

# REGISTRY OF ELECTION FINANCE

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The Registry of Election Finance for the State of Tennessee met Tuesday, August 11, 1998, at 1614 Parkway Towers, 404 James Robertson Parkway, Nashville, Tennessee.

Attending were: Alan Hubbard (Chair), Greg Duckett, Karen Dunavant, George Harding, Samella Junior-Spence and Elizabeth Tarpy.

The minutes of the July 13, 1998 meeting were approved on motion by Harding and, seconded by Junior-Spence.

## **Approval of civil penalty orders:**

98-39 – **Brenda Woods**, for failure to file 1998 pre-primary campaign disclosure report as a 1998 candidate for Hardeman County Executive. Case forwarded to the Registry by the Hardeman County Election Commission. Class two (2) maximum civil penalty \$10,000. Ms. Woods has requested a continuance in this matter until the board's next monthly meeting, so that she can personally appear before the Registry.

On motion by Harding, seconded by Duckett, the board voted to delay the matter until the October 13<sup>th</sup> meeting.

## **Issuance of Show Cause Notices:**

**Michael Knowlton**, who was a candidate for district attorney general in the May, 1998 primary in Cookeville, for failure to timely file 1998 post primary campaign financial disclosure report. Class one (1), maximum civil penalty \$200.

On motion by Junior-Spence, seconded by Tarpy, the board voted to take no action.

**Charles Brown**, who was a candidate for Governor in the August, 1998 primary, for failure to file a statement of interests. Class two (2), maximum civil penalty \$10,000.

On motion by Harding, seconded by Dunavant, the board voted to issue a show cause notice.

**Ken Shipley**, who was a candidate for state representative in Dyer County, for failure to file statement of interests. Class two (2) maximum civil penalty \$10,000.

On motion by Harding, seconded by Junior-Spence, the board voted to issue a show cause notice.

**Beale Street Merchants Association PAC**, for failure to timely file 1998 second quarter campaign financial disclosure statement. Class one (1), maximum civil penalty \$150.

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

**Concerned Executives for Healthcare**, for failure to timely file 1998 second quarter campaign financial disclosure statement. Class one (1), maximum civil penalty \$50.

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

**Dickson County Young Democrats**, for failure to timely file 1998 second quarter campaign financial disclosure report. Class one (1), maximum civil penalty \$50.

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

**Sullivan County Democratic Party**, for failure to timely file 1998 second quarter campaign financial disclosure report. Class one (1), maximum civil penalty \$150.

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

**Tennesseans for Good Government**, for failure to timely file second quarter 1998 campaign financial disclosure report. Class one (1), maximum civil penalty \$175.

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

**Wilson County Republican Party PAC**, for failure to timely file 1998 second quarter campaign financial disclosure report. Class one (1), maximum civil penalty \$150.

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

**Consideration of Sworn Complaint filed by Sue Methvin (Knox County Republican Party) Against Randy Nichols:**

This complaint was filed by Sue Methvin, Vice Chair of the Knox County Republican Party, against Randy Nichols on May 21. The complaint alleges that Mr. Nichols, who was a 1998 candidate for district attorney general in Knox County, has failed to properly disclose an outstanding loan from his 1982 campaign for district attorney general and payments made on that loan on campaign financial disclosure reports filed with the Registry. Consideration of this matter has been delayed several meetings to allow the Chair to conduct an informal hearing with the parties concerned and to allow Mr. Nichols an opportunity to provide financial documents relating to the loan and repayments on the loan for the Registry staff's review.

Prior to the meeting, Director Williams faxed the board members a timeline chart prepared by she and Assistant Director Rawlins as to Mr. Nichols' campaign activities as reported in his campaign disclosure reports and documents provided for the Registry's review. Rawlins described for the members the loan documentation and bank records that Mr. Nichols had provided for the agency's review as of the date of the meeting. The Registry had not been provided cancelled checks evidencing repayments on the loan prior to the meeting.

Bob Cooper, attorney for Mr. Nichols, appeared before the board and presented to the members additional financial documents relating to the loan in question, specifically copies of cancelled checks and debit records from February 1, 1995 to present showing payments from Mr. Nichols' current campaign committee to Bank First on the loan. Mr. Cooper told the members that Mr. Nichols had been unable to locate previous bank records relating to the loan because of the time that Mr. Nichols had spent in his 1998 campaign. He then requested that the board continue this matter until its next meeting to give Mr. Nichols an opportunity to locate other bank records.

David Weed, an attorney representing the Knox County Republican Party, informed the members that the party had found at least nine violations of the campaign finance law by Mr. Nichols since 1990 and requested that the Registry issue a show cause hearing notice to Mr. Nichols.

On motion by Harding, seconded by Duckett, the board voted to continue this matter until its October meeting in order to provide the staff time to review the additional documentation provided by Mr. Nichols. Dunavant then requested that the board ask that both Mr. Cooper and Mr. Weed submit in writing before the next meeting each of their positions as to the sworn complaint, as to whether and how Mr. Nichols may or may not have violated the law. She asked that this be submitted in time for the information to be included in the members' agenda packets for the October 13 meeting. That request was placed in a motion by Mr. Harding, seconded by Tarpy, and approved unanimously by the board.

### **Consideration of Sworn Complaint filed by the State Democratic Party Against State Republican Party:**

After deferring action on this complaint until obtaining Attorney General Opinion No. 98-121 relating to the issues contained in the sworn complaint, the members considered the complaint filed by the State Democratic Party against the State Republican Party in January, 1998. In that complaint, the Democratic Party had alleged that the Republican Party had violated the state campaign finance laws by transferring monies from its operating account to its state PAC without disclosing the identity of the contributors to the operating account.

Arguments were made as to both sides of the issues presented in the complaint by Bob Corney, Executive Director of the State Democratic Party, and David Weed as attorney for the State Republican Party. After hearing from both parties and considering the Attorney General's Opinion issued in regard to this complaint, Tarpy made a motion to take no action, seconded by Dunavant. Duckett then made a motion to table Tarpy's motion, seconded by Harding. The vote on the tabling motion was as follows: Dunavant, Hubbard, Junior-Spence and Tarpy voted "no", and Duckett and Harding voted "yes." The tabling motion failed.

On the original motion, the board voted 4 – 2 to take no action, with Duckett and Harding voting "no."

### **Consideration of Oral Complaint Made by Rep. Mike Williams Against BellSouth Employees PAC:**

This oral complaint made by Rep. Mike Williams of Franklin was first presented to the board at its May meeting. The complaint alleges that BellSouth Employees PAC made a contribution to legislative candidate Kathryn Sevier during the 1998 legislative session in violation of T.C.A. §3-6-108(i). (This provision of the Lobbyist Registration and Disclosure

Law prohibits a lobbyist, employer of a lobbyist or a PAC controlled by a lobbyist or the employer of a lobbyist from making a campaign contribution to a legislative candidate during regular annual legislative session.)

The Registry deferred action on this matter in order to obtain legal advice from the Attorney General as to whether the provision of the lobbying law in question is enforceable based on the analysis of the 1996 Emison federal district court case. (In that case, the court found a

similar provision under the Campaign Contribution Limits Act to be unconstitutional as applied to non-incumbent legislative candidates.)

Bob Cooper, representing BellSouth, and Patrick Turner, in-house counsel for BellSouth, both appeared before the Registry and stated that BellSouth had made the contribution to Ms. Sevier, assuming that the analysis of the court in Emison was applicable to T.C.A. §3-6-108(i), as it applies to contributions made to non-incumbent legislative candidates during session.

Harding made a motion to take no action, seconded by Tarpy. After further discussion, Harding withdrew his motion. Chairman Hubbard then made a motion that a show cause hearing notice be issued to BellSouth, seconded by Dunavant. The board voted to issue the show cause notice, with Dunavant and Tarpy voting “no” and Duckett abstaining.

### **Budget:**

Assistant Director Rawlins, presented the final budget figures for the 1997-98 fiscal year. He reported that the Registry ended the fiscal year with a \$23,000 surplus of funds. Rawlins also disseminated copies of a report showing who paid civil penalties owed to the Registry during the month of July. Director Williams noted that Ray Holt’s name should have been included in the July report, since he paid the \$1,500 penalty assessed against him during July.

### **Executive Director’s Report:**

Director Williams reported to the members that the hearing on the petition for civil contempt filed by the Attorney General against the Tennessee Conservative Union (TCU) that had been scheduled to be heard in Davidson County Chancery Court on July 17 was postponed indefinitely. The Attorney General’s Office requested the continuance because it had not yet obtained the bank records that John Davies agreed to provide relating to TCU’s PAC accounts.

Williams disseminated to the members a list of candidates who as of the date of the meeting had not filed their 1998 pre-primary campaign financial disclosure reports. According to an informal Attorney General’s opinion previously received by the Registry, those candidates prevailing in a primary election who fail to file a pre-primary campaign disclosure report are ineligible to have their names placed on the subsequent general election ballot, if their report is not filed prior to the State Election Commission certifying the names of those candidates for the general ballot. She reported that this list will be provided to Brook Thompson, State Elections Coordinator, and that each candidate will be notified of the consequences of not filing their pre-election reports.

The board’s regularly scheduled August monthly meeting was then adjourned, followed immediately by the Registry’s working session on how to proceed on pending campaign finance issues. The next regular meeting was scheduled for 10:30 a.m. on Tuesday, October 13, 1998.

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