitemized expenditures were reviewed to determine if all expenditures were reported, reported in the proper period, and reported in compliance with T.C.A. §§2-10-107 and 2-10-114.

Audit Conclusion:

Scott McCormick's 2018 Campaign Financial Disclosure Statements from April 1, 2018 to January 15, 2019 disclose \$63,675.47 in expenses incurred by the campaign. The candidate's campaign records indicated that \$64,708.47 was disbursed from the campaign account. The \$1,033 difference is the result of the candidate's failure to report \$3,983.92 in funds disbursed and reporting \$2,950.92 in expenses that are not supported as being paid from any source (campaign accounts, the candidate personally, or some other entity). The details of the disbursements are as follows.

- A. The candidate understated an advertising expense by \$150. This expense was reported as being in the amount of \$500 for advertising on the 2018 Third Quarter report, however, the supporting check was for \$650.
- B. The candidate failed to report a disbursement to a local county party for dues in the amount of \$20 on the 2018 Third Quarter report.
- C. The candidate failed to report to a \$630 check to E. Lownes on the 2018 Third Quarter report.
- D. The candidate failed to report a \$150 withdrawal of cash that occurred during the 2018 Fourth Quarter reporting period.
- E. The candidate failed to report a \$3,033.92 check to himself marked with the term "reimbursement" disbursed just after the end of the 2018 Fourth Quarter reporting period.
- F. The \$2,950.92 in expenses not supported by a disbursement record (Check, etc.) relates to all expenses on the 2018 First Quarter report, most of the unitemized expenses reported in all periods, and \$814.41 in itemized expenses in the 2018 Fourth Quarter.

Items A through C indicate that the candidate and/or campaign staff failed to reconcile campaign bank activity to its reported disclosures as recommended in the Registry rules. The total of these items was \$800 which is approximately 1.3% of the \$63,675.47 in expenses reported by the candidate. No detail findings for these errors was provided as the amount appears minor to total expense occurred. The errors also do not appear to be systematic to the way the candidate reports except for the noted item of failing to follow Registry rules for reconciliations. However, the audit staff discussed the errors with Scott McCormick and recommended correction. Any corrective actions taken for these items will be noted at the end of the report.

Items D and E relate to disbursements to the candidate personally and there is no supporting records to indicate these disbursements are proper and allowable pursuant to T.C.A. §2-10-114. As such, a detailed finding is being provided for these unreported expenses and appears in Finding 5. Item F is also detailed in Finding 5, as there is some indication that these expenses may be related to the disbursement to the candidate. Further, the Finding also notes that these expenses being unsupported by a disbursement record is non-compliant with T.C.A. §§ 2-10-212(c) and 2-10-105(f), which requires candidates to retain and maintain such disbursement records to support services and goods were received and the purpose disclosures made were proper.

In addition to the differences noted above in the amounts reported and disbursed, Scott McCormick improperly disclosed the vendor for \$19,616 in expenses reported in non-compliance with T.C.A. § 2-10-107. All these expenses were paid through another entity and reimbursed by the campaign. Details relating to these expenses are noted in Finding 3. In addition, Scott McCormick failed to provide a supporting receipt, invoice, or other supporting document for \$63,655.47 in expenses related to the 2018 election campaign, which is a majority of the expenses incurred. The failure to maintain such records is noncompliant with T.C.A. §§ 2-10-212(c) and 2-10-105(f), which requires the candidate to retain and maintain disbursement

records to support that services and goods were received and the purpose disclosures made were proper. Details of the failure to maintain records is provided in Finding 4. Included in this amount is also the \$2,950.92 of expenses not supported by disbursement records noted above. Beyond the notation of these expenses in Finding 4, additional information on the complete lack of records for these reported expenses appears in Finding 5.

Lastly, Scott McCormick failed to itemize one expense for \$15.90 that was paid to a vendor who was also paid \$133.86 in the same period. As the vendor received more than \$100 during the period, both expenses were required to be itemized by T.C.A. § 2-10-107. The \$15.90 is less than 1% of all expenses reported by the candidate. No detail findings for this error was provided as the amount appears minor to total expense occurred.

FINDING(S)

3. Scott McCormick improperly disclosed the vendor for \$19,616 in expenses reported in non-compliance with T.C.A. § 2-10-107. Of these, all expenses were paid through another entity and reimbursed by the campaign.

Scott McCormick improperly disclosed the vendor for \$19,616 in expenses reported in non-compliance with T.C.A. § 2-10-107. Scott McCormick's campaign disclosures show four expenses paid to the Tennessee Republican Party (hereafter "TRP") each for \$4,904 and each reported during October 2018 (three during the 2018 Pre-General reporting period on the 2nd, 15th and 23rd, and one during the 2018 Fourth Quarter reporting period on the 29th). All the expenses indicated they were for mailers. The supporting disbursement checks from the campaign were all to the TRP.

These checks from the campaign are also reported on the disclosures of the Tennessee Legislative Campaign Committee (hereafter "TLCC"), which is the registered PAC used by the Tennessee Republican Party for campaign related activities in Tennessee. The TLCC campaign finance disclosure reports show the four checks from the Scott McCormick campaign as expenses adjustments on the TLCC disclosures, dated in October 3rd, 22nd, 26th, and November 11, 2018. The same disclosures indicate the adjustments are related to four expenses paid to Margin of Victory in the amount of \$4,904 on October 3rd, 22nd, 26th, and November 7, 2018. The TLCC disclosure for each expense identifies the purpose as "Direct Mail-S. McCormick". The disclosures by the TLCC are the common disclosures by PACs to report pass-through expenses, which are further described in Finding 2 above.

Based on the data provided and the disclosures of the TLCC, the audit determined that the TRP did not provide the services to the campaign but acted as a facilitator of the transaction with another vendor. Thus, the four checks are reimbursements to the TRP for expenses paid on the campaign's behalf. Thus, the campaign was required to report the name of the vendor who provided the services, which was Margin of Victory, not the TRP or TLCC. Scott McCormick's improper disclosure of the vendor is non-compliant with T.C.A. § 2-10-107(f).

- 4. Scott McCormick failed to provide a supporting receipt, invoice, or other supporting document for \$63,655.47 in expenses related to the 2018 election campaign. The failure to maintain such records is noncompliant with T.C.A. §§ 2-10-212(c) and 2-10-105(f), which require the candidate to retain and maintain such disbursement records to support services and goods were received and the purpose disclosures made were proper.**

At the commencement of the audit process, the Registry's audit staff requested all records to support the campaign activities that occurred from the start of the candidates 2018 campaign through January 15, 2018. Specifically, Registry's audit staff requested all records to support the disclosures Scott McCormick made on the campaign finance disclosure statements that covered the reporting periods between April 1, 2018 and January 15, 2019.

For expenses, the only records provided were the campaign's bank account statements and the cancelled checks that were for disbursements from that account. Scott McCormick failed to provide any receipts, invoices, or other types of documentation to support the purpose of the disbursements made and/or expenses incurred. All candidates are required to retain and maintain such disbursement records to support the disclosures by T.C.A. §§ 2-10-212(c) and 2-10-105(f).

As noted in the audit conclusion, Scott McCormick's 2018 Campaign Financial Disclosure Statements from April 1, 2018 to January 15, 2019 disclose \$63,675.47 in expenses incurred by the campaign. The candidate campaign records indicated that \$64,708.47 was disbursed from the campaign account. The \$1,033 difference is the result of the candidate's failure to report \$3,983.92 in funds disbursed and reporting \$2,950.92 in expenses that are not supported as being paid from any source (campaign accounts, the candidate personally, or some other entity). The candidate failed to maintain an invoice or receipts for any of those expenses, those reported, or disbursed.

The Registry has identified only two transactions where the invoice/receipt or some other supporting record may not be needed to identify the purpose and the allowableness of the expense. One was a dues payment to the Shelby County Republican Women Club for \$20 and the other was a \$25 check written to the RWCP and reported as being for food and beverage. The audit process has also identified several vendors who do not have a standard business practice of issuing receipts when receiving funds. Some examples of these are candidates and PACs who receive contributions, but do not generally issue receipts. Also, chambers of commerce, political groups, including PACs and other associations that charge dues and luncheons fees do not generally issue receipts. Candidates should make every effort to maintain a receipt for all expenses incurred and ask vendors who do not normally issue a receipt to provide one. However, there are some exceptions when a receipt cannot be obtained. This should be limited and, when that exception occurs, the candidate should document why there is no receipt in the campaign record. For example, the check to the Shelby County Republican Women Club indicates in its' memo line that the payment is for dues. The RWCP has no such notation to indicate it was for a luncheon or some other purpose.

As a result, a majority of the expenses incurred are only supported by a disbursement check to the vendor reported or, in the case of unitemized expenses, to a vendor who appears to provide

the food or services listed as the category. Also, as noted above and within the audit conclusion, \$2,950.92 in expenses reported were not even supported by a disbursement check, credit card payment, electronic transfer, etc. Those are detailed more in Finding 5.

As most expenses were not supported and are viewable by reviewing the candidate online disclosure statements, instead of relisting them in the audit report the expense have been summarized below.

a. Un-itemized expenses unsupported by receipt or invoice (Only 3)

	Reporting period	Category	Amount
1	2018 Pre-Primary	Office supplies	\$ 15.90
2	2018 Pre-General	Stamps	\$100.00
3	2018 Fourth Quarter	Office supplies	\$ 59.24

b. Un-itemized expenses unsupported by receipt or invoice and unsupported by disbursement record (Items noted in Finding 5)

Category	# of times category appears on disclosure statements	Aggregate Amount
Banking Fees	1	\$ 66.10
Food\Beverage	26	\$ 667.93
Fundraising	1	\$ 65.80
Gas	2	\$ 25.00
Mileage	3	\$ 661.64
Office supplies	1	\$ 27.42
Parking	1	\$ 15.00
Postage	1	\$ 10.96
Printing	1	\$ 43.70

c. Itemized expenses unsupported by receipt or invoice

Vendor	# of times Vendor appears on disclosure statements	Aggregate Amount
Central Printing & Marketing	2	\$934.09
Local on the Square	1	\$664.44
Lownes, E (1)	12	\$14,310.50
Margin of Victory (2)	7	\$16,007.00
Office Depot	1	\$133.86
Perry Strategies, LLC	2	\$3,482.71
Resource Media Group LLC	1	\$4,407.15
Tennessee Republican Party (3)	4	\$19,616.00
The Shirt Place Yates	1	\$450.66

- (1) There was an additional check to Lownes, E for \$630 that is not included in the schedule as it was not reported but, like the other 12, noted it was also unsupported by receipt, invoice, payroll record or other staff related record keeping.
- (2) An additional \$150 was included in the amount but was unreported. This is the \$150 noted as Item A in the audit conclusion.
- (3) Tennessee Republican Party was noted as being an improper vendor reported in Finding 3. If properly reported the vendor would be Margin of Victory.

d. Itemized expenses unsupported by receipt or invoice and unsupported by disbursement record (only 4 Items they are also noted in Finding 5)

	Reporting period	Vendor	Date	Amount
1	2018 Second Quarter	Buckley's Lunchbox	06/12/2018	\$552.96
2	2018 Fourth Quarter	Chick-Fil-A	11/06/2018	\$100.92
3	2018 Fourth Quarter	Harry & David	12/18/2018	\$476.94
4	2018 Fourth Quarter	Slider Inn	11/06/2018	\$236.55

There were two more disbursements also unsupported by any other records. These were a \$150 cash withdrawal by the candidate and a \$3,033.92 check to Scott McCormick marked with the term "reimbursement" disbursed just after the end of the 2018 Fourth Quarter reporting period. As these disbursements are to the candidate and not a vendor for goods and services, the audit can verify nothing related to the activity. However, there is some indication these disbursements may relate to the expenses noted above that were not supported by a disbursement record. As such, these disbursements, and the expenses unsupported by disbursement records are further detailed in Finding 5.

Audit Director Notes

The Audit Director notes the following about receipts and invoices that should be retained by candidates for all transactions. The Registry staff is aware there are instances when a receipt or invoice may not be provided or may be lost or destroyed. Further, the statute does not specify the type of records that must be maintained. Due to these facts, the audit makes accommodations for the candidate campaign records to support expenses by other means. Examples of such include copies of the portion of a candidate or PAC disclosure showing the payment received; signatures by a campaign employee on a listing or memo for work performed and payments received; payroll records or other tax related records; copies of tickets purchased; fliers; emails; invitations to events attended; ad copies, mailers, or other such documents to show the purpose for the activity being performed and the dates they occurred. Also, the campaign records should demonstrate active attempts to obtain proper invoices and receipts and maintain a variety of records for each transaction when possible to support the disclosures made to satisfy the requirements of T.C.A. §§ 2-10-212(c) and 2-10-105(f). In the rare instance that such records were not made available for a specific transaction at the time of the transaction, the campaign should document the circumstance around the absent data and include that information with the normal campaign records.

5. Scott McCormick failed to provide a disbursement record (such as a check, credit card payment, etc.) for \$2,950.92 of the reported expenses. Scott McCormick failed to report a disbursement(s) for \$3,183.92 to himself, presumably for some or all the unsupported expenses. The transactions appear to be non-compliant with at least one of the following:

- The failure to maintain disbursement records for the \$2,950.92 in expenses is noncompliant with T.C.A. §§ 2-10-212(c) and 2-10-105(f). This instance is similar to Finding 3, however, the auditor is unable to confirm that the funds were actually disbursed and, if disbursed, is unable to determine the recipient(s) of this \$2,950.92 in expenditures. (Note: The same \$2,950.92 is included in Finding 3 as the expenses are also unsupported by receipt or invoice.)**
- The failure to maintain records to support the disbursement of the \$3,183.92 for a reimbursement of expenses is also noncompliant with T.C.A. §§ 2-10-212(c) and 2-10-105(f). In this instance, the candidate has no supporting records to indicate the disbursement was for campaign expenses and thus in compliance with T.C.A. § 2-10-114, which outlines the allowable and prohibited uses of campaign funds by the candidate.**
- The failure to report the \$3,183.92 in disbursements is noncompliant with T.C.A. §§2-10-105 and 2-10-107.**
- Although no support was provided to indicate the \$2,950.92 in reported expenses noted above are related to the \$3,183.92 in reimbursements noted above, there are some indicators that they are related; as such, if they are related, Scott McCormick failed to report candidate campaign contributions to the campaign each time an expense was paid personally and was non-compliant with T.C.A. §§2-10-105 and 2-10-107. Further, if these funds are related, Scott McCormick was also non-complaint with T.C.A. §2-10-107 by improperly reporting the available balance at the end of several reporting periods.**
- If the \$2,950.92 in reported expenses were not incurred, Scott McCormick's disclosures are non-compliant with T.C.A. §§2-10-105 and 2-10-107 because these reports improperly include un-incurred expenses and improperly reduce the available balance at the end of several reporting periods. Relatedly, if these expenses were not incurred by the campaign, then the disbursement of the \$3,183.92 to the candidate would be non-complaint with T.C.A. § 2-10-114 (b)(1), which prohibits the disbursement of campaign funds for any purpose other than as a campaign expenditure or contribution and specifically prohibits the disbursement of campaign funds for the candidate's personal use.**

As noted in the audit conclusion, Scott McCormick's 2018 Campaign Financial Disclosure Statements from April 1, 2018 to January 15, 2019 disclose \$2,950.92 in expenses that are not supported as being paid from any source (campaign accounts, the candidate

personally, or some other entity). The same expenses, as noted in the previous finding, are also unsupported by an invoice, receipt, or other supporting documents.

There were \$1,583.55 in unitemized expenses, reported in thirty-seven disclosures, which are unsupported by disbursement records. Based on the amounts reported and the manner reported, the disclosures appear to be by transactions (except for mileage disclosure).

There were \$1,367.37 in itemized expenses reported, in four disclosures, that are unsupported by disbursement records. One expense was reported on the 2018 Second Quarter Disclosure Statement. The 2018 Second Quarter was the first report of the campaign and there were only two expenses reported on this report, one itemized and one unitemized. Both were not supported by disbursement records. The remaining three itemized expenses were reported on the 2018 Fourth Quarter report. Two of the expenses were for food reported as incurred on election day, the last being in December reported for the purpose "Campaign Supporter Gifts". The 2018 Fourth Quarter is the last report of the election year and the itemized expenses noted are most of the ending expenses of the campaign election. Beyond the disclosure of the expenses on the campaign finance disclosure by the candidate, there was no other records provided to indicate these expenses were incurred. There was only indirect evidence of the one itemized expense in the fact that some contributions checks indicated they were part of a Buckley's fundraiser and were received on or about the date of the Buckley's Lunchbox itemized expense.

Scott McCormick's campaign records show two disbursements that cannot be associated to any reported expenses or set of expenses. The first was a cash withdrawal. The withdrawal was by check (#133) written on October 30, 2018 with the payee identified as "CASH" for \$150. The check was signed by the candidate. The second was a check (#141) written on January 25, 2019 for \$3,033.92 with the payee identified as "Scott McCormick". This check had a notation in the memo line to that read "reimbursement". No other records were provided for these disbursements, nor were statements provided to indicate what the cash campaign funds were being used for or what expenses that the candidate was reimbursing. Further, there were no records provided to indicate that the candidate paid any expense personally from personal funds or personal bank/credit card accounts.

As a result of the candidate's failure to maintain records to support the expenses reported or the two disbursements made, the audit cannot confirm any information related to the transactions as being campaign expenses or allowable disbursements of campaign funds. There are also insufficient records to indicate that the reported expenses and the disbursements are related. However, there are some indirect ancillary indicators that these items may be related.

In the process completing several audits for the Registry, the audit staff has noted similar patterns in reporting expenses incurred by candidates personally. The common threads being that expenses are usually early or late in the campaign election cycle. This would be similar to the itemized expenses noted in the campaign being unsupported in the 2018 Second Quarter and 2018 Fourth Quarter reporting periods. The expenses are usually small dollar in nature and revolve around food and transportation related expenses like fuel that are commonly paid by personal credit cards. Again, as noted in this audit, almost all the itemized expense are food related and 28 of the unitemized expense were for food and gas (also of note is a parking

expense). There were three unitemized expenses for mileage in the amount of \$213.64, \$213.64, and \$234.36 (\$661.64 total). As an unitemized expense, the disclosure is indicating the payments were to multiple people as no one person could receive over \$100 without the expense being itemized. Again, the audit staff has noted in several audits, candidates commonly misreport their mileage as unitemized expenses, usually improperly thinking each transaction must be over \$100 before itemization is required. This appears likely in this audit for the mileage expenses, especially when considering both the \$213.64 are reported in the same period, indicating at least five people had to be paid mileage, when the campaign disclosures only show one paid campaign worker E. Lownes. The audit staff has also noted that candidates will pay expenses and not refund the expenses immediately, preferring to determine how much funds will be available at the end of the campaign before making the reimbursement.

Side notes on mileage and gas expenses: The disclosures indicate both gas expenses and mileage expenses. As noted, there are no records to indicate either type of expense actually happened, so no detail testing was able to be performed. This includes no determination for how mileage was determined or what events cause a mileage charge to be incurred (which would normally be provided in a mileage type log, which also was not provided by the candidate). However, the Board Members should be aware that common practice for mileage charges would include provision for fuel and vehicle maintenance and, as such, the charge for both would be unusual without explanation for each.

The result of the above is that there is some indirect evidence that the unsupported expenses reported and the two disbursements from the campaign account could be related. The indirect items indicate the reported expenses were expenses incurred personally by the candidate on the campaign's behalf. However, there is no direct evidence they are related or that the candidate did incur those expenses. The audit also notes the amounts disbursed are greater than the amounts disclosed indicating more funds may have been disbursed to the candidate than expenses inferred to have been incurred by the candidate. Therefore, regardless of the other amounts, without support to show those excess disbursements were for allowable campaign contributions, the excess amounts would be non-compliant with the statutory prohibitions on the disbursement of campaign funds pursuant to T.C.A. § 2-10-114.

Due to the lack of records to show that an expense was actually incurred (i.e., funds disbursed or receipt to invoice of goods received), the audit cannot confirm that the \$2,950.92 in expenses reported are actual campaign expenses or ever occurred. Also, the audit cannot confirm that the \$3,183.92 disbursed to the candidate was for campaign expenses incurred on the campaign's behalf by the candidate. The audit also cannot confirm the disbursements were in compliance with T.C.A. § 2-10-114 (b)(1) for the proper disbursement of campaign funds. The audit can determine the following:

- The failure to maintain disbursement records for the \$2,950.92 in expenses is noncompliant with T.C.A. §§ 2-10-212(c) and 2-10-105(f) and is similar to Finding 3. In Finding 3, the failure to maintain receipts or invoices makes it impossible to confirm the purpose of the expense was the purpose reported, but in most cases the audit can at least confirm the payee and the payee usually performs the type of services reported. In the case of these expenses, the additional lack of records for the

disbursements, such as vendor data, the missing data cannot be determined, nor even can it be confirmed an expense was incurred or funds were disbursed.

- The failure to maintain records to support the disbursement of the \$3,183.92 for a reimbursement of expenses is also noncompliant with T.C.A. §§ 2-10-212(c) and 2-10-105(f). In this instance, the candidate has no supporting records to indicate the disbursement was for campaign expenses. As noted in this finding, the lack of records makes it impossible to determine the disbursements compliance with T.C.A. § 2-10-114, which prohibits the disbursement of campaign funds for any purpose other than as a campaign expenditure or contribution and specifically prohibits the disbursement of campaign funds for the candidate's personal use.
- Scott McCormick's failure to report the \$3,183.92 in disbursements is non-compliant with T.C.A. §§2-10-105 and 2-10-107. Regardless of the circumstances around the expenses, the disbursements were required to be reported, as the disbursements were not direct reimbursements for current reported expenses. This is true even if the expenses were being reimbursed to comply with T.C.A. §§2-10-105 and 2-10-107, especially T.C.A. §2-10-107(f), which requires reporting of currently available funds each period. To meet the terms of the statute, each time the candidate incurred an expense he paid for during a period, he would have needed to report a campaign contribution from himself and the expense. The contribution would need to be reported as a direct monetary contribution or loan contribution. If the intent was payment at the end, the loan would be the more precise disclosure. This is required as the funds available from other contributions are still available and must be disclosed as available. The candidate is also using his assets for campaign expenses and such assets being used for that purpose meets the definition of a campaign contribution from the candidate pursuant to T.C.A. § 2-10-102(4). By not reporting his contribution, each reporting period is understated for available funds. Then, when the reimbursement or cash withdrawals are made, they must be shown as returns of contribution in the form of contribution adjustments, expenses, or loan payments. Again, loan payments would be the most precise usage based on an intent to have the expenses repaid. If the disbursements were not repayments of the reported expenses, then the disbursements are required to be reported like any other expense. As noted above, the excess above the reimbursed amounts would also need to be reported for their purpose (whether that purpose is allowable or not disclosure is required).

The final items noted by the audit are dependent on the true nature of the activity that occurred, which cannot be determined. They are as follows:

- If the expenses reported were expenses incurred by Scott McCormick personally, Scott McCormick failed to report candidate campaign contributions to the campaign each time an expense was paid personally and was non-compliant with T.C.A. §§2-10-105 and 2-10-107 for reporting candidate campaign contributions.
- If the expenses were not incurred, Scott McCormick's disclosures are non-compliant with T.C.A. §§2-10-105 and 2-10-107 because the campaign improperly reported

expenses its incurred and improperly reported the available balance at the end of several reporting periods.

- If no expenses were incurred by the candidate on the campaign's behalf, then the disbursement of the \$3,183.92 to the candidate would be a violation of T.C.A. § 2-10-114 (b)(1), which prohibits the personal use of campaign funds by the candidate.

RECOMMENDATION TO CANDIDATE

Scott McCormick should amend the campaign financial disclosure reports to accurately disclose campaign contributions. To accurately report campaign contributions, he should:

- Add all campaign contributions received both monetary and in-kind.
- Correct the disclosures to accurately disclose contributor's names.
- Report all campaign contribution made by the candidate for expenses, the candidate paid for on the campaign behalf. The audit recommends such disclosures be reported as

Scott McCormick should amend his campaign financial disclosure report to accurately disclose campaign expenditures. To accurately report campaign expenditures, he should:

- Add expenditures that were not reported.
- Properly report the expense amounts of all expenses incurred.
- Add itemized expenditures which were incorrectly included in un-itemized expenditures and remove the related un-itemized expense.
- Correct the disclosures to accurately disclose vendor's names. Vendors should be reported so that the vendor who actually provided the good or services is reported, not entities or individuals who were reimbursed.
- Properly disclose all reimbursements and disbursement made to the candidate as loan payments for the loan contributions noted above for candidate paid expenses.
- For amounts reimbursed greater than the expenses reported, funds should be either reimbursed to the campaign account and disbursed and reported properly or records provided to show the candidate has disbursed the amount in accordance with campaign finance statutes and the expenses added to the most current campaign finance disclosure.

For future elections, 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. For payroll type transactions, for which an invoice or receipt may not be provided, the Registry audit staff recommends the candidate maintain a record of services performed, date performed, and amount paid and have the records signed by the payee.

The system should also properly document expenses incurred by the candidate. This support should include records to support the contribution made in the form of a disbursement record, such as cancelled checks or credit card statements from the candidate personal accounts. The system should also include retaining the invoice, receipts, travel logs and other supporting expense records to support the services and goods were purchased and how they were campaign related. 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 rules and types of procedures needed to comply with campaign finance laws.

RESOLUTIONS

REGISTRY OF ELECTION FINANCE ACTIONS

The Members of the Registry of Election Finance reviewed the 2018 campaign finance audit of Mr. Scott McCormick during the January 13, 2022 regular monthly meeting. Approval and any subsequent action taken by the Members will be documented in the meetings minutes.