



TENNESSEE REGISTRY OF ELECTION FINANCE

Contribution Audit of Nancy Fischman's 2012 Third Quarter Campaign Finance Disclosure



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January 9, 2013

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

Transmitted herewith is the agreed upon procedures for the un-itemized contribution audit of Ms. Nancy Fischman's 2012 Third Quarter Campaign Financial Disclosure Statement for her 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 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 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

Nancy Fischman
2012 Third Quarter Contribution Audit

AUDIT OBJECTIVES

The objectives of the audit were to determine Nancy Fischman'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 her 2012 Third Quarter Campaign Financial Disclosure Statement; and to recommend appropriate actions to correct any deficiencies.

FINDING

- 1. Ms. Fischman violated T.C.A. §2-10-105(a) by failing to report \$21 in monetary campaign contributions and \$50 in in-kind campaign contributions.**
- 2. Ms. Fischman failed to properly maintain her campaign records for \$326 in cash contributions.**
- 3. Ms. Fischman violated T.C.A. §2-10-107(a)(2)(A)(i) by failing to itemize \$113.40 in in-kind campaign contributions.**

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INTRODUCTION

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 limits law 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 Ms. Fischman's disclosures on her 2012 Third Quarter report.

CAMPAIGN OVERVIEW

CAMPAIGN ORGANIZATION

Ms. Nancy Fischman was a candidate in the November 6, 2012 general election for the House of Representatives for District 7. Ms. Fischman filed an Appointment of Political Treasurer Statement with the Registry on April 17, 2012 appointing Alan Howell as political treasurer.

The candidate's first financial disclosure for the 2012 campaign was the 2012 Second Quarter report filed on July 3, 2012. The candidate's latest financial disclosure report for the 2012 election was the 2012 Pre-General report filed on October 30, 2012. The 2012 Pre-General report indicated \$2,961.48 in cash on hand, no outstanding obligations, and no outstanding loans. The candidate has not completed her 2012 election campaign reporting requirements. The candidate's next report will be the 2012 Fourth Quarter report due January 25, 2013.

OVERVIEW OF FINANCIAL ACTIVITIES

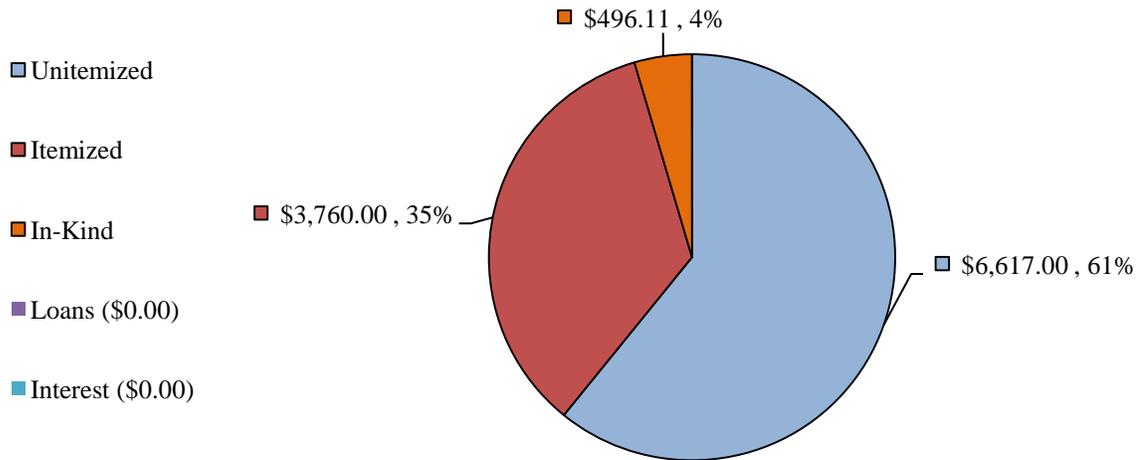
The following financial amounts are a summary of the financial disclosures made by the candidate. The summarized amounts are from the following disclosure reports: 2012 Second Quarter, 2012 Pre-Primary, 2012 Third Quarter and 2012 Pre-General reports after amendments. As noted in the audit scope, we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

<u>Summary of Financial Activity</u>		
<u>(Un-audited Amounts)</u>		
Cash on hand at April 17, 2012		\$0.00
Receipts		
Un-itemized	\$10,127.00	
Itemized	6,110.00	
Interest	0.00	
Loans received	0.00	
Total receipts		<u>\$16,237.00</u>
Disbursements		
Un-itemized	389.05	
Itemized	12,886.47	
Loans principal payments	0.00	
Total disbursements		<u>\$13,275.52</u>
Cash on hand at October 27, 2012		<u>\$2,961.48</u>
Loans outstanding at October 27, 2012		\$0.00
Obligations at October 27, 2012		\$0.00
Total in-kind contributions received		\$1,502.28

CHARTS

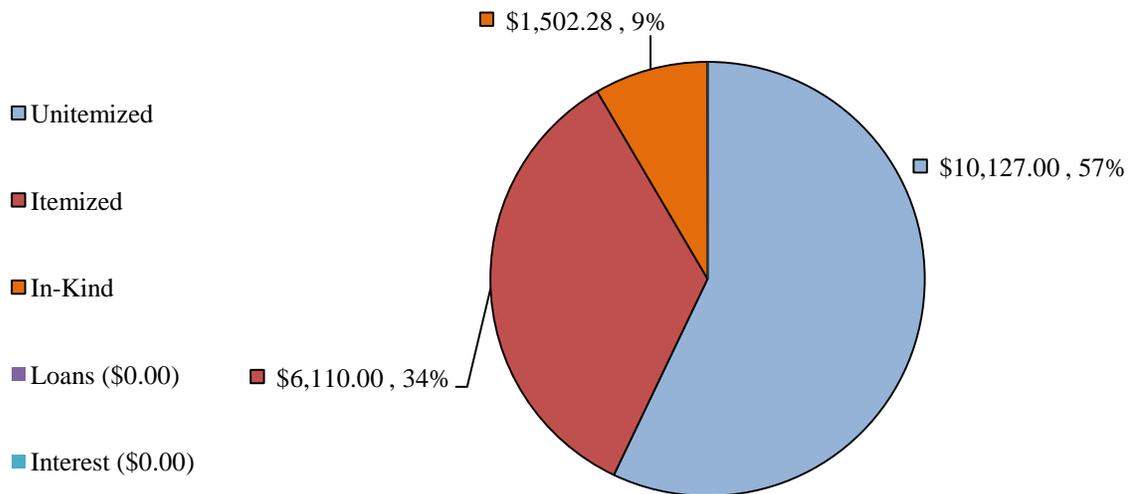
2012 THIRD QUARTER CONTRIBUTIONS

The following chart shows the contributions reported by the candidate in the 2012 Third Quarter report after amendments.



2012 ELECTION CAMPAIGN CONTRIBUTIONS (through pre-general election report)

The following chart shows the contributions reported by the candidate for the 2012 election campaign through the 2012 Pre-General disclosure report after amendments.



OBJECTIVES, METHODOLOGIES, CONCLUSIONS

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 Ms. Fischman's 2012 Third Quarter 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 Ms. Fischman to provide supporting documentation for the un-itemized contributions of \$5,432 that she reported on her 2012 Third Quarter report dated October 10, 2012. Ms. Fischman's campaign records included her bank statements, photocopied deposit slips, photocopied check copies and a contribution listing. The following steps were performed on Ms. Fischman's campaign documentation:

- The campaign records were reviewed to determine if the candidate's un-itemized contributions received from July 24, 2012 thru September 30, 2012 totaled \$5,432; and in-kind un-itemized contributions received from the same period totaled \$113.40.
- 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:

Ms. Fischman's 2012 Third Quarter Campaign Financial Disclosure Statement reported un-itemized contributions that were greater than \$5,000.00 and 30% of the total contributions. Ms. Fischman reported un-itemized monetary contributions of \$5,432 on October 10, 2012 on her third quarter report. The Registry staff sent notice of the audit of the \$5,432 on October 18, 2012. On October 30, 2012, Ms. Fischman submitted an amended third quarter report which increased the amount to \$6,617. Based on Ms. Fischman's campaign records, the amount of un-itemized monetary contributions is \$6,638. The result is Ms. Fischman's amended report still fails to report \$21 in contributions received from contributors during the 2012 Third Quarter reporting period (Finding 1) and the original report prior to audit notice failed to report \$1,206 in contributions received. Based on the campaign records, Ms. Fischman, also failed to report a \$50 in-kind contribution from one contributor (Finding 1). In addition, Ms. Fischman failed to properly maintain campaign records for \$326 in cash contributions (Finding 2). The audit determined the un-itemized in-kind contribution reported should have been itemized (Finding 3). The audit indicated all un-itemized contributions reported were deposited into the campaign bank account. The audit indicated that un-itemized contributions complied with campaign finance laws and Registry rules except as noted above and in the findings.

FINDINGS

1. Ms. Fischman violated T.C.A. § 2-10-105(a) by failing to report \$21 in monetary campaign contributions and \$50 in in-kind campaign contributions.

Ms. Fischman reported \$6,617 in un-itemized monetary contributions on her 2012 Third Quarter report after amendment; however, the audit and campaign records indicated the amount was \$6,638. The campaign bank records and candidate campaign contribution listing for the period both indicate that un-itemized contributions total \$6,638. As un-itemized contributions are reported by total amount and not by contributor the audit cannot determine which contributions were not reported. The \$21 difference is a failure to report campaign contributions received which is a violation of T.C.A. §2-10-105(a). In addition to the unreported monetary contributions, Ms. Fischman received a \$50 gift card from one contributor. The contribution should have been reported as an in-kind contribution and failure to do so is also a violation of T.C.A. §2-10-105(a).

2. Ms. Fischman failed to properly maintain her campaign records for \$326 in cash contributions.

Ms. Fischman did not maintain or obtain sufficient contribution campaign records to verify compliance with all campaign finance statutes for cash contributions. Ms. Fischman's campaign records indicated that she received cash contributions totaling \$326 from anonymous contributors. The campaign records show the cash was deposited into the campaign account. The candidate's list of contributions indicated \$230 of the \$326 was obtained through three fundraising events where contributor data was only partially retained for cash contributions. The remaining \$96 was cash deposited into the campaign account which was un-identified. Without the specific contributor's names and amounts contributed, we could not determine Ms. Fischman's 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 amount of contribution.
- T.C.A. §2-10-311(a) limits cash contributions to \$50 per election for each contributor.

3. Ms. Fischman violated T.C.A. §2-10-107(a)(2)(A)(i) by failing to itemize \$113.40 in in-kind campaign contributions.

Ms. Fischman reported \$113.40 in un-itemized in-kind contributions she made to her campaign that should have been itemized. The failure to itemize the contributions is a violation of T.C.A. §2-10-107(a)(2)(A)(i) which 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 amount of the contribution. The \$113.40 was postage contributed to the campaign by the candidate.

RECOMMENDATION TO CANDIDATE

Ms. Fischman should amend her 2012 Third Quarter Campaign Financial Disclosure Statement to ensure that she itemized all contributions from individuals who contributed over \$100 received during the reporting period. In addition, she should amend her report to include all un-itemized campaign contributions received both monetary and in-kind. In subsequent reporting or future elections, Ms. Fischman should maintain contributor data for all campaign contributions received and reconcile the campaign records to her 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

CANDIDATE'S CORRECTIVE ACTIONS

After discussing the above finding with Ms. Fischman, she chose to take corrective action on her report prior to the Registry's approval of the audit. Ms. Fischman amended her 2012 Third Quarter Campaign Financial Disclosure Statement on December 19, 2012. There is no corrective action noted for Finding 2 as the finding is related to campaign records.

Correction Action - Finding 1:

On her amended 2012 Third Quarter report, Ms. Fischman increased un-itemized monetary contributions by \$21. In addition, she added the \$50 to un-itemized in-kind contributions to report the gift card. The corrections properly amended her 2012 Third Quarter report for the contributions noted in Finding 1.

Correction Action - Finding 3:

On her amended 2012 Third Quarter report, Ms. Fischman removed the \$113.40 un-itemized in-kind contribution. In addition, she added a \$113.40 itemized in-kind contribution. The corrections properly amended her 2012 Third Quarter report for the contributions noted in Finding 3.

REGISTRY OF ELECTION FINANCE ACTIONS

The Members of the Registry of Election Finance reviewed the 2012 contribution audit of Ms. Nancy Fischman during the January 9, 2013 regular monthly meeting. The report contained three findings. The Registry voted to accept and approve the audit report with no further action.