



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

**Campaign Finance Audit of
Arnold Weiner
Election Year 2010**



Audit Team:

Jay Moeck, CPA, CFE
Audit Director

Makaili Denton
Auditor

STATE OF TENNESSEE



BUREAU OF ETHICS AND CAMPAIGN FINANCE
REGISTRY OF ELECTION FINANCE
404 JAMES ROBERTSON PARKWAY, SUITE 104
NASHVILLE, TN 37243-1360
(615) 741-7959
Fax: (615) 532-8905

BOARD MEMBERS
Lee Anne Murray, Nashville, Chairperson
Justin Pitt, Franklin, Secretary
Henry Fincher, Cookeville
Patricia Heim, Nashville,
Darlene McNeece, Loudon

EXECUTIVE DIRECTOR
Drew Rawlins

AUDIT DIRECTOR
Jay Moeck CPA, CFE

October 12, 2011

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

Ladies and Gentlemen,

Transmitted herewith are the agreed upon procedures for the campaign finance audit of Arnold Weiner's 2010 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 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
Audit Director

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

Audit Highlights
Arnold Weiner
2010 Campaign Finance Audit

AUDIT OBJECTIVES

The objectives of the audit were to determine Arnold Weiner'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 2010 Second Quarter, 2010 Pre-Primary, 2010 Third Quarter, 2010 Pre-General and 2010 Fourth Quarter Campaign Financial Disclosure Statements; and to recommend appropriate actions to correct any deficiencies.

FINDINGS

- 1. Mr. Weiner violated T.C.A. § 2-10-107(a)(1) by improperly reporting the ending balance on two campaign finance reports.**
- 2. Mr. Weiner violated T.C.A. § 2-10-107(a)(2) by improperly filing a short form Pre-General report when his expenses were greater than \$1,000.**
- 3. Mr. Weiner did not properly maintain a campaign account and follow Registry rules for bookkeeping.**

TABLE OF CONTENTS

INTRODUCTION	<u>PAGE</u>
Audit Authority	1
Audit Purpose	1
Audit Scope	1
CAMPAIGN OVERVIEW	
Campaign Organization	2
Overview of Financial Activities	2
OBJECTIVES, METHODOLOGIES, CONCLUSIONS	
Balance on Hand, Loans, and Obligations	3
Findings	5
RESOLUTIONS	
Candidate's Corrective Actions	8
Registry of Election Finance Actions	9

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 general 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 Mr. Weiner’s disclosures on his 2010 Second Quarter, 2010 Pre-Primary, 2010 Third Quarter, 2010 Pre-General, and 2010 Fourth Quarter Campaign Financial Disclosure Statements.

CAMPAIGN OVERVIEW

CAMPAIGN ORGANIZATION

Mr. Weiner was a candidate in the November 2, 2010 general election for House of Representatives for District 91. Mr. Weiner filed an Appointment of Political Treasurer Statement with the Registry on April 15, 2010 appointing Scarlett Weiner as political treasurer.

The candidate's first financial disclosure for the 2010 campaign was the 2010 Second Quarter report filed on July 7, 2010. As of February 1, 2011, Mr. Weiner's last financial disclosure was the 2010 Fourth Quarter Report, which he filed on January 24, 2011. The Fourth Quarter report indicated no cash on hand, outstanding obligations and outstanding loans. The candidate has completed his 2010 election campaign reporting requirements.

OVERVIEW OF FINANCIAL ACTIVITIES

All of Mr. Weiner's disclosures for the 2010 election were filed based on T.C.A. § 2-10-107 (1). The statute allows candidates that have less than \$1,000 in contributions and expenses during a reporting period to report an abbreviated disclosure statement (short form disclosure). The short form disclosure requires only the reporting of the balance on hand, outstanding obligations, and outstanding loans. Also the filing requires a signed statement that campaign activities fall under the exemption outlined in the statute. The Registry of Elections form has an optional area for candidates to disclose total receipts and total disbursements. As stated, all of Mr. Weiner's disclosures for the 2010 election were reported as a short form disclosure; however he elected to report total receipts and total disbursements on each report.

The following financial amounts are a summary of the financial disclosures made by the candidate. The summarized amounts are from the following disclosure reports: 2010 Second Quarter, 2010 Pre-Primary, 2010 Third Quarter, 2010 Pre-General, and 2010 Fourth Quarter reports after amendments. The amounts displayed are for informational purposes only.

Summary of Financial Activity (Un-audited Amounts)

Cash on hand at April 1, 2010	\$0.00
Total receipts	\$1,410.00
Total disbursements	\$1,410.00
Cash on hand at January 15, 2011	<u>\$0.00</u>
Loans outstanding at January 15, 2011	\$0.00
Obligations at January 15, 2011	\$0.00
Total in-kind contributions received	\$0.00

OBJECTIVES, METHODOLOGIES, CONCLUSIONS

BALANCE ON HAND, LOANS, and OBLIGATIONS

Audit Objectives:

The objectives of our audit of Balance on Hand, Loans, and Obligation were to determine whether:

- the Balance on hand, Loans and Obligation were properly reported in compliance with T.C.A. §§2-10-105 and 2-10-107, and reported in compliance with the Registry's rules;
- all receipts supporting the balance on hand were supported by bank statements and deposit slips;
- all campaign contributions from individuals and Political Action Committees (PACs) were within campaign limits;
- all contributions were from non-prohibited sources;
- all loans received were reported to the Registry, reported in the proper period, report in compliance with T.C.A. §§2-10-105 and 2-10-107, and reported in compliance with the Registry's rules; and
- all loans received from lending institutions were supported by loan agreements.
- all disbursements supporting the balance on hand were supported by vendor receipts, canceled checks and bank statements;
- all disbursements and obligations were made for non-prohibited activities; and
- all disbursements and obligations were reported, reported in the proper period, reported in compliance with T.C.A. §§2-10-107 and 2-10-114 and reported in compliance with the Registry rules.

Audit Methodology:

The Registry obtained Mr. Weiner's 2010 Campaign Financial Disclosure Statements for the period April 1, 2010 through January 15, 2011. We requested Mr. Weiner to provide his campaign records to support all contributions, loans and interest received during his 2010 election campaign. Mr. Weiner's campaign records included bank statements, bank deposit receipts, vendor receipts/invoices, and a candidate prepared listing of campaign receipts and disbursements. The following steps were performed on Mr. Weiner's campaign documentation:

- An audit reconstruction of the campaign activities was prepared for each reporting period based on the candidate's campaign records. The audit reconstructed the ending balance on hand by reporting period and was compared to candidate's disclosure to determine if the balance on hand was properly calculated and reported. The reconstruction consisted of the following:
 - a. A listing of all contributions received by the candidate during each reporting period as if a detailed disclosure had been prepared. In preparing the listing, funds deposited into the campaign account were reviewed to determine if the candidate deposited all funds received into a campaign bank account and all funds in the campaign account were included in the audit reconstruction.
 - b. A listing of all campaign disbursements made during each reporting period was prepared. In preparing the listing, all disbursements from the campaign account were reviewed to determine if the candidate made all campaign disbursements from the campaign bank account and all disbursements from the campaign account were included in the audit reconstruction.
 - c. A summary was prepared from the listing to calculate audit reconstructed amounts for beginning balance on hand, total receipts, total disbursements, and ending balance on hand by reporting period.
- All contributions on the audit reconstructed listing of all contributions received were tested to determine if campaign contributions from individuals and PACs complied with campaign contribution limits, T.C.A. §2-10-301, et seq.; contributions were properly reported; contributions were reported in the proper period; contributions were reported in compliance with T.C.A. §§2-10-105 and 2-10-107; and contributions were reported in compliance with the Registry's rules.
- All disbursements on the audit reconstructed listing of all campaign disbursements were tested to determine if all expenditures were reported, reported in the proper period, reported in compliance with T.C.A. §§2-10-107 and 2-10-114 and reported in compliance with the Registry's rules.

Audit Conclusion:

Mr. Weiner's 2010 Campaign Financial Disclosure Statements for the period April 1, 2010 through January 15, 2011 indicate he received less than \$1,000 and spent less than \$1,000 each reporting period. However, the audit reconstruction determined that Mr. Weiner improperly calculated the balance on hand on the Third Quarter and Pre-General reports (Finding 1). Also, the audit reconstruction determined that campaign expenses during the Pre-General reporting period were greater than the \$1,000 limit, indicating the candidate was not eligible to file a short form (Finding 2). The audit also determined Mr. Weiner failed to maintain a separate campaign bank account (Finding 3). Also, Mr. Weiner's record-keeping system was not sufficient to properly determine the disclosures that were required (Finding 3). Mr. Weiner's campaign

disclosure statements for the 2010 election and his related campaign records indicate the campaign received no loans or had obligations during the election.

FINDINGS

1. Mr. Weiner violated T.C.A. § 2-10-107(a)(1) by improperly reporting the ending balance on two campaign finance reports.

The audit reconstruction of the campaign activities indicated Mr. Weiner improperly reported the ending balances on the Third Quarter and Pre-General reports. The improper reporting is a violation of T.C.A. § 2-10-107(a)(1).

As noted, Mr. Weiner reported only short form reports during his campaign. The short form only requires a candidate to report the ending balance on hand, outstanding loans, and outstanding obligations. Therefore the finding is limited only to the required ending balance that was reported, however, other amounts reported and determined by audit were included to assist in understanding the differences noted.

Mr. Weiner's paper file report for the Third Quarter had a balance on hand from last report of \$0, receipts of \$837, expenses of \$349, and balance on hand of \$488. The audit reconstruction concluded during the Third Quarter reporting period the campaign had a balance on hand from last report of \$0, receipts of \$867, expenses of \$349.61, and balance on hand of \$517.39. Therefore, the candidate improperly understated his balance on hand by \$29.39.

Mr. Weiner's paper file report for the Pre-General had a balance on hand from last report of \$0, receipts of \$573, expenses of \$573, and balance on hand of \$0. The audit reconstruction concluded during the Pre-General reporting period the campaign had a balance on hand from last report of \$517.39, receipts of \$623, expenses of \$1,040.85, and balance on hand of \$99.54. Therefore, the candidate improperly understated his balance on hand by \$99.54. See Finding 2 for additional errors noted on the Pre-General report.

Although the audit reconstruction indicated Mr. Weiner properly reported the balance on hand for the Fourth Quarter, the audit did note that the underlying calculation was incorrect. Mr. Weiner paper file report for the Fourth Quarter had a balance on hand from last report of \$0, receipts of \$0, expenses of \$0, and balance on hand of \$0. The audit reconstruction concluded during the Fourth Quarter reporting period the campaign had a balance on hand from last report of \$99.54, receipts of \$170.55, expenses of \$270.09, and balance on hand of \$0.

2. Mr. Weiner violated T.C.A. § 2-10-107(a)(2) by improperly filing a short form Pre-General report when his expenses were greater than \$1,000.

The audit reconstruction of the campaign activities indicated Mr. Weiner improperly filed a short form for the Pre-General report when his expenses were greater than \$1,000. Based on Mr. Weiner's short form paper file report, his receipts and expenses were under \$1,000 and therefore he was eligible to file a short form paper report which only discloses the balance on hand, outstanding loans, and outstanding obligations. However, the audit reconstruction determined the expenses for the audit period were \$1,040.85 causing the candidate to be ineligible for the short form disclosure. The required detailed disclosure would have included the name, address, amount and purpose for \$1,045.85 in expenses. The detail disclosure would have also included detailed information on a \$250 PAC contribution and a \$203 contribution by the

candidate. The remaining contributions would have been unitemized. The failure to properly report the details of contributions and disbursements is a violation of T.C.A. § 2-10-107(a)(2).

3. Mr. Weiner did not properly maintain a campaign account and follow Registry rules for bookkeeping.

Mr. Weiner commingled campaign funds with personal funds and failed to follow Registry rules for bookkeeping. Mr. Weiner commingled personal funds with campaign funds by depositing all campaign contributions into his personal account and then making all disbursements from his personal account. Mr. Weiner's record-keeping system was not sufficient to properly determine the disclosures that were required to prepare his campaign finance disclosure reports.

The campaign records for contributions were a candidate prepared listing of certain contributions. The listings include amounts, dates, and some contributor information. Then to support the amounts bank deposit receipts were kept. Finally the candidate provided a bank activity listing for his personal account. These records were not sufficient to verify the source of all contributions and the type of payment (cash or check). Similar to all audits, the auditors are unable to determine all contributions received were reported as we are limited to the records provided and there is a risk of un-reported or deposited contributions. Mr. Weiner's records increase that difficulty as campaign contribution deposits are included in an account with deposits from non-campaign related sources. The audit reconstruction reviewed each deposit during the election and made a determination of campaign and non-campaign deposits, however, some of the determinations are based solely on the statements of the candidate. Mr. Weiner failed to maintain sufficient contribution campaign records, we can not verify compliance with T.C.A. § 2-10-311(a) limits of cash contributions to \$50 per election for each contributor.

The campaign records for disbursements were a candidate prepared listing of certain expenses. The listing was seven expenses from two vendors for printings and mailings and the date of the expense. Then to support the amounts and payment date the candidate provided invoices and a vendor account statement. Also, as stated above the candidate provided a bank activity listing for his personal account. The audit reconstruction reviewed each invoice and the vendor statements and verified a check was written to the vendor. However, the auditor cannot determine if other expenses occurred as campaign and non-campaign disbursements were made from the bank account. Therefore, disbursements determined are based on statements of the candidate. The audit also noted that all the expenses noted by and supported by the candidate were for printing and mailings from the two vendors. The only other expense included in the audit reconstruction was an expense for lunches for campaign workers which could not be supported by a specific check or receipt. This lunch expense was only added based on the candidate's statement, which was received as part of several inquiries related to the audit.

The candidate's failure to follow Registry rules for bookkeeping and maintaining a separate campaign bank account appear to have resulted in the errors noted in Findings 1 and 2. Although not required by statute, the Registry has developed guidance for candidates for maintaining a separate campaign bank account and maintaining their records of campaign activities. This guidance is not the sole method for maintaining records and does not include all variations of campaign activities; however, if the candidate had followed the guidance, he may have averted the findings noted in this audit report. The candidate did not implement the following Registry rules, which resulted in inadequate campaign records:

- Registry Rule 0530-1-1-.01(1) defines a campaign account as “a separate bank account which must be maintained by a candidate or political campaign committee into which all campaign contributions shall be deposited and from which all campaign monies shall be expended.”
- Registry Rule 0530-1-1-.02(1) states that a candidate shall not commingle personal funds or other monies with campaign account funds.
- Registry Rule 0530-1-3-.05(2) & (3) states that a candidate through his/her record-keeping system must be able to determine the aggregate amount of contributions received per election from each contributor. The Registry recommends that candidates and their committees maintain photocopies of all contribution checks received or in the alternative, a journal or listing of contributions.
- Registry Rule 0530-1-1-.02(8) states that a candidate should perform bank reconciliations that reconcile the bank account and the campaign records to the financial disclosure statements.

RECOMMENDATION TO CANDIDATE

Mr. Weiner should amend his campaign financial disclosure reports to properly report the ending balance for each reporting period. In addition, Mr. Weiner should amend his 2010 Pre-General to disclose the required detail for contributions and expenses as noted in finding 2.

In future campaigns, Mr. Weiner should develop a campaign record-keeping system that adequately meets the requirements of the campaign financial disclosure statutes. The system should ensure that the candidate maintains campaign and personal funds separately and that he obtains and retains documentation for each contribution received and expenditure made. Finally, the candidate should reconcile the campaign bank account to the campaign disclosure statements to ensure that all campaign finance activities are recorded and reported properly.

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

CANDIDATE'S CORRECTIVE ACTIONS

After notifying Mr. Weiner of the above findings, he chose to take corrective actions on his reports prior to the Registry's approval of the audit. Mr. Weiner amended his 2010 Third Quarter, 2010 Pre-General, and 2010 Fourth Quarter Campaign Financial Disclosure Statements on August 31, 2011. Finding 3 was not listed below since the finding is not correctable through an amended report.

Corrective Actions - Finding 1 & 2:

The candidate's amended 2010 Third Quarter report was amended with properly reported receipts, expenses, and balance on hand. The candidate's amended 2010 Pre-General report was amended from the short form to a long form report (detail report). The detail report properly includes the details for contributions and expenses greater than \$100, as noted in finding 2. Also the report was amended to properly report all receipts, expenses, balance on hand last report, and balance on hand. The candidate's amended 2010 Fourth Quarter report was amended to properly report receipts, expenses, and balance on hand last report. As noted in the finding the balance on hand (end of period) for the Fourth Quarter report did not change, so it was not amended.

RESOLUTIONS

REGISTRY OF ELECTION FINANCE ACTIONS

The Members of the Registry of Election Finance reviewed the 2010 campaign finance audit of Mr. Weiner during the October 2011 regular monthly meeting. The report contained no findings for corrective actions. The Registry voted to accept and approve the audit report with no further action.