

REGISTRY OF ELECTION FINANCE

The Registry of Election Finance for the State of Tennessee met Monday, June 8, 1998, at 1614 Parkway Towers, 404 James Robertson Parkway, Nashville, Tennessee.

Attending were: Alan Hubbard (Chair), George Harding, Libby Tarpy. Karen Dunavant participated in the meeting by telephone.

The minutes of the board's April 23, 1998 special meeting conducted by telephone conference call were approved on motion by Harding, seconded by Tarpy. Additionally the board approved the minutes from its May 11 meeting on motion by Harding, seconded by Tarpy.

Show Cause Hearing:

98-33 – Ray Holt, for failure to register as a lobbyist for the Tennessee Department of Education in 1995, 1996 and 1997. Also, for failure to timely register as a lobbyist for the department in 1998. Maximum civil penalty \$30,750 (Maximum \$10,000 for each year Mr. Holt failed to register as a lobbyist and \$750 for failing to timely register in 1998). Maximum two-year period that lobbying privileges may be suspended. Mr. Holt submitted a letter to the board prior to the meeting in response to the show cause hearing notice. He personally appeared before the board, along with Kay Jeter, legal counsel for the Department of Education.

Mr. Holt informed the members that he does use the title of legislative liaison with the Department of Education and that he first began that position with the department in 1995 under a personal services contract. He stated that his reason for not having registered as a lobbyist was because of advice from both legal counsel in the Governor's office and legal counsel from the department that he was not required to register. Mr. Holt explained that most of the duties that he performs for the Department of Education are as a lobbyist.

Harding made a motion to assess Mr. Holt a \$750 civil penalty and to suspend his lobbying privileges for one year. That motion died for a lack of a second.

After further discussion of this case, Harding made a motion to assess Mr. Holt a \$500 civil penalty and to suspend his lobbying privileges for six months, beginning the first day of the 1999 legislative session. That motion was seconded by Dunavant. Motion by Tarpy to amend to assess Mr. Holt a \$1,500 civil penalty, with no suspension of his lobbying privileges, seconded by Harding. The board voted unanimously on the motion as amended to assess Mr. Holt \$1,500.

Requests for Reconsiderations:

98-30 – Rep. Joe Towns, Jr., for failure to timely file 1998 annual statement of interests. Rep. Towns was assessed a \$300 class one (1) civil penalty at the May 11 meeting, when he did not respond to the Registry's show cause hearing notice. After filing a request for reconsideration, Rep. Towns personally appeared before the board at its June meeting. On motion by Harding, seconded by Tarpy, the board voted unanimously to vacate its previous assessment of \$350 and to assess Rep. Towns a \$100 class one (1) civil penalty.

98-31 – Rep Joe Towns, Jr., for failure to timely file 1997 supplemental annual campaign financial disclosure report. The Registry voted at its May meeting to assess Rep. Towns a \$350 class one (1) civil penalty after he did not respond to the show cause notice. Rep. Towns requested that the board also reconsider the assessment in this case.

On motion by Harding, seconded by Tarpy, the Registry voted unanimously to vacate its previous assessment of \$350 and to assess Rep. Towns a \$100 class one (1) civil penalty.

98-6 – Building Industry PAC, for failure to file 1997 fourth quarter campaign financial disclosure report. The PAC was assessed a \$500 class two (2) civil penalty at the April 13 meeting when it did not respond to the board's show cause hearing notice. The committee has now filed its report and a sworn statement for the board's reconsideration of this case. In the statement, the new treasurer of the PAC, Anthony Roberts, stated that the failure to file the 1997 fourth quarter report was due to the termination of the past treasurer and to the fact that no one else in the office was aware of the responsibility to file the PAC's reports.

On motion by Harding, seconded by Tarpy, the board voted unanimously to deny the PAC's request for reconsideration.

Sworn Statements:

98-26 – Colman Hoffman, for failure to timely file 1997 year-end lobbying activities report. Maximum civil penalty \$750. The Registry voted at its May 11 meeting to assess Mr. Hoffman a \$750 civil penalty, because no request for a personal appearance or sworn statement had been received at the time of the meeting in response to the show cause hearing notice. Director Williams informed the members that on the afternoon of May 11, Mr. Hoffman's sworn statement was received and was postmarked by certified mail on May 5. As in past similar cases, the Director did not issue the assessment order and placed the matter back on the agenda for the June meeting.

In his sworn statement, Mr. Hoffman informed the board that he had left his employment with Baker, Donelson law firm and that the notifications to file his lobbying activities reports were mailed to that address and not forwarded to him. Also, the Registry's certified letter mailed to his home address was not received by him for several days because he had moved.

On motion by Dunavant, seconded by Tarpy, the board voted unanimously to vacate the prior assessment and to assess a \$250 civil penalty.

98-32 – Sen. Roscoe Dixon, for failure to timely file 1997 supplemental annual campaign financial disclosure report. Class one (1), maximum civil penalty \$725. Sen. Dixon submitted a sworn statement, in which he informed the board that his report was filed late because of missing bank statements and the time it took for the bank to send him copies of the statements. On motion by Harding, seconded by Dunavant, the board voted unanimously to assess a \$100 class two (2) civil penalty.

Issuance of Show Cause Notices:

Advocates for Better Children and Dads, for failure to file 1998 first quarter campaign financial disclosure report. Class two (2), maximum civil penalty \$10,000. On motion by Harding, seconded by Dunavant, the board voted to issue a show cause notice.

Americans for Tenable Sentences and Court Support, for failure to file 1998 first quarter campaign financial disclosure report. Class two (2), maximum civil penalty \$10,000. On motion by Harding, seconded by Dunavant, the board voted to issue a show cause notice.

East Shelby Republican Club, for failure to file 1998 first quarter campaign financial disclosure report. Class two (2), maximum civil penalty \$10,000. On motion by Dunavant, seconded by Tarpy, the Registry voted to issue a show cause notice.

International Brotherhood of Electrical Workers Education Fund, for failure to file 1998 first quarter campaign financial disclosure report. Class two (2), maximum civil penalty \$10,000. On motion by Harding, seconded by Dunavant, the board voted to issue a show cause notice.

Pfizer PAC, for contributions made to four incumbent legislative candidates during legislative session. Upon discovering the contributions on the PAC's 1998 first quarter report, staff sent a letter to the committee inquiring as to the making of the contributions. The PAC administrator informed staff that the requests for the contributions by Pfizer's Tennessee officials were made in November, 1997, but by the time the requests cleared their national committee, Tennessee's legislative session had already begun. None of the checks were cashed or deposited by the four candidates, and Pfizer stopped payment on the checks upon discovering the error. Pfizer has filed an amended report.

On motion by Dunavant, seconded by Harding, the board voted to take no action.

Gary Creasy, for failure to timely file 1998 annual statement of interests with the Decatur County Election Commission as a local public officeholder. Class two (2), maximum civil penalty \$10,000. On motion by Harding, seconded by Tarpy, the board voted to issue a show cause notice.

Tom Storey, for failure to timely file a 1998 pre-primary campaign financial disclosure report. Mr. Storey was a candidate for District Attorney General in Davidson County in the May 5, 1998 Primary Election. Mr. Storey filed a sworn statement with the board stating that the late filing of his report was due to the illness and subsequent death of his mother-in-law.

On motion by Harding, seconded by Tarpy, the board voted to take no action.

Jimmy Kyle Davis, for reporting excess contributions accepted for his primary election on his itemized statement of loans in his pre-primary report. Mr. Davis attached a note to his itemized statement of loans indicating that \$13,950 accepted from various individuals were loans expected to become contributions for the general election after the primary election. Upon receiving a letter from the Registry, Mr. Davis' campaign filed an amended report disclosing the \$13,950 as monies accepted and allocated for the August 6, 1998 General Election.

On motion by Dunavant, seconded by Tarpy, the board voted to take no action.

Sworn Complaint Filed by Hoyt Ownby:

Prior to the June meeting, Director Williams had mailed the Registry members a copy of a letter sent to Don Bird on May 12 requesting any information that he could provide the Registry as to the circumstances surrounding his receipt of a \$500 contribution from Hoyt Ownby on June 1, 1997 (Mr. Ownby's complaint alleged that the \$500 contribution was provided to a third party in January, 1997 for Governor Sundquist but was reported as having been received by Rep. Bird for his campaign on June 1, 1997). As of the time of the meeting, no written response from Rep. Bird was received. Rep. Bird did telephone the Director to inform her that he was returning the \$500 to Mr. Ownby, which Mr. Ownby has confirmed receiving.

After further discussion of the complaint, Mr. Harding made a motion to dismiss Mr. Ownby's complaint on the basis that it does not allege violations of the campaign finance laws, seconded by Tarpy. The board voted unanimously to dismiss the complaint.

Sworn Complaint Filed by Sue Methvin (Knox County Republican Party) Against Randy Nichols

On May 21, Sue Methvin, Vice Chair of the Knox County Republican Party, filed a sworn complaint against Randy Nichols, who is the incumbent Democratic candidate for District Attorney General in Knox County. Ms. Methvin alleges that Mr. Nichols has failed to properly disclose an outstanding loan and payments made on the loan on campaign financial disclosure reports filed with the Registry. Director Williams reported to the members that she faxed a copy of the complaint to Mr. Nichols on May 21, with a letter asking that he respond to the complaint by June 3. Mr. Nichols response was not received prior to the board's meeting.

On motion by Harding, seconded by Dunavant, the board voted to have the Chair and the Director meet with Mr. Nichols and a representative of the Knox County Republican Party for an informal hearing prior to the July meeting. The Chair will then make a recommendation to the full board at the July meeting as to how the board should proceed in this matter.

Budget Report:

Drew Rawlins, Assistant Director, presented the budget statistics through April 30 for the 1997/98 fiscal year. Additionally, he disseminated copies of a report showing the amount of civil penalties paid to the Registry during May, which totaled \$1,875.

On motion by Harding, seconded by Tarpy, the board approved the budget report as presented.

Director Williams provided the members copies of information concerning the upcoming annual COGEL seminar, which will be held in Seattle on September 13–16. Additionally, the Assistant Director gave the members a copy of the estimated costs per person to attend the conference.

On motion by Harding, seconded by Tarpy, the board voted to send two staff members, and two board members to the conference. The two board members who will be attending will be determined later, after the members have had an opportunity to review their schedules.

Executive Director's Report:

Director Williams reported to the board that she had requested an informal legal opinion from the Attorney General's office on May 12 as to whether the Registry should be enforcing the provision under the lobbying law that prohibits a lobbyist, the employer of a lobbyist or a PAC controlled by a lobbyist or employer of a lobbyist from making a contribution to a legislative candidate during session. She asked that the informal opinion be provided to the Registry in time for the June 8 meeting. (The opinion request relates to the oral complaint made to the board in May by Rep. Mike Williams concerning a contribution made to his non-incumbent opponent by the BellSouth Employees Tennessee PAC during the 1998 legislative session.)

Director Williams informed the board that the Attorney General's office had not yet provided the board with the requested legal advice and that the Attorney General had advised the Registry that "the matter is under serious consideration" by that office.

The Director then disseminated to the members a copy of a letter to her from Bob Cooper, an attorney representing BellSouth's PAC. In the letter, Mr. Cooper explained that the PAC had assumed that since a federal judge had held unconstitutional the provision of the campaign finance laws that prohibited non-incumbent legislative candidates from fundraising during session that the similar provision under the lobbying law would also be considered unenforceable. (Mr. Cooper was present at the meeting, as well as in-house legal counsel for BellSouth.)

On motion by Harding, seconded by Dunavant, the board voted to defer action on the complaint made by Rep. Williams until its July meeting in order to allow more time for the Attorney General to reply to the Registry's request for legal advice.

Director Williams also reported to the board that the Attorney General has still not responded to the board's January opinion request relating to the sworn complaint filed by the State Democratic Party against the state Republican Party. Williams told the members that she has continued to stay in touch with both parties as to the status of this matter and as to why a decision in this matter has been so delayed.

The Director gave the board an update as to the civil contempt petition pending against the Tennessee Conservative Union (TCU) in Davidson County Chancery Court. She reported that while TCU was late in complying with the court's most recent order, that TCU has now provided the Attorney General's office the required information concerning two bank accounts at the Pioneer Bank of Chattanooga that were supposedly used by two of the three PACs that are named defendants in the lawsuit. In a letter to the Attorney General, John Davies stated that, the Tennessee Conservative Union Victory Fund never had a bank account. Williams reminded the members that the civil contempt hearing was rescheduled for Friday, July 17, at 1:30 p.m. at the Metro Davidson County Courthouse.

Director Williams informed the board that Belinda Bannister resigned as secretary, effective June 2. Williams told the members that she was in the process of finding a replacement for Ms. Bannister and asked to set the salary at \$21,000 - \$26,000 annually, in order to have the flexibility to hire a person with extensive computer experience. The board approved the salary range.

Williams brought up the issue of whether the board wants to again begin the process of trying to adopt campaign finance rules. The consensus of the board was to delay any rulemaking action until sometime in the fall, in order to allow more time to obtain pending opinions from the

Attorney General on issues relating to the adoption of such rules. Also, the members discussed having a working session in the fall for the purpose of determining what areas of the campaign finance laws need to be addressed with rulemaking.

The next regularly scheduled board meeting will be on Monday, July 13, 1998 and will begin at 10:30 a.m.