



## TENNESSEE REGISTRY OF ELECTION FINANCE

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### Contribution Audit of Dennis Kiser's 2012 Pre-Primary Campaign Finance Disclosure



#### **Audit Team:**

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# STATE OF TENNESSEE



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March 13, 2013

Members of the Registry of Election Finance  
404 James Robertson Parkway, Suite 1614  
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Ladies and Gentlemen,

Transmitted herewith is the agreed upon procedures for the un-itemized contribution audit of Mr. Dennis Kiser's 2012 Pre-Primary Campaign Financial Disclosure Statement for his 2012 election campaign for the House of Representatives. This audit was conducted pursuant to 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 Law and Campaign Contribution Limit Laws. 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 internal 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 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  
Audit Director

STATE OF TENNESSEE  
REGISTRY OF ELECTION FINANCE

**Audit Highlights**

Dennis Kiser

2012 Pre-Primary Contribution Audit

**AUDIT OBJECTIVES**

The objectives of the audit were to determine Dennis Kiser'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 un-itemized contribution disclosures on his 2012 Pre-Primary Campaign Financial Disclosure Statement; and to recommend appropriate actions to correct any deficiencies.

**FINDING**

- 1. Mr. Kiser violated T.C.A. § 2-10-105(a) by failing to report \$159.39 in monetary contributions and \$1,216.50 in in-kind contributions.**
- 2. Mr. Kiser violated T.C.A. §2-10-107(a)(2)(A)(i) by failing to itemize \$4,930.50 in monetary campaign contributions.**
- 3. Mr. Kiser failed to properly maintain his campaign records for \$3,150 in campaign contributions.**

## **TABLE OF CONTENTS**

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	<b><u>PAGE</u></b>
<b>INTRODUCTION</b>	
Audit Authority	1
Audit Purpose	1
Audit Scope	1
<b>CAMPAIGN OVERVIEW</b>	
Campaign Organization	2
Overview of Financial Activities	2
<b>CHARTS</b>	
2012 Pre-Primary Campaign Contributions	3
2012 Election Campaign Contributions though Third Quarter report	3
<b>OBJECTIVES, METHODOLOGIES, CONCLUSIONS</b>	
Contributions and Receipts	4
Findings	5
Recommendation to Candidate	7
Recommendation to Registry	7
<b>RESOLUTIONS</b>	
Candidate's Corrective Action	8
Registry of Election Finance Actions	8

## **INTRODUCTION**

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### **AUDIT AUTHORITY**

*Tennessee Code Annotated* (T.C.A.) §§2-10-206 and 2-10-212 authorize the Registry of Election Finance (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(i), which requires the Registry to audit any candidate that files a disclosure statement with more than 30% of the candidate's contributions reported as un-itemized contributions and the aggregate un-itemized contributions reported are greater than \$5,000.

### **AUDIT PURPOSE**

The Registry's contribution audits are 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 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 July 1 to January 15 of each year. During an election year, the disclosures expand to quarterly reports, pre-primary reports, and pre-general reports. This audit relates to only disclosure reports that meet the requirements listed in T.C.A. §2-10-212(i). Therefore, the audit reviewed only Mr. Kiser's disclosures on his 2012 Pre-Primary report.

## CAMPAIGN OVERVIEW

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### CAMPAIGN ORGANIZATION

Mr. Dennis Kiser was a candidate in the August 12, 2012 primary election for the House of Representatives for District 65. Mr. Kiser filed an Appointment of Political Treasurer Statement with the Registry on March 1, 2012 appointing Kevin Moeller as political treasurer.

The candidate's first financial disclosure for the 2012 campaign was the 2012 First Quarter report filed on April 2, 2012. The candidate's latest financial disclosure report for the 2012 election was the 2012 Third Quarter report filed on October 3, 2012. The 2012 Third Quarter report indicated there was no cash on hand, no outstanding obligations and no outstanding loans. The candidate has completed his 2012 election campaign reporting requirements.

### OVERVIEW OF FINANCIAL ACTIVITIES

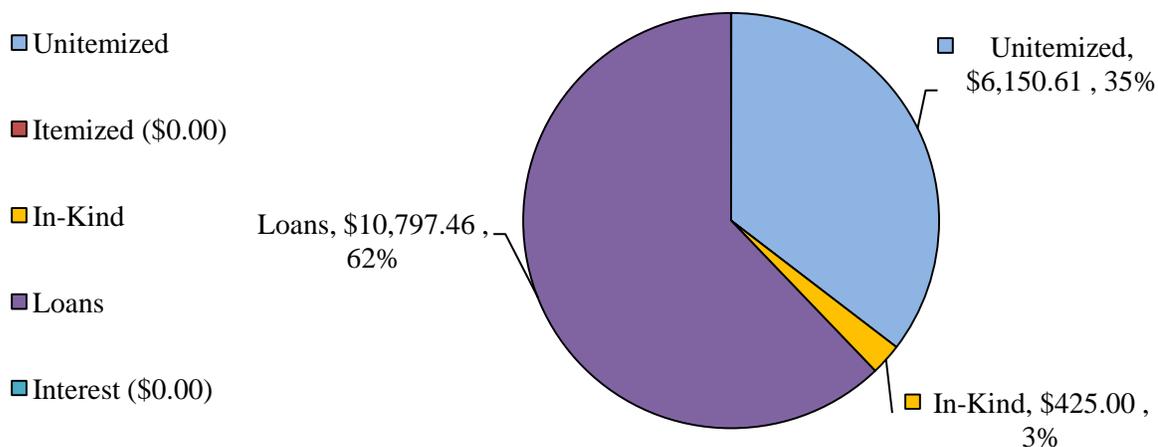
The following financial amounts are a summary of the financial disclosures made by the candidate. The summarized amounts are from the following disclosure reports: 2012 First Quarter, 2012 Second Quarter, 2012 Pre-Primary and 2012 Third Quarter reports. As noted in the audit scope, we only audited un-itemized contributions from disclosures for the 2012 Pre-Primary report. The amounts displayed are for informational purposes only.

<u>Summary of Financial Activity</u>		
<u>(Un-audited Amounts)</u>		
Cash on hand at January 16, 2011		\$0.00
Receipts		
Un-itemized	\$9,031.21	
Itemized	10,308.50	
Interest	0.00	
Loans received	40,797.46	
Total receipts		<u>\$60,137.17</u>
Disbursements		
Un-itemized	5,273.72	
Itemized	54,863.45	
Loans principal payments	0.00	
Total disbursements		<u>\$60,137.17</u>
Cash on hand at September 30, 2012		<u>\$0.00</u>
Loans outstanding at September 30, 2012		\$0.00
Obligations September 30, 2012		\$0.00
Total in-kind contributions received		\$425.00

## CHARTS

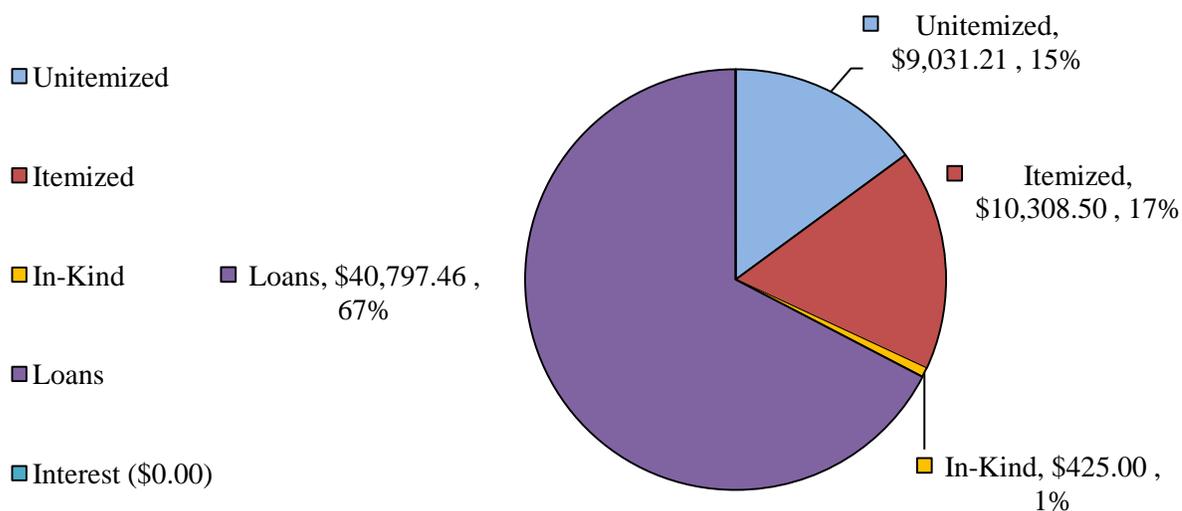
### 2012 PRE-PRIMARY CAMPAIGN CONTRIBUTIONS

The following chart shows the contributions reported by the candidate in the 2012 Pre-Primary report.



### 2012 ELECTION CAMPAIGN CONTRIBUTIONS

The following chart shows the contributions reported by the candidate for the 2012 election campaign.



## **OBJECTIVES, METHODOLOGIES, CONCLUSIONS**

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### **UN-ITEMIZED CONTRIBUTIONS AND RECEIPTS**

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

The objectives of our 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 reported in compliance with the Registry's rules; and
- all contributions were supported by bank statements and deposit slips.

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

The Registry obtained Mr. Kiser's 2012 Pre-Primary Campaign Financial Disclosure Statement to verify that the un-itemized contributions were greater than \$5,000.00 and 30% of the total contributions reported. We requested Mr. Kiser provide supporting documentation for the un-itemized contributions of \$6,150.61 that he reported on his 2012 Pre-Primary report. Mr. Kiser's campaign records included his bank statements, deposit receipts, summary of fundraising activity letter, and contribution check copies. The following steps were performed on Mr. Kiser's campaign documentation:

- The campaign records were reviewed to determine if the candidate's un-itemized monetary contributions received from July 1, 2012 thru July 23, 2012 totaled \$6,150.61.
- A list of un-itemized contributions was prepared and compared to the candidate's bank statements to determine if the candidate deposited all funds into a campaign bank account and properly recorded the funds.
- A list of un-itemized contributions by contributor was prepared and 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.
- An un-itemized contributions list was reviewed to determine if all contributions were reported, all receipts received were reported, all contributions were reported in the proper period, all contributions were in compliance with T.C.A. §§2-10-105 and 2-10-107, and all contributions were in compliance with the Registry's rules.

***Audit Conclusion:***

Mr. Kiser's 2012 Pre-Primary Campaign Financial Disclosure Statement reported un-itemized contributions were greater than \$5,000.00 and 30% of the total contributions. Based on the campaign records Mr. Kiser failed to report \$159.39 in monetary contributions and \$1,297.50 in in-kind contributions (Finding 1). Also, Mr. Kiser failed to itemize \$4,930.50 in campaign contributions (Finding 2). Mr. Kiser failed to properly maintain his campaign records and campaign accounts for \$3,150 in contributions (Finding 3).

**FINDINGS**

**1. Mr. Kiser violated T.C.A. § 2-10-105(a) by failing to report \$159.39 in monetary contributions and \$1,297.50 in in-kind contributions.**

Mr. Kiser reported \$6,150.61 in un-itemized contributions, a loan of \$10,797.46 and \$425 in in-kind contributions on his 2012 Pre-Primary report; however, the audit and campaign records indicate the candidate received monetary contributions of \$6,310, \$10,797.46 in loans and \$1,722.50 in in-kind contributions. The difference indicates a failure to report \$159.39 of monetary contributions and \$1,297.50 of in-kind contributions.

The \$159.39 of unreported contributions has two components, \$156 from auction sales and \$3.39 being improperly reported online contributions. The candidate had individuals and businesses donate items to his campaign, which he sold as part of a silent auction during a fundraising event. The bid sheets for the auction indicate a winning bid total of \$996; however, based on candidate's statements the total was \$840 in auction proceeds. The difference between the winning bid amounts and the amount reported is \$156. The candidate also improperly reported contributions made through online collection services by reporting the contribution net of the service fees charged by the vendor. Candidates using online service vendors to collect contributions are required to report contributions received at the amount donated. A service fee charge that is usually deducted prior to deposit in the campaign account, must be reported as an expense. The \$3.39 was the difference between the donated amounts and the amount deposited for two contributions.

The unreported \$1,297.50 is also related to the auction. The candidate failed to report any of the items donated as in-kind contributions to the campaign for the silent auction event. The \$1,297.50 is the total market value of these donated items per the candidate's records. The audit determined \$617.50 of the in-kind contributions is un-itemized and \$680 is required to be itemized. The failure to report contributions both monetary and in-kind is a violation of T.C.A. §2-10-105(a).

**2. Mr. Kiser violated T.C.A. §2-10-107(a)(2)(A)(i) by failing to itemize \$4,930.50 in campaign contributions.**

Mr. Kiser's campaign records and statement of contributors indicate he included in un-itemized contributions \$4,930.50 from contributors that were required to be itemized during the 2012 Pre-Primary reporting period. 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 includes name, address, date of receipt and amount of the contribution, as well as, occupation and employer. The \$4,930.50 in contributions represents approximately 80% of the

un-itemized contributions reported on Mr. Kiser's 2012 Pre-Primary Campaign Financial Disclosure Statement.

**3. Mr. Kiser failed to properly maintain his campaign records for \$3,150 in campaign contributions.**

Mr. Kiser did not maintain or obtain sufficient campaign records to verify compliance with all campaign finance statutes for \$3,150 of his contributions. Mr. Kiser's statements and records indicate he held a golf tournament and auction fundraising event. The candidate provided a summary sheet showing the various monetary contributions received as part of the event:

1. Tournament sponsorships at \$1,000; there was one sponsor.
2. Hole sponsorships at \$400; there were two sponsors.
3. Entry fee for players of a golf tournament (\$75 or \$50 per player); there were 29 entries at \$75 and 4 entries at \$50.
4. Sales of an item called a "super ticket" at \$40 each; there were 24 super tickets.
5. Sales of silent auction items.

Mr. Kiser provided a summary list of contributors who paid the golf entry fee and all but one of the super ticket purchases. He also provided bid sheets for the silent auction which showed the winning bid for each item. The audit then attempted to reconcile each of the contributions to campaign accounts. The audit was unable to trace all the contributions to the candidate's campaign bank account or PayPal account. The un-reconciled amount was \$3,150 (\$1,175 entry fees, \$680 super ticket sales, \$680 auction sales and a \$400 hole sponsorship).

The amounts deposited into the campaign bank account and Paypal account for the reporting period were reconciled except for \$1,000 in cash that could not be reconciled to specific contributors but appears to relate to the golf fundraising event. As a result, the audit cannot verify that \$2,150 in contributions reported as received by the candidate were received by the candidate, paid by the contributor stated or the type of payment the contributor used to make the payment (cash, credit card, check or E-payment).

After review of the audit information, the candidate stated a third party vendor, who organized the golf tournament collected \$2,034 of the \$2,150 on behalf of the candidate. The candidate provided a counter check for \$1,530 to support this collection. The difference between the \$1,530 and the \$2,034 he indicated was a fee for the tournament. He also indicated the \$2,034 was for \$1,025 in entry fees, \$449 in auction sales, \$160 in super tickets sales and \$400 for a hole sponsorship. In addition, he provided contributor names for \$1,160 of the purchases. The candidate was unable to provide support for his statements beyond the counter check; also, the candidate's records failed to indicate the check was deposited into the campaign account. Similar to his other campaign records, the audit cannot determine the accuracy of the information related to collection of funds from a third party vendor.

The inability to associate specific contributor data with the funds received by the candidate inhibits the audit's ability to verify the candidate's and contributor's compliance with campaign finance statutes for the \$3,150. We could not verify compliance with the following campaign finance statutes:

- 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 and amount of the contribution.
- T.C.A. § 2-10-302 establishes limits on contributions to candidates from an individual or multicandidate committee (PAC).
- T.C.A. § 2-10-311(a) limits a cash contribution to \$50 per election for each contributor.

### **RECOMMENDATION TO CANDIDATE**

Mr. Kiser should amend his 2012 Pre-Primary report to include all contributions received both monetary and in-kind. In addition, Mr. Kiser should amend his 2012 Pre-Primary Campaign Financial Disclosure Statement to ensure that he itemized all contributions from contributors who gave more than \$100 during the reporting period. He should also reduce the associated amounts that appear in his un-itemized contributions. In subsequent reporting or future elections, Mr. Kiser should maintain campaign records to show all contributor data for all campaign contributions received, include the form of payment and how those funds were placed into the campaign accounts. Also, the candidate should reconcile the campaign records to his campaign disclosures to ensure all disclosures are complete, accurate and properly supported by the campaign records.

### **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 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 finding with Mr. Kiser, he chose to take corrective action on his report prior to the Registry's approval of the audit. Mr. Kiser amended his 2012 Pre-Primary Campaign Financial Disclosure Statement on January 24, 2013. There is no corrective action for finding three as it relates to maintaining proper records not improper disclosure.

#### ***Correction Action - Finding 1:***

On his amended 2012 Pre-Primary report, Mr. Kiser added \$159.39 in monetary contributions. In addition, he added \$1,297.50 in in-kind contributions. The corrections properly amended his 2012 Pre-Primary report for the contributions noted in Finding 1.

#### ***Correction Action - Finding 2:***

On his amended 2012 Pre-Primary report, Mr. Kiser reduced un-itemized contributions by \$4,930.50. In addition, he added \$4,930.50 in itemized contributions from 21 contributors. The corrections properly amended his 2012 Pre-Primary report for the contributions noted in Finding 2.

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

The Members of the Registry of Election Finance reviewed the 2012 contribution audit of Mr. Dennis Kiser during the March 13, 2013 regular monthly meeting. The report contained three finding for corrective actions. The Registry voted to accept and approve the audit report with no further action.