

**TENNESSEE REGISTRY OF ELECTION FINANCE**

**Contribution Audit of  
J. B. Smiley Jr.'s  
2022 Pre-Primary Campaign Finance Disclosure**

**Auditors:**

Jay Moeck, CPA, CFE  
Director of Audit

# STATE OF TENNESSEE



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

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May 12, 2026

Members of the Registry of Election Finance  
WRS Tennessee Tower  
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Registry Members,

The agreed-upon procedures for the un-itemized contribution audit of J.B. Smiley Jr.'s 2022 Pre-Primary Campaign Financial Disclosure Statement for Governor are transmitted herewith. This audit was conducted under the requirements of T.C.A. § 2-10-212.

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

This report is for the information and use of the Members of the Tennessee Registry of Election Finance, as outlined; it is not intended for 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  
Director of Audit

STATE OF TENNESSEE  
REGISTRY OF ELECTION FINANCE

**Audit Highlights**

J.B. Smiley Jr.

2022 Pre-Primary Contribution Audit

**AUDIT OBJECTIVES**

The objectives of the audit were to determine J.B. Smiley Jr.'s ("the Candidate") compliance with certain provisions of campaign finance disclosure laws and regulations, compliance with certain provisions of campaign contribution limit laws and regulations, the accuracy and completeness of the un-itemized contribution disclosures on the 2022 Pre-Primary Campaign Financial Disclosure Statement, and then provide recommendations of appropriate actions to correct any deficiencies.

**FINDING(S)**

- 1. J.B. Smiley Jr. was non-compliant with T.C.A. §§ 2-10-105 and 2-10-107 for reporting activity related to campaign contribution collections through the online service, Shopify. The Candidate failed to fully and accurately report all campaign contributions collected by the service and the campaign expenses incurred by the service. In addition, J.B. Smiley Jr. was non-compliant with T.C.A. §§ 2-10-105(f) and 2-10-212(c) by failing to obtain and maintain sufficient records to support the campaign contributions received and expenses incurred by the campaign by using the online service, Shopify, to generate campaign funds.**
- 2. J.B. Smiley Jr. was non-compliant with T.C.A. §§ 2-10-105(f) and 2-10-212(c) by failing to obtain and maintain any records to support \$1,260 in cash campaign contributions received by the campaign and deposited into the campaign account.**
- 3. J.B. Smiley Jr. was non-compliant with T.C.A. § 2-10-107(a)(2)(A)(i) by failing to itemize at least \$453 in campaign contributions from five contributors who contributed more than \$100 during the 2022 Pre-Primary reporting period.**

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## **INTRODUCTION**

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### **AUDIT AUTHORITY**

*Tennessee Code Annotated* (T.C.A.) §§ 2-10-206 and 2-10-212 authorizes the Registry of Election Finance (Registry) to conduct audits of campaign financial disclosure statements filed with the Registry. This audit was initiated based on T.C.A. § 2-10-212(i), which requires the Registry to audit a candidate's campaign financial disclosure statement if the un-itemized contributions exceed \$5,000 and account for more than 30% of total contributions during a reporting period.

### **AUDIT PURPOSE**

The Registry's contribution audits help and encourage candidates to comply with campaign disclosure laws. The audit process enables the Registry to provide timely and accurate campaign information to government officials and the public. The Registry's audits offer a tool for the Registry to evaluate the effectiveness of the campaign financial disclosure process. Additionally, the audits support the Registry in enforcing campaign finance limit laws and campaign finance disclosure laws. Finally, the audit reports are prepared to assist the candidate and the State of Tennessee with promoting governmental accountability and integrity.

### **AUDIT SCOPE**

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 report periods are from January 16 to June 30 and from July 1 to January 15 each year. During the election year, the disclosures expand to quarterly, pre-primary, and pre-general reports. This audit relates only to disclosure reports that meet the requirements listed in T.C.A. § 2-10-212(i). Therefore, the audit only relates to J.B. Smiley Jr.'s 2022 Pre-Primary disclosure.

## CAMPAIGN OVERVIEW

### CAMPAIGN ORGANIZATION

J.B. Smiley Jr. was a candidate in the August 7, 2022, primary election for Governor. The Candidate filed an Appointment of Political Treasurer Statement with the Registry on August 26, 2021, appointing Julian Bolton, Sr., Esq. as political treasurer.

The Candidate's first financial disclosure for the 2022 campaign was the 2021 Early Year-End Supplemental Disclosure Statement filed on January 31, 2022. The Candidate's latest financial disclosure was the 2025 Mid-Year Supplement filed on July 7, 2025. The 2025 Mid-Year indicated \$3,300.00 cash on hand, \$116,456.05 in outstanding obligations, and no outstanding loans. As the Candidate still has an ending balance and outstanding obligations, the Candidate still has 2022 election campaign reporting requirements for future reporting periods; the next report due is the 2025 Year-End Supplement Disclosure, covering July 2025 to January 15, 2026, and is due on February 2, 2026.

### 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 disclosures: 2021 Early Year-end Supplement, 2022 First Quarter, 2022 Second Quarter, 2022 Pre-Primary, 2022 Third Quarter, and 2022 Fourth Quarter statements. As noted in the audit scope, we only audited un-itemized contributions from disclosures for the 2022 Pre-Primary disclosure. The amounts displayed are for informational purposes only.

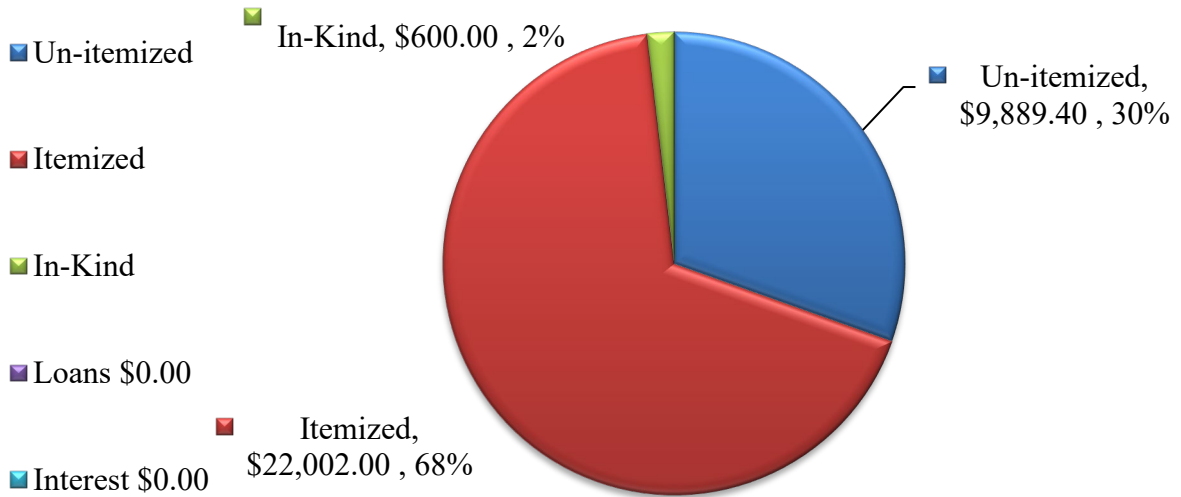
<u>Summary of Financial Activity</u>		
<u>(Un-audited Amounts)</u>		
Cash on hand on July 1, 2021		\$0.00
Receipts		
Un-itemized	\$39,724.07	
Itemized	218,171.50	
Interest	0.00	
Loans received	1,425.00	
Total receipts		<u>\$259,320.57</u>
Disbursements		
Un-itemized	5,535.60	
Itemized	252,511.16	
Loan principal payments	1,200.00	
Total disbursements		<u>\$259,246.76</u>
Cash on hand on January 15, 2023		<u>\$73.81</u>
Loans outstanding on January 15, 2023		\$225.00
Obligations on January 15, 2023		\$117,456.05
Total in-kind contributions received		\$24,664.70

**CHARTS**

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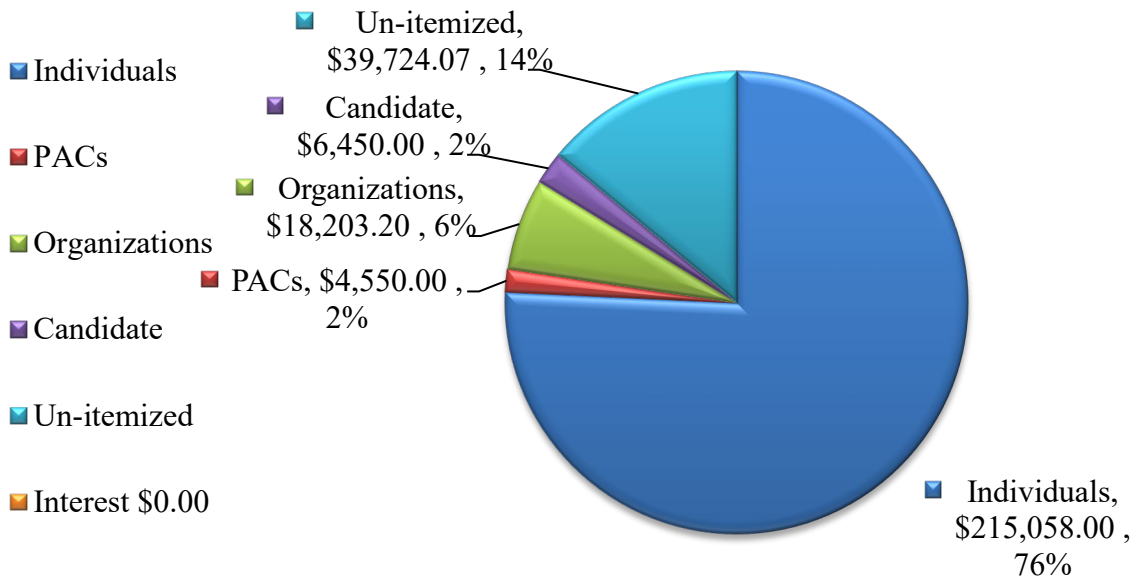
**2022 PRE-PRIMARY CAMPAIGN CONTRIBUTIONS**

The following chart shows the contributions reported by the Candidate in the 2022 Pre-General Disclosure.



**2022 ELECTION CONTRIBUTIONS BY SOURCE**

The following chart shows the contributions reported by the Candidate for the 2022 election campaign through the 2022 Fourth Quarter disclosure statement. Organizations in this chart represent non-profit organizations, non-PAC campaign organizations, or businesses.



## OBJECTIVES, METHODOLOGIES, CONCLUSIONS

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### CONTRIBUTIONS AND RECEIPTS

#### *Audit Objectives:*

The objectives of the audit of un-itemized contributions were to determine whether:

- campaign contributions from individuals and Political Action Committees (PAC) were within 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
- all contributions were sufficiently documented and supported. Including being supported by the campaign bank records when required by statute.

#### *Audit Methodology:*

The Registry obtained J.B. Smiley Jr.'s 2022 Pre-Primary Campaign Financial Disclosure Statement to verify that the reported un-itemized contributions totaled more than \$5,000.00 and 30% of the total contributions reported. We requested that the Candidate provide all supporting documentation for the un-itemized contributions of \$9,889.40 disclosed on the 2022 Pre-Primary Disclosure Statement. The Candidate's original campaign records included bank statements and contribution data from online services (the campaign used two services named "ActBlue" and "Shopify"). The original data submission was incomplete because it did not include the entire bank statement for the audit period, and several subsequent submissions were related to the wrong reporting period. After multiple requests, the campaign was able to provide the full bank statement and full ActBlue data for the period. It should be noted that the auditor had to combine multiple submissions related to ActBlue to get the full data required. The campaign was only able to provide partial data for Shopify, as detailed later in the findings. The following steps were taken regarding the Candidate's campaign disclosures and supporting documentation:

- The campaign records were reviewed to determine if the Candidate's un-itemized contributions received from July 1, 2022, to July 25, 2022, totaled \$9,889.40.

J.B. Smiley Jr. did not provide any records, breaking down the \$9,889.40 in un-itemized contributions either by contributor or deposit. In addition, the Candidate failed to provide a record or statement to support how the campaign derived the \$9,889.40. As a result, the auditor had to review all contribution transactions during the period to determine what was received and what may have been reported and should be reported. As a result of the campaign's failure to maintain records to support the \$9,889.40 disclosed, the auditor had to prepare an audit-prepared listing of un-itemized contributions that appeared to be received. In completing the audit testing

the auditor was ultimately able to determine the most likely source of the \$9,889.40 amount reported as outlined in the audit conclusions and findings.

- The auditor prepared a listing of suspected un-itemized contributions. The listing was prepared from the submitted campaign records, including the campaign bank statements. The listing was reconciled to the campaign accounts to determine if all funds were deposited and adequately supported. Suspected un-itemized contributions were any contributions received during the period that the auditor could not reconcile to the reported itemized contributions as reported by the Candidate on the 2022 Pre-Primary Disclosure.
- The listing of un-itemized contributions prepared by the auditor and the Candidate's reported itemized contributions were reviewed to determine whether campaign contributions from individuals and PACs complied with campaign contribution limits, T.C.A. § 2-10-301, et seq.
- The listing of un-itemized contributions prepared by the auditor and the Candidate's reported itemized contributions were reviewed to determine if all contributions were reported, all receipts received were reported, all contributions were reported in the proper period, and all contributions complied with T.C.A. §§ 2-10-105 and 2-10-107.

***Audit Conclusion:***

J.B. Smiley Jr.'s 2022 Pre-Primary Campaign Financial Disclosure Statement reported \$31,891.40 in contributions, of which \$9,889.40 were reported as un-itemized. Thus, un-itemized contributions reported were greater than \$5,000.00 and 30% of the total contributions reported, and an audit of those contributions is required by Tenn. Code Ann. § 2-10-212(i).

The Candidate's initial and subsequent submissions of campaign records did not specifically identify the contributor and contributions that made up the \$9,889.40 amount the Candidate disclosed as un-itemized contributions. After several attempts to recreate the amount from the records provided in multiple submissions, the auditor was finally able to determine the most likely source of the amount reported. The auditor determined that the \$9,889.40 was as follows.

1. Contributions totaling \$5,443.95 received through the service, ActBlue, received from 7/1/2022 to 7/25/2022 and deposited net of fees between 7/7/2022 and 7/26/2022.
2. Cash in the amount of \$1,260 deposited on 7/21/2022.
3. Shopify net proceeds activity of \$3,185.45 deposited from 7/5/2022 to 7/25/2022.

Although the audit was able to eventually determine where the campaign likely came up with the \$9,889.40 un-itemized contribution amount disclosed, the audit testing and reconciliation showed the amount to be deficient in reporting all contributions received and the related campaign activity surrounding the collections. The campaign non-compliance noted by the audit is as follows.

1. J.B. Smiley Jr. was non-compliant with T.C.A. §§ 2-10-105 and 2-10-107 for reporting activity related to campaign contribution collections through the online service, Shopify. Included in the non-compliance was the Candidate's failure to completely disclose all campaign contributions collected by the service. Also, the records indicate the Candidate likely failed to report all Shopify contributions in proper reporting periods. The Candidate appears to have failed to disclose all the expenses related to "cost of goods sold". The records indicate the Candidate failed to disclose the associated collection "fees" retained from the campaign contributions collected by Shopify. Additionally, the Candidate was non-compliant with T.C.A. §§ 2-10-105(f) and 2-10-212(c) by failing to obtain and maintain sufficient records to support the campaign contributions activity and related expenses for reporting and demonstrating compliance with the campaign finance statutes and campaign limits laws for activity processed through Shopify. The Candidate appears to have selected to use the Shopify service to generate campaign funds for the gubernatorial campaign through sales and donations without determining the records the service could provide to support the activity as required by statute or putting in place an alternative process to collect the data by the campaign. See Finding 1, which details the non-compliance.
2. J.B. Smiley Jr. was non-compliant with T.C.A. §§ 2-10-105(f) and 2-10-212(c) by failing to obtain and maintain any records to support \$1,260 in cash campaign contributions received by the campaign and deposited into the campaign account during the 2022 Pre-Primary reporting period. This was all the cash collected in the reporting period. See Finding 2.
3. J.B. Smiley Jr. was non-compliant with T.C.A. § 2-10-107(a)(2)(A)(i) by failing to itemize at least \$453 in campaign contributions from five contributors who contributed more than \$100 during the 2022 Pre-Primary reporting period. As noted in item 1 above, not all contributions received by the campaign are known for the 2022 Pre-Primary reporting period. Also, the names of all contributors are unknown for all contributions, as noted in items 1 & 2. This is the reason the audit can only indicate "at least" \$453. Additional supporting records could indicate additional amounts that need to be reported. The specific amounts for all contributions are unknown due to the lack of contribution records, as noted in Findings 1 & 2. Whether those records still exist at the service could not be determined. Details of the non-compliance related to itemizing are in Finding 3.
4. In completing the reconciliation, the audit had to evaluate the \$22,002 in candidate reported itemized contributions. During this review, the audit determined that the contribution of \$3,300 reported from Janet Lawson was not received or deposited during the 2022 Pre-Primary reporting period. The testing and inquiries indicate that during prior periods, Janet Lawson's spouse, Phillip, made contributions in excess of the limits by \$3,300. The last contributions that caused the contributor to be over the limits for both the primary and general elections were made during the 2022 Second Quarter. In the same period, the Candidate reported \$3,300 in return of contributions

to Phillip. However, the records and inquiries indicate these funds were not returned but reported as a contribution from Janet. This reallocation of a contribution from one spouse to another by reporting a return and contribution in the following period received was improper. The improper reporting caused Janet Lawson's contribution to be reported late by one period in non-compliance with T.C.A §§ 2-10-105 and 2-10-107. As noted, the purpose of the audit is to evaluate compliance with un-itemized contributions, and this misreporting is related to an itemized disclosure. The non-compliance is being reported as it was noted during the audit testing, but it was not detailed in a Finding as the matter appears to be specific to one transaction and not a systemic issue for the 2022 election campaign.

## **FINDING(S)**

- 1. J.B. Smiley Jr. was non-compliant with T.C.A. §§ 2-10-105 and 2-10-107 for reporting activity related to campaign contribution collections through the online service, Shopify. The Candidate failed to fully and accurately report all campaign contributions collected by the service and the campaign expenses incurred by the service. In addition, J.B. Smiley Jr. was non-compliant with T.C.A. §§ 2-10-105(f) and 2-10-212(c) by failing to obtain and maintain sufficient records to support the campaign contributions received and expenses incurred by the campaign by using the online service, Shopify, to generate campaign funds.**

J.B. Smiley Jr. was non-compliant with T.C.A. §§ 2-10-105 and 2-10-107 regarding reporting of campaign contribution collections through the online service Shopify. The non-compliance included the Candidate's apparent failure to fully disclose all campaign contributions collected by the service. The records also indicate that the campaign likely failed to report all Shopify contributions in the proper reporting periods. The campaign also appears to have failed to disclose all expenses related to "cost of goods sold." The Candidate also failed to report the "fees" retained from campaign contributions collected by Shopify. Additionally, the Candidate was non-compliant with T.C.A. §§ 2-10-105(f) and 2-10-212(c) by failing to obtain and maintain sufficient records to support campaign contribution activity and related expense activity. The records are inadequate to support the completeness of all reporting and to demonstrate compliance with the campaign finance statutes and campaign limits laws for activity processed through Shopify.

The Candidate's campaign elected to collect campaign contributions through Shopify for the 2022 gubernatorial campaign. Shopify states in its online presence that its purpose is as follows.

"Shopify is an all-in-one e-commerce platform used by businesses of all sizes to build and run online stores, sell products across multiple channels (online, social media, in-person), manage inventory, process payments, and handle marketing, all without needing complex coding. It provides customizable themes, a vast app store for added features, and integrated tools for shipping and analytics, simplifying the process of starting and scaling an online business."

As noted above, Shopify was not set up to collect campaign contributions and provide relevant documents to support such activity. Shopify is mainly used for the sales of goods,

but can be set up in a way to collect donations or pay for services. It appears that the campaign used Shopify to sell campaign products at a premium to generate campaign revenue above “cost of goods sold” and “fees”. The campaign also sold donations as a service to generate revenue after Shopify’s fee. The campaign records for the period of audit do not detail which manner was used (or if both were used). The improper records originally submitted related to activity in 2021 show that the campaign did both. This was determined in the line-item entries that showed donations and sales of yard signs, mugs, and clothing.

Tennessee’s campaign finance statutes do not specify or restrict the manner in which candidates may collect campaign contributions, but they do place requirements on reporting and limits on the sources of contributions (TN Campaign limits laws). The same Tennessee Limits Laws place restrictions on cash contributions, which could occur for in-person sales. A candidate must, by statute, obtain and maintain records that are sufficient to support the disclosures made and the candidate's compliance with campaign finance and limit laws. The use of a service like Shopify is not restricted; however, a candidate is required to ensure that all relevant data is collected and reported in association with that activity for contributions and expenses when using such a service. Those records must include support for how the campaign maintains compliance with the limit laws.

The important data that must be obtained and retained is summarized as follows, with the following clarification. Like the above, the statute does not detail the exact record that must be maintained or list the data in such a specific format as noted below, the list that follows is summarized based on those statutes, and specific items listed are examples of the most commonly used; the list and examples may not reflect all possible combinations that could be used to maintain compliance. Candidates are required to report all activities of the campaign surrounding campaign contribution collections and their compliance with the campaign limit laws. The records, at a minimum, have to support those activities that occur, and the following are based on that premise.

#### Contribution reporting

- The contributor’s name. This must be a specifically identifiable contributor based on all the data provided to support the contribution.
- The amount of contribution. Included in the amount is the requirement that the candidate must support the funds are those of the contributor being reported. This means the form of payment is that persons or entities reported. This verification is usually done by checking account holder data in the check’s header, credit card holder data, or other banking account holder data for e-transfers or other direct bank payments. For cash, this is based on personal statements or notations by those who received the cash funds by listing them in the campaign records. As such, cash records are non-supportable by other banking records; this appears to be one reason why cash is extremely limited by the statute to \$50 per election.
- The date the contributions were received. Contribution must be reported based on the date they were received by the candidate or their agent. This usually means in hand, postmarked (when the envelope is maintained in the campaign records), or presented for transaction (credit card payment, e-transfers). The statute specifies that the

contribution received must be reported in the period listed in the statute, and additionally, if they met the definition of a reportable contribution during any interim reporting period.

- Contact data of some type. (phone, email, address). This last is how a specific contributor is usually identified as a common name, and the amount could be several individuals, but less likely to be connected to the same contact data. This is also a way to help the candidate complete itemized disclosures when needed.

Due to the above \$100 itemized reporting requirements for contributions and the un-itemized cap installed after this audit period, noted at the end of the report, the candidate may also have to obtain and maintain the contributor's address, occupation, and employer or supporting records to show the attempt to collect that data was made for compliance with the "Best Effort" provisions.

#### Expense reporting for contribution collection related activities

Along with other expenses, candidates are required to report all expenses related to the collection of campaign contributions, even when those expenses are not directly disbursed by the campaign. Thus, in the case of sales of products, that is the "cost of goods sold" must be reported as a campaign expense. Whether these goods are directly purchased by the campaign and then sold or if they are sold on a "as you have sales by an entity" basis, the full cost must be supported and reported. Reduction (discounts) on the full cost amounts would represent campaign contributions, unless such reductions were in the normal course of business and available to all. Relatedly, "fees" charged by online services, to perform sales or other collection services, are also reportable, again whether paid directly or deducted prior to deposit of net proceeds. Such "fees" can be charged on a one-time, periodic, or transactional basis. How they are charged or contracted would determine when the fee is reportable. Expenses are reported when incurred, meaning a one-time payment, periodic [based on agreement or contract], paid, or invoiced, depending on which came first. Transactional would be when each transaction occurs.

#### Shopify's records provided by the campaign are inadequate.

The Candidate's Shopify records do not include all the relevant data to determine all the items needed for both contribution and expense activities. These records should show the total amount of funds the contributor gave to the service or the campaign for in-person activity. This amount is the full contribution amount that is reportable by the campaign as a contribution from the identified contributor (Identified contributor data must be maintained and should be from payment data and provided to the campaign to support that the source of the funds is those of the contributor). Full contribution is reportable when payment is received by the service or campaign for in-person sales; that date should be in the records. The records then should show the reduction from that full contribution amount for "cost of goods sold". It should also show the amount of any "Shopify services fee" charged if transaction based. Then the records should show the net amount to be provided to the campaign's bank account and when the transfer occurred for that transaction (again ideally by check number or e-transfer date and reference). If in-person activity occurred, this should

include the amount that the campaign should be submitted or was retained from any deposit funds or reduced for in-person transactions by Shopify. Effectively, the records should show the full amount received (The contribution amounts) and all deductions (the expenses for “cost of goods sold” and “fees” such that the amount received can be reconciled to each contributor and then the amount deposited into the campaign account by Shopify.

The original records provided did have some details, but as noted, they were related to activity in 2021. The audit period was all in July of 2022. This original data shows the following categories; Email address, Paid date, fulfilled date, Subtotal, shipping cost, taxes (though it appear none was collected), discount code & amounts, line item names (the name of the item sold or donation), line item price, billing data, shipping data and several other internal tracking markers and data (73 columns of data was included although several columns contain all blank entries). The data in the columns is very detailed. For example, date fields usually include full dates and times, billing and shipping data, including full names and addresses. However, the spreadsheet provided for the audit period was very limited. The data for the period was a total of nine columns as follows; Order ID, Customer name, Billing ID, shipping ID (ID were just numbers) Day (no time), net sales, customer (all had “1” assumable meaning one person), return fees (all had “0”), additional fees (all had “0”).

The problem with the records is that they are incomplete to determine the actual activity. Starting with the amounts, none of the records can be confirmed showing the full payment amount received by Shopify or the campaign, which is the reportable contribution amount. The records for the period specifically identify them as net. Additionally, they show no records of the expenses related to those purchases. Even the original submission for the wrong period, which has a lot more details, is insufficient to confirm full payment and related expenses for those contributions. Additionally, the Shopify electronic deposits into the campaign account are not reconciled to the Shopify records, showing the net amounts for the period. The auditor is aware that the amounts likely do not reconcile for two reasons: one is that the net amount on the Excel spreadsheet is not the amount Shopify transferred to the campaign, and is not the campaign's net proceeds, which seems extremely likely. It is also because the records are insufficient to show when each transaction was transferred to the campaign. The auditor could only best guess and could not reconcile based on those guesses in any combination, even accounting for transactions in the reporting period, based slightly prior to and slightly after occurring. The auditor is aware of these factors, the day provided may not be the actual paid data but one of the other dates, as noted, a full report would have had date and time and various points at least per the original submission, where day came from in that data. Additionally there is almost always a few day delay in such activity by an online service and the campaign deposit (Can be more than a few days based on the service and contract agreement or when transfers will occur), without the full records and records to reconcile to the deposit, the audit cannot confirm what was received in the period and when (or if) those funds were received from Shopify by the campaign into the campaign account.

As for expenses although they are not directly part of the audit because the full amount of the contribution is affected by the “cost of goods sold” and “fees” they had to be evaluated as to if they were disclosed, and properly. As noted, there are no records for the audit period to

identify any of the related expenses for “cost of goods sold” or transaction fees for these sales. The campaign was unable to provide sufficient records to determine what those are or could be and thus noted the full contribution amount and the full expense amounts. However, the auditor is aware that the campaign disclosures show some purchases for webstore merchandise, t-shirt and yard sign purchases, in itemized expenses, yet information on how or if these expenses related to Shopify was not provided. If those purchases include all the items the campaign sold through Shopify (not one of the merchandises was report in 10/18/2021 was to Shopify but that is before the audit period and too small for all activity), then the cost of goods sold was reported, if not there is additional “cost of goods” to report.

There were no fees reported for Shopify during the audit period either as a contract or period expense nor transaction expenses. Based on the audit testing and research performed Shopify makes money through recurring subscription fees for its subscribers (those that use the services for sales and those that make purchases), transaction fees, app marketplace commissions, advertising, and other services charges. This research indicates Shopify did have fees (and possible other charges related to their sales activity) that were reportable and would be reductions from the amount received and thus reportable, but the records are insufficient to determine those amounts,

(NOTE: This was not an audit of expenses, and the audit was able to reconcile the reported ActBlue contributions to the amount ActBlue received and the amount they retained and deposited. What the auditor did not do is reconcile those ActBlue fees to the amount reported by the Candidate, but in completing the test work related to Shopify the auditor noted that in 2021 ActBlue fees were reported monthly up to January 15, 2022 (the end of the 2021 Year-End Report). Then in 2022 only one fee expense was reported on 8/3/2022 for \$650.57. Whether that amount includes all the fees for the year was not determined, the auditor is aware, however, based on the audit the fees for ActBlue in 2022 should have been reported in each period contributions were incurred based on the contributions reported and that there were contributions in reporting periods prior to 8/3/2022. Thus, the campaign was non-compliant with the statute to report expenses when incurred for ActBlue fees, also).

Finally, the records are insufficient to support the contributor and that the contributor is the source of the funds during the audit period. Unlike the original Shopify records for the wrong period submitted for the audit, which detail various information related to contributor, sales, and forms of payment data, the records provided for the audit period when notified of the improper records were much less detailed to confirm that a specified person contributed using their funds (credit card/bank accounts). As noted, candidates must know these are the funds of the person listed, to confirm that payment data is usually required, in the case of Shopify that it would be payment data or at minimum the billing data showing the person’s name and address. This same data allows the candidate to support this as a specific person. To help explain the issue the following example is provided, (the audit is using a substitute generic name for an actual contributor, the actual name was not used in case the contributor would not have to be reported). The auditor identified a common name in the contribution list provided, for example John Williams, as noted the records have no other provided identifier, just numbered codes, a date, and net sales. Shopify is an online service that sells globally so John Williams could not be identified to a specific, John Williams. To show the size of the issue on the actual name used in a search the auditor found between 72 to 506 of that name associated to just Tennessee but as noted this is a global seller. The Candidate records are insufficient to identify which one it is, also without the payment data the Candidate cannot

confirm that John Williams used funds that were the contributors to give (the credit card or other source was John Williams also).

The result is the Candidate provided Shopify records are incomplete, insufficient, and thus incapable of supporting the total contributions received through that service and the related expenses incurred by the campaign. Those expenses being “cost of goods sold” and “fees”. As such the audit can only determine that \$3,185.45 in Shopify net proceeds were deposited from 7/5/2022 to 7/25/2022 and that was the amount appears to have been included in the un-itemized contributions reported. The auditor states it is more probable than not that the 77 people on the Excel spreadsheet related to Shopify for 7/1/2022 to 7/23/2022 could be those who gave during the period but could overstate or understate those who actually gave during the period. In either case, it appears that total contribution from each may not have been reported, fees deducted were not reported, and the cost of goods sold may or may not have been reported. As such, the actual contribution amount of each person cannot be determined, and thus their proper reporting or limits compliance cannot be determined. As it was determined likely that the 77 people gave and gave at least the amount provided, those contributions were used to determine improper itemized reporting for Finding 3 non-compliance.

**2. J.B. Smiley Jr. was non-compliant with T.C.A. §§ 2-10-105(f) and 2-10-212(c) by failing to obtain and maintain any records to support \$1,260 in cash campaign contributions received by the campaign and deposited into the campaign account.**

J.B. Smiley Jr.’s campaign records indicated that the campaign received and deposited \$1,260 in cash on July 21, 2022. Based on the audit test work, \$1,260 was all cash received during the audit period, and the amount was included in the un-itemized contribution amount. However, the campaign was unable to provide any records to show the source of the cash contributions. As such, the audit cannot make any determination as to proper reporting or if the source of the contributions was one or multiple sources and made in compliance with any statute. The failure to maintain or obtain sufficient campaign records to verify compliance with all campaign finance statutes for cash contributions is non-compliant with T.C.A. §§ 2-10-105(f) and 2-10-212(c), which make the responsibility to maintain such records with the candidate. As the contribution is cash that cannot be associated with a specific contributor or contributors, it is considered anonymous money. Without the specific contributor names and amounts contributed, we could not determine J.B. Smiley Jr. compliance with the following campaign finance statutes for the cash contributions:

- T.C.A. § 2-10-107(a)(2)(A)(i) requires contributions of more than \$100 from one source received during a reporting period to be itemized. The itemized information for each contributor must include name, address, occupation, employer, date of receipt, and the amount of contribution.
- T.C.A. § 2-10-311(a) limits cash contributions to \$50 per election for each contributor.

**3. J.B. Smiley Jr. was non-compliant with T.C.A. § 2-10-107(a)(2)(A)(i) by failing to itemize at least \$453 in campaign contributions from five contributors who contributed more than \$100 during the 2022 Pre-Primary reporting period.**

The audit testing indicates J.B. Smiley Jr. included \$453 in the \$9,889.40 un-itemized contributions that should have been itemized in non-compliance with T.C.A. § 2-10-107(a)(2)(A)(i). The statute requires contributions of more than \$100 from one source received during a reporting period to be itemized. The audit testing showed that each of the contributions listed below were made by a source who gave more than \$100 during the 2020 Pre-Primary. Although, the \$453 of improperly reported contributions represents only approximately 4.5% of the un-itemized contributions reported, the audit testing indicates it is likely additional contributions would be required to be itemized if the full contribution amounts for each contributor who made contribution through Shopify were provided (See Finding 1). There is also additional possible contribution that needs to be itemized based on the source of the cash noted in Finding 2. The lack of records in both those findings show the campaign records were insufficient to determine accuracy of itemized and un-itemized reporting. The following are the non-compliance related to the \$453 in contributions.

- The Candidate's ActBlue records indicate an individual gave a \$250 on 7/6/2022. The Candidate properly itemized that contribution. However, the Candidate's Shopify records indicate the same individual gave contributions through Shopify on or about the same day. The full contribution amount is unknown; however, the net proceeds were \$29 per the Shopify campaign records. The audit testing indicates that the \$29 in net proceeds were improperly disclosed in the un-itemized amounts in the 2022 Pre-primary. The additional \$29 in contributions needed to be itemized as they were received in the same reporting period and from the same source. In addition, the unknown amount that was unreported and improperly supported, detailed in Finding 1 should have been itemized from this contributor. (\$29)
- The Candidate's ActBlue records indicate an individual gave a \$100 contribution processed on 7/18/2022. The Candidate properly disclosed the contribution on 7/16/2022 as an itemized contribution. However, the Candidate's ActBlue records indicate the same individual gave additional \$25 contribution on 7/11/2022. The audit testing indicates that \$25 was improperly disclosed in the un-itemized amounts in the 2022 Pre-primary. The additional \$25 in contributions needed to be itemized as they were received in the same reporting period from the same source. In addition, the unknown amount that was unreported and improperly supported, detailed in Finding 1 should have been itemized from this contributor. (\$25)
- The Candidate's ActBlue records indicate another individual gave a \$100 contribution processed on 7/18/2022. The candidate properly disclosed the contribution as an itemized contribution. However, the Candidate's ActBlue records indicate the same individual gave two additional contributions on the same day of \$25 each. The audit testing indicates that an additional \$50 was improperly disclosed in the un-itemized amounts in the 2022 Pre-primary. The additional \$50 in contributions needed to be itemized as they were received in the same reporting period from the same source. In addition, the unknown amount that was unreported and improperly supported, detailed in Finding 1, should have been itemized from this contributor. (\$50)
- The Candidate's Shopify records indicate an individual whose net proceeds were \$249 related to activity on or about 7/20/2022. The full contribution amount is unknown; however, the net proceeds of \$249, based on audit testing, would require at least that amount to be itemized. The \$249 was improperly disclosed in the un-itemized amounts in the 2022 Pre-primary. In addition, the unknown amount that was unreported and improperly supported, detailed in Finding 1, should have been itemized from this contributor. (\$249)

- The Candidate’s Shopify records indicate individual net proceeds were \$100 related to activity on or about 7/21/2022. This was the only net proceeds of exactly \$100. The full contribution amount is unknown; however, the net proceeds of exactly \$100 indicate that the actual contribution amount must be over \$100. Thus, the audit determination is based on the fact that any contribution over \$100 must be itemized. In this case no matter how much the fee or cost of goods sold is it would have to be above a penny and is likely much more. The auditor is aware of several supported net proceeds between \$90 and \$99, which also likely need to be itemized but as the exact “fee” or “cost of goods sold” cannot be determined these were not included. The \$100 net proceeds, however, show the exact issue of failing to itemize such contribution when such activity exists and without debating the amount of a specific amount related to a fee or cost of good sold. This “\$100 net proceed” contribution also show the need for detailed records as noted in Finding 1 for services that are going to collect on the campaign behalf. In addition to the \$100, the unknown amount that was unreported and improperly supported detailed in Finding 1 should have been itemized for this contributor. (\$100)

## **RECOMMENDATION TO CANDIDATE**

J.B. Smiley Jr. should amend the 2022 Pre-Primary Campaign Financial Disclosure Statement to ensure that all contributions received are correctly reported and report all expenses incurred during the period in which they were incurred. However, the auditor recognizes this is unlikely for the Candidate to be able to perform based on the records provided for the audit. As such, the recommendation is that the Candidate correct the already known deficiencies in the audit conclusion and audit Findings 2 & 3 (these items that follow were provided to the Candidate in the audit correction letter).

- The Candidate should remove the \$3,300 contribution from Janet Lawson on the 2022 Pre-Primary and then add it to the 2022 Second Quarter. This places the contribution in the proper period. At the same time the Candidate should reduce both Phillip Lawson contribution by the amount of the adjustments and then remove the adjustment to the Phillip Lawson contribution. This will properly report the reallocation of a joint account contribution to the other account holder (spouse).
- The Candidate should itemize the contribution noted in Finding 3 for the individuals noted. The detail for each new entry is in the audit correction letter. Then the Candidate should reduce the un-itemized contribution amount by \$453
- The Director of Audit also recommends that \$1,260 in cash contributions not associated with any specific contributor be removed from un-itemized contributions. The \$1,260 contributions should be listed as an itemized contribution using the organization name “Anonymous Contributions” and the address of the campaign. This appears consistent with Tennessee’s Attorney General’s opinion that all contributions received must be reported, whether determined allowable or unallowable. The recommended disclosure will also assist in the other recommendations that follow or any actions that the Members of the Registry may take.

### Unallowable campaign contributions – Anonymous Contributions

The audit has identified unallowable cash campaign contributions (the anonymous cash contributions of \$1,260), which should not have been used (or should not be used) in the campaign and, when possible, should be returned to the contributor. There is also a statutory allowance for the return of improper contributions within 60 days. The Members and Registry Staff typically allow 60 days from the date the candidate is made aware of the unallowable contributions (which may occur upon receipt of the funds or receipt of a non-compliant notice, such as an audit correction notice letter or audit report). The Director of Audit recommends the following items.

Anonymous cash contributions cannot be returned to the contributor, as they cannot be identified to facilitate the return. The Director of Audit recommends that the Candidate follow the guidance provided to other candidates, based on recommendations and the Registry Board's prior actions. The guidance is that since such contributions cannot be used by the campaign and cannot be returned, such funds should be donated to charity. In this instance, the Candidate could either contribute to charity amounts equal to the anonymous contributions identified in the audit or identify any charitable activities already reported to charitable organizations during the campaign (if any) and make any additional charitable contributions as needed.

The Director of Audit is aware that the campaign account has another matter before the Members of the Registry in regard to the outstanding obligations (the obligation amount can be seen in the campaign overview), and that the Candidate has been attempting to collect or make additional payments on those as of 1/7/2025 and includes the current \$3,300 balance. It is likely a refund of cash contribution would have to be made from the Candidate's personal funds (and confirmed to the Director of Audit before corrective action is taken) instead of reducing the balance to being used to pay the obligations. Therefore, the Candidate may prefer to wait for the Members' actions and recommendations based on the release of the audit report before making the actual returns. If the Candidate uses personal funds for the recommendation, the identical amounts must also be reported as candidate contributions, and the related returns and donations must be appropriately reported.

### Future Elections (if applicable)

The Candidate should review Tennessee laws relating to campaign finance reporting and contribution limits and ensure that all necessary information is provided to all those who collect on the campaign's behalf. Additionally, the Candidate and those involved in reporting need to understand the differences in supporting contributions received, reporting requirements, and campaign limits. Those differences are as follows:

- All contributions, regardless of amount, have to be supported by records to show who made the contribution and that the funds provided by the contributor were theirs to give. In short, the candidate's campaign records are required by statute to support all contributions by contributors and sources down to the penny (generally, this will be by transaction). This includes records to support the proper reporting of various business classes and PACs.

- Campaign reporting is in two segments. The first reporting requirement is by disclosure statement periods. Then, based on the contribution amounts, contributors who give more than \$100 in aggregate during a period are detailed disclosed (itemized), and those who give \$100 or less in aggregate during the period can be (un-itemized) up to the cap.

**Statutory Change:** Members and candidates should be aware that, as of 2023, un-itemized contribution reporting has been capped. In all reporting periods starting with the 2023 Mid-Year, the maximum amount a candidate can report in the un-itemized contribution is \$2,000. When a candidate has more than that amount in contributions from those who give \$100 or less in aggregate during the period. A selection by the campaign must be made of which contributions will be reported as un-itemized, and which will be reported as itemized. Due to this change and changes in the contribution audits, the Director of Audit is recommending that most candidates itemize all contributions and reserve the un-itemized contribution reporting to individuals who give less than \$100 during the period and prefer not to have their information disclosed on public disclosure.

A candidate should maintain contributor data for all campaign contributions received and reconcile the campaign bank and other campaign records to the campaign disclosures to ensure all disclosures are complete, accurate, and adequately supported by the campaign records. Being especially mindful of recording cash contribution data, regardless of the amount contributed. When receiving online contributions, the candidate and those assisting with campaign disclosure must be aware of the required reporting. Those requirements include that the contribution reporting amount is equal to the amount provided to the online service; any reduction from that amount before deposit or transfer is reported as campaign expenses. This reduction can be fees for online services (this is regardless of whether the online service considers such fee reductions as paid by a contributor or the campaign). When such services also include reductions for sales or related to sales of campaign products, records for the “cost of goods sold” must be maintained. The contribution and related fees are reportable on the day the online service receives the funds in most cases as most are transactional based (not when the net proceeds are provided for the campaign).

## **RECOMMENDATION TO REGISTRY**

The Director of Audit recommends the Members of the Registry consider the findings for possible further action. The Director of Audit recommends the Registry approve the audit performed as being sufficient and complete. Finally, the Director of Audit recommends the Registry post the audit report to the Registry’s website 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**

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### **CANDIDATE'S CORRECTIVE ACTIONS**

After discussing the above findings with J.B. Smiley Jr., the Candidate chose to wait for the Members of the Registry's directions after review and approval before taking corrective actions.

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

The Registry of Election Finance Members will review J.B. Smiley Jr.'s 2022 Pre-Primary Contribution Audit during its meeting in March 2026. The meeting minutes will document the members' approval, any additional items reviewed, and any subsequent actions taken.