

# REGISTRY OF ELECTION FINANCE

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The Registry of Election Finance, for the State of Tennessee, met Tuesday, March 9, 1999, at 1614, Parkway Towers, 404 James Robertson Parkway, Nashville, Tennessee.

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

The minutes of the February 9, 1999 meeting were approved on motion by Harding, seconded by Duckett.

Chair Junior-Spence introduced the newest member of the Registry, Michael McCroskey from Gatlinburg.

## ***Show cause hearing:***

**99-06 - Mike Whitaker**, for reporting the acceptance of excess contributions from a PAC for his 1998 primary election for Governor. Maximum civil penalty of \$10,000 or 115% of the excess contributions, whichever is greater.

Mr. Whitaker personally appeared before the board and explained that while he had accepted an excess campaign contribution from the Tennessee Employees Action Movement PAC and allocated the monies to his primary election, he actually spent the funds on general campaign materials, in anticipation of winning the primary.

On motion by Harding, seconded by Duckett, the board voted 4-2 to take no action, with Dunavant and McCroskey voting "no".

## ***Requests for Reconsideration:***

**98-62 - Charles Bush** - for failure to timely file his 1998 post-general campaign disclosure with the Montgomery County Election Commission. Mr. Bush was a candidate for General Sessions Judge in the August 6, 1998, Montgomery County General Election.

At its January meeting, the Registry voted to assess a \$250 civil penalty against Mr. Bush. (In response to the board's show cause hearing notice issued to Mr. Bush at the December, 1998 meeting, his treasurer filed a sworn statement.)

Mr. Bush personally appeared before the Registry to ask the board to reconsider the \$250 civil penalty assessed against him. Mr. Bush explained to the members that his treasurer was the person at fault in this case, as he had depended upon his treasurer to timely file his campaign disclosure reports.

McCroskey made a motion to affirm the previous assessment order assessing a \$250 civil penalty against Mr. Bush, seconded by Tarpy. Dunavant made a motion to amend McCroskey's motion, by proposing that the previous order be vacated and that a \$50 penalty be assessed in this matter. Dunavant's motion failed for a lack of a second.

On the original motion made by McCroskey, the board voted unanimously to affirm the previous assessment order of \$250.

**99-02 - Blount County Republican Campaign** - for failure to file its 1998 3<sup>rd</sup> quarter campaign financial disclosure report. The board voted at its January, 1999 meeting to issue a show cause hearing notice to the committee. When the Registry did not receive a response to the show cause hearing notice from the Blount County Republican Campaign, the board voted to assess \$2,500 in civil penalties against the committee at its February meeting. On March 2, 1999, the Registry received a sworn statement from David Duggan, attorney for the Blount County Republican Campaign requesting a reconsideration of the assessment of the civil penalty.

Mr. Duggan and Duncan Crawford, Chairman of the Blount County Republican Party, personally appeared before the board and requested that the Registry rescind the civil penalty assessment order issued in this case. Mr. Duggan and Mr. Crawford explained to the board that the treasurer for the Blount County Republican Committee has taken medical leave from his employment due to serious illness and that the treasurer did not inform anyone else in the committee that the required PAC disclosure report had not been filed. Blount County Republican Campaign Committee has now filed its 1998 3<sup>rd</sup> quarter report with the Registry, as well as its 4<sup>th</sup> quarter report, closing out the PAC at the state level.

On motion by McCroskey, seconded by Dunavant, the board voted unanimously to vacate the previous \$2,500 assessment order. Harding then made a motion to take no further action against Blount County Republican Campaign, seconded by Duckett. McCroskey made a motion to amend Harding's motion and to assess the committee a \$25 civil penalty, seconded by Dunavant. On a 2-3 vote, McCroskey's amendment failed, with Harding, Junior-Spence and Tarpy voting "no" and Duckett opting to "pass" on the vote.

On Harding's original motion, the board voted 5-1 to take no further action against the committee, with McCroskey voting "no".

### ***Approval of Civil Penalty Orders:***

**99-12 - Jimmy Kyle Davis** - for reporting the acceptance of excess campaign contributions from several individuals for his 1998 general election for District Attorney General in Knox County. Maximum civil penalty, \$10,000 or 115% of the excess contributions accepted, whichever is greater.

In response to the Registry's show cause hearing notice, Mr. Davis provided the board copies of letters from contributors concurring with the reallocation of the excess contributions to their spouses. Additionally, Mr. Davis filed an amended campaign disclosure report listing the reallocations.

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

**99-14 - Wade Farmer** - for failure to file his 1998 pre-general campaign financial disclosure report. Mr. Farmer was a candidate for state representative out of Russellville, Tennessee in both the primary and general elections. Class two (2), maximum civil penalty \$10,000.

At its February meeting, the board voted to issue a show cause hearing notice to Mr. Farmer. He has not responded to the show cause hearing notice, nor has Mr. Farmer filed his pre-general campaign disclosure report.

On motion by Harding, seconded by Tarpy, the board voted unanimously to assess Mr. Farmer a \$5,000 civil penalty.

**99-13 - Sara Lewis** - for failure to file a 1998 pre-general campaign financial disclosure with the Shelby County Election Commission. Ms. Lewis was a candidate for member of the Memphis City School Board in the November 3, 1998, Memphis Municipal Election. Class two (2), maximum civil penalty \$10,000.

At its February meeting, the board voted to issue a show cause hearing notice. While Ms. Lewis did not request a personal appearance before the board or submit a sworn statement for the board's consideration of her case, she has filed her report with the Shelby County Election Commission.

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

**Harry Tindell** – At the February meeting, the board issued a show cause hearing notice to Rep. Harry Tindell relating to his disclosure of a \$1,500 contribution received from an individual for his 1998 primary election. The notice was issued because the Registry had not received information requested from Rep. Tindell, which would verify approval from the contributor of the reallocation of \$500 of the \$1,500 contribution to Rep. Tindell's 1998 general election.

Assistant Director Rawlins explained to the members that immediately following the February 9 meeting, Rep. Tindell's information verifying the reallocation was received in the afternoon mail. (The information had been mailed to the Registry several days prior to the meeting.) Therefore, the staff delayed issuing the show cause notice.

On motion by Harding, seconded by Dunavant, the board voted unanimously to rescind the show cause hearing notice issued to Rep. Tindell at the last meeting.

### ***Show cause hearing notices:***

**Advocates for Better Children and Dads** - for failure to file its 1998 4<sup>th</sup> quarter campaign disclosure report. Class two (2), maximum civil penalty \$10,000.

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

**The Bartlett Republican Forum** - for failure to file its 1998 4<sup>th</sup> quarter report. Class two (2), maximum civil penalty \$10,000.

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

**International Brotherhood of Painters & Allied Trades** - for failure to timely file its 1998 4<sup>th</sup> quarter campaign financial disclosure report. Class one (1), maximum civil penalty \$450.

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

**National Republican Congressional Committee** - for failure to file its 1998 4<sup>th</sup> quarter campaign disclosure report. Class two (2), maximum civil penalty \$10,000.

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

**Republican National State Elections Committee** - for failure to file its 1998 4<sup>th</sup> quarter campaign disclosure report. Class two (2), maximum civil penalty \$10,000.

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

**Sullivan County Democratic Women** - for failure to timely file its 1998 4<sup>th</sup> quarter campaign disclosure report. Class one (1), maximum civil penalty \$25.

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

**Joseph Conly** - for failure to timely file his 1998 year-end lobbying activities report. Mr. Conly was registered as lobbyist for AARP in 1998. Maximum civil penalty \$150.

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

**Joe Majors** - for failure to timely file his 1998 year-end lobbying activities report. Mr. Majors registered as a lobbyist for several clients during 1998. Maximum civil penalty \$125.

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

**Molly McAnally** - for failure to timely file her 1998 year-end lobbying activities report. Ms. McAnally registered to lobby for the Williams Corp. during 1998. Maximum civil penalty \$200.

Ms. McAnally contacted the staff to explain that she was out of the country on her honeymoon when her father signed for the certified assessment letter from the Registry. She immediately overnighted her report to the Registry upon returning from her trip, and explained her circumstances in a note accompanying the report.

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

**Michael McClamroch** - for failure to timely file his 1998 year-end lobbying activities report. He had registered as a lobbyist during 1998 for his law firm in Knoxville. Maximum civil penalty \$50.

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

**Jerry Anderson** - for failure to timely file his 1998 annual supplemental campaign financial disclosure report. Mr. Anderson was a candidate for state representative in Winchester in the 1996 elections. Class one (1), maximum civil penalty \$200.

When Mr. Anderson filed his report with the Registry, he also filed a statement explaining why the report was not timely filed.

Harding made a motion to issue a show cause hearing notice to Mr. Anderson, which was seconded by McCroskey. That motion failed on a 3-3 vote, with Duckett, Dunavant and Tarpy voting "no". Therefore, no action was taken in this case.

**Dwight Henry** - for failure to timely file his 1998 annual supplemental campaign financial disclosure report. Mr. Henry was a 1990 gubernatorial candidate. Class one (1), maximum civil penalty \$225.

The Executive Director reported to the members that Mr. Henry has now closed out his 1990 campaign account.

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

**Alan Jones** - for failure to timely file his 1998 year-end lobbying activities report. Mr. Jones had registered as a lobbyist for the Tennessee Environmental Council. Maximum civil penalty \$125.

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

**Thomas McNamara** - for failure to timely file his 1998 year-end lobbying activities report. Mr. McNamara registered as a lobbyist in 1998 for AT&T and Andersen Consulting. Maximum civil penalty \$200.

On motion by Duckett, seconded by Dunavant, the board voted unanimously to issue a show cause hearing notice in this matter.

### ***Budget Report:***

Assistant Director Rawlins presented the budget statistics for the 1998/99 fiscal year budget through January, 1999. Rawlins reviewed the procedures on the Registry's budget and discussed the various line items in the budget for the benefit of McCroskey as a new board member.

### ***Executive Director:***

Director Williams disseminated to the members copies of a report that includes the total contributions and expenditures of each state candidate who ran in the 1998 elections. That information will be included in Appendix A of the proposed 1998 annual report to be provided to the Governor and the Speakers of both houses of the General Assembly. (In advance of the

March meeting, Williams had sent a copy of a second draft of the annual report to the members to review, without the information to be included in Appendix A, as that information was still being finalized by the staff at that time.)

Williams suggested to the members that the 1998 annual report be finalized, with any additional changes that the board wished to make to the second draft. She also presented the members a signature sheet to sign approving the report.

On motion by Harding, seconded by Tarpy, the board approved the report as drafted, and requested that the approving members sign the signature sheet to accompany the report. McCroskey opted not to affix his signature to the signature sheet, due to his concerns as to the content of certain items contained in the report relating to anonymous campaign contributions and removal of the one-year limitation on election and lobbying activities of members of the Registry after leaving office.

Director Williams provided the members copies of the proposed agenda for the House Ethics Committee's review of the campaign finance laws and the Registry. The Registry is expected to make a presentation as to the topics on the agenda at the first Committee meeting scheduled for March 24. Williams informed the members that she is preparing a notebook for each member of the committee, containing information as to the agency's presentation. She also told the board that the Chairman of the House Ethics Committee, Matt Kisber, has asked that Chair, Junior-Spence, and Alan Hubbard, who was Chair during the 1998 elections, be present at the March meeting of the committee, in addition to Director Williams.

Williams disseminated copies of a summary that she had prepared of the 1999 legislation that affects the Registry and the disclosure laws that the board administers. Contained in the summary are the bill numbers, a summary of each bill and a status report of the progression of the bill in each House.

The Director provided the members a copy of a letter that she has received from Davidson County District Attorney General Torry Johnson, stating that his office is considering its investigation of the sworn complaint filed with his office and with the Registry by Tennessee Citizen Action to be closed. In its complaint filed with the Registry on November 6, 1998, Tennessee Citizen Action had requested an investigation into phone calls made by an organization calling itself "Tennesseans for Clean Government". In those phone calls to voters in several Middle Tennessee legislative districts, Tennesseans for Clean Government suggested that the voters vote against specifically named incumbent legislative candidates. After gaining access to telephone records relating to some of the calls made to voters by Tennesseans for Clean Government through subpoenas, General Johnson's office was unable to trace the phone calls made by the organization because those calls had been "blocked".

Williams reported that her follow-up letters to each legislator who had been targeted by the phone calls made by Tennesseans for Clean Government requesting any additional information that they might have as to who was responsible for the calls have resulted in no new information being provided to the Registry.

On motion by Harding, seconded by Dunavant, the board voted to consider the Registry's investigation into this matter closed.

Director Willians informed the board that, pending no objections from the members, that she intends to take eight (8) weeks maternity leave after her baby is born. She also told the members that barring some unforeseen circumstance, she plans to work until the day that the baby is due.

***Other Business:***

The next regularly scheduled meeting was set for Tuesday, April 13, 1999 at 10:30 a.m. The March meeting was then adjourned.