

# REGISTRY OF ELECTION FINANCE

The Registry of Election Finance met Wednesday, May 10, 2000, at Suite 1614 of the Parkway Towers building, 404 James Robertson Parkway, Nashville, Tennessee.

Attending the meeting were board members Karen Dunavant, Bud Gilbert, George Harding, Alan Hubbard, Samella Junior-Spence and Michael McCroskey. Greg Duckett participated in the meeting by telephone.

The minutes of the April 11, 2000 meeting were approved unanimously on motion by Harding, seconded by Junior-Spence.

## *Show cause hearings:*

**00-06 – Barbara Baldwin**, for failure to timely file a 1999 year-end lobbying activities report. Ms. Baldwin registered as a lobbyist in 1999 for Planned Parenthood Association. Maximum civil penalty \$750.

Ms. Baldwin appeared before the board and explained to the members that she realized that filing the report was her responsibility. However, Ms. Baldwin stated that someone in her office had laid the Registry's notification on her desk and that she had failed to see it. She filed her activities report with the Registry on March 30. (The report was due on January 31.) Ms. Baldwin also explained that she is an unpaid lobbyist and had no activities to disclose on her report.

On motion by Hubbard, seconded by Junior-Spence, the board voted to assess Ms. Baldwin a twenty-five dollar (\$25) civil penalty with Duckett voting "no".

## *Sworn statements submitted:*

**00-17 – Carolyn Elerson**, for failure to timely file a 1999 year-end lobbying activities report. Ms. Elerson registered to lobby for Federal Express Corporation in 1999. Maximum civil penalty \$750.

Ms. Elerson submitted a sworn statement to the Registry for the board's consideration of this matter. She explained that she had on two occasions tried to fax her lobbying activities report to the Registry. Ms. Elerson attached a copy of a facsimile cover sheet to the Registry as evidence that she had attempted to fax her report.

Director Williams informed the board that there was no record in Ms. Elerson's file showing the receipt of a faxed report. On March 20, the Registry received her original report, which was delivered by Federal Express, along with Ms. Elerson's lobbyist registration for 2000.

A motion was made by Harding, seconded by McCroskey, to assess Ms. Elerson a \$250 civil penalty. Duckett then made a motion to amend the original motion to assess Ms. Elerson a \$25 civil penalty, seconded by Hubbard. That amendment passed with a 4 to 3 vote, with Harding, Gilbert and McCroskey voting “no”.

McCroskey then made a motion, seconded by Gilbert, to amend the amended motion to assess Ms. Elerson an civil penalty of \$100. After further discussion, McCroskey withdrew his amendment. Duckett then made a motion to table the original motion as amended, which would assess Ms. Elerson \$25, which was seconded by McCroskey. The board voted 6 to 1 to table the motion, with Hubbard voting “no”.

Harding then made a motion to continue this matter until the June meeting and to direct staff to request that Ms. Elerson provide any additional evidence that she had showing that she had attempted to fax her activities report to the Registry on two prior occasions. That motion passed unanimously.

**00-16 – J. Mark Hansen**, for failure to timely file a 1999 year-end lobbying activities report. Mr. Hansen registered as a lobbyist for Federal Express in 1999. Maximum civil penalty \$750.

Mr. Hansen submitted a sworn statement to the board stating that he had no record of receiving the Registry’s notifications of the requirement that he file an activities report. He stated that he was unaware of the need to file a year-end lobbying activities report until he received the show cause hearing notice from the board in April. Director Williams apprised the board that the show cause hearing notice was sent regular mail to the same address as the original notice and certified assessment letter.

Gilbert made a motion to assess Mr. Hansen a \$250 civil penalty, seconded by Harding. After further discussion, Gilbert withdrew his motion. McCroskey then made a motion, seconded by Gilbert, to assess Mr. Hansen a \$750 penalty. That motion failed on a 3 to 4 vote, with Duckett, Dunavant, Hubbard, and Junior-Spence voting “no”.

Hubbard then made a motion, seconded by Duckett, to assess Mr. Hansen a \$25 civil penalty. That motion was then amended by Gilbert, seconded by Harding, to assess a \$100 civil penalty. The amendment to the motion passed on a 4 to 2 vote, with Duckett and Hubbard voting “no” and McCroskey abstaining. The motion to assess Mr. Hansen a \$100 civil penalty passed on a 5 to 1 vote, with Duckett voting “no” and McCroskey once again abstaining.

Harding then made a motion, seconded by Junior-Spence, directing staff to send a letter to the President of Federal Express notifying him that the Registry has encountered some problems with some of Federal Express’ lobbyists in failing to timely file lobbying activities reports. That motion passed on a 6 to 1 vote, with Duckett voting “no”.

**00-19 – B.R. Hall**, for failure to timely file a 1999 year-end lobbying activities report. Mr. Hall registered as a lobbyist for the Nashville Firefighters Association in 1999. Maximum civil penalty \$750.

Mr. Hall submitted a sworn statement for the board’s consideration of this matter. Mr. Hall stated that he was unaware of the notifications from the Registry concerning his failure to file a year-end report until the show cause hearing notice was forwarded to his

home address by the firefighters association. He further explained that the prior notices had also been sent to the firefighters' hall instead of his home address.

Additionally, Mr. Hall informed the members in his statement that the association's secretary had in the past years forwarded any Registry notifications to his home address but that she is now deceased.

Director Williams explained to the board that the notices are always sent to the lobbyist's business address. She also informed the members that this is the first time Mr. Hall has ever had a case before the board, and he had been a registered lobbyist for several years.

A motion was made by Junior-Spence, seconded by Duckett, to take no action in this matter. McCroskey then made a motion to amend the original motion to assess Mr. Hall a \$100 civil penalty, seconded by Gilbert. The motion to amend passed on a 4 to 3 vote, with Duckett, Hubbard, and Junior-Spence voting "no". The motion as amended to assess Mr. Hall a \$100 civil penalty passed on a 4 to 2 vote, with Duckett and Junior-Spence voting "no".

**00-14 – Anderson County Democratic Executive Committee**, for failure to file a 1999 4<sup>th</sup> quarter campaign financial disclosure report. Class two (2), maximum civil penalty \$10,000.

The Anderson County Democratic Executive Committee submitted a statement to the board, explaining that the treasurer of the committee had resigned and that a new treasurer had been appointed. Assistant Director Rawlins advised the board that the PAC had not completed a new appointment of political treasurer statement for the new treasurer. (A statement of treasurer form has been provided to the committee.) The committee's campaign disclosure report has now been filed.

A motion was made by Harding, seconded by Junior-Spence, to take no action. McCroskey then made a motion to amend the original motion to assess the committee a \$50 civil penalty, seconded by Gilbert. The motion to assess a \$50 civil penalty failed on a 3 to 4 vote, with Duckett, Dunavant, Harding, and Junior-Spence voting "no".

Hubbard then made a motion to amend Harding's original motion to assess the committee a \$25 civil penalty. The motion to amend was passed on a 4 to 3 vote with Duckett, Harding, and Junior-Spence voting "no". The board then voted to assess the Anderson County Democratic Executive Committee a \$25 civil penalty by a 4 to 3 vote, with Duckett, Harding, and Junior-Spence voting "no".

**00-15 – Tennessee Federation of Republican Women – B. McAndrew Iris Fund**, for failure to file a 1999 4<sup>th</sup> quarter campaign financial disclosure report. Class two (2), maximum civil penalty \$10,000.

The treasurer of the PAC filed a sworn statement for the board's consideration of this matter. In her statement, Nancye Hines explained that she mailed the original report and has no idea why it did not reach the Registry. She provided a copy of the report that she had retained for her records, with her newly notarized signature.

On motion by Harding, seconded by Junior-Spence, the board voted to assess the organization a \$25 civil penalty, with Duckett voting "no".

**00-07 – Gilbert Campbell**, for failure to timely file a 1999 year-end lobbying activities report. Class one (1), maximum civil penalty \$250.

Mr. Campbell submitted a sworn statement for the board's consideration. In his statement, Mr. Campbell explained that he has been relieved of his lobbying duties for the Tennessee Bar Association.

A motion was made by McCroskey, seconded by Harding, to assess Mr. Campbell a \$250 civil penalty. Hubbard then made a motion to amend the original motion to assess Mr. Campbell a \$25 civil penalty, seconded by Gilbert. Duckett then made a motion to amend the amendment to take no action. Duckett's amendment died for lack of a second.

On the original amendment, the board voted to amend the original motion to assess Mr. Campbell a \$25 civil penalty, with Duckett and Harding voting "no" and McCroskey abstaining. The motion as amended passed on a 5 to 1 vote, with Duckett voting "no" and McCroskey again abstaining.

**00-18 – William Goodwin**, for failure to timely file a 1999 year-end lobbying activities report. Mr. Goodwin registered to lobby for the Tennessee Oil and Gas Association in 1999. Maximum civil penalty \$750.

Mr. Goodwin filed a sworn statement for the board's consideration of his case. He explained that his business address had changed and that he had placed his new address on his 1999 mid-year report, but the Registry continued to send notices to his old address. Director Williams clarified to the board that while he had changed his address at the top of his mid-year activities report, Mr. Goodwin had not indicated his address change in the item on the form for the provision of that type of information. Therefore, the staff failed to change Mr. Goodwin's address in the computer system.

On motion by McCroskey, seconded by Harding, the board voted on a 4 to 2 vote to assess a \$25 civil penalty, with Duckett and Hubbard voting "no".

**00-20 – Herbert Hilliard**, for failure to timely file a 1999 year-end lobbying activities report. Mr. Hilliard registered to lobby for First Tennessee Corporation in 1999. Maximum civil penalty \$750.

In his sworn statement, Mr. Hilliard explained that the failure to timely file his activities report was due to an "oversight in his office".

A motion was made by Duckett to take no further action in this matter; however, that motion died for lack of a second. Another motion was then made by Hubbard, seconded by Gilbert, to assess Mr. Hilliard a \$25 civil penalty. That motion passed on a 4 to 1 vote, with Duckett voting "no" and Dunavant abstaining.

**00-10 – Joe Akard**, for failure to timely file a 1999 supplemental annual campaign financial disclosure report. Mr. Akard had been a candidate for state

representative in district 1 in 1998. (Mr. Akard's campaign account still showed an outstanding obligation and loan.) Class two (2), maximum civil penalty \$10,000.

Mr. Akard submitted a sworn statement for the board's consideration, explaining that he received the Registry's original notification concerning the need for him to file his report, but he unintentionally forgot about completing the report. He stated that his son had signed for the Registry's certified assessment letter and that he never saw that letter.

A motion was made by Gilbert, seconded by Harding, to assess Mr. Akard a \$25 civil penalty. That motion passed on a 4 to 1 vote, with Duckett voting "no" and Hubbard abstaining.

### ***Cases subject to approval for civil penalty orders:***

**00-08 – Thomas Nelson**, for failure to timely file a 199 year-end lobbying activities report. Mr. Nelson registered in 1999 as a lobbyist for Whitehaven Southwest Mental Health Center. Maximum civil penalty \$275.

Director Williams explained that Mr. Nelson had requested to make a personal appearance before the board in response to the show cause hearing notice. However, Mr. Nelson failed to appear, without any explanation as to his absence.

Harding made a motion, seconded by Hubbard, to assess Mr. Nelson a \$100 civil penalty. McCroskey then made a motion to amend the original motion to assess Mr. Nelson \$275, seconded by Gilbert. The amendment passed on a 6 to 1 vote, with Duckett voting "no".

**00-05 – Timothy Ayers**, for failure to timely file a 1999 year-end lobbying activities report. Mr. Ayers registered to lobby in 1999 for the Nashville Chamber of Commerce. Maximum civil penalty \$425.

Hubbard made a motion to assess a \$25 civil penalty, but withdrew it. Another motion was made by McCroskey to assess a \$425 civil penalty; however, that motion died for lack of a second. On motion by Hubbard, seconded by Harding, the board voted to assess a \$100 civil penalty with a 4 to 2 vote, with Duckett and Dunavant voting "no".

**00-21 – Pamela Reed**, for failure to file a 1999 year-end lobbying activities report. In 1999, Ms. Reed registered to lobby for Bio-Defense Consultants, LLC. Maximum civil penalty \$750.

Director Williams informed the board that the Registry had received nothing from Ms. Reed in response to the show cause hearing notice other than a phone call. As of the date of the meeting, Ms. Reed had still not filed her activities report.

On motion by McCroskey, seconded by Hubbard, the board voted unanimously to assess Ms. Reed a \$750 civil penalty.

**00-09 – Sen. Roscoe Dixon**, for failure to timely file a 1999 supplemental annual campaign financial disclosure report. Class one (1) civil penalty, maximum \$750 civil penalty.

Director Williams reported that Sen. Dixon had failed to respond to the board's show cause hearing notice.

McCroskey made a motion to assess a \$750 civil penalty, which died for lack of a second. Upon motion by Harding, seconded by Hubbard, the board voted unanimously to assess a \$250 civil penalty against Sen. Dixon, with Duckett and McCroskey abstaining.

**00-11 – Wade Farmer**, for failure to file a 1999 supplemental annual campaign financial disclosure report. Mr. Farmer had been a candidate for state representative in district 10 in 1998. Class two (2), maximum \$10,000 civil penalty.

Director Williams reminded the board members that Mr. Farmer still owes the Registry \$6,500 from penalties assessed against him in 1998 for failure to timely file campaign financial disclosure reports. (Those cases have been forwarded to the State Attorney General's office for collection.) Additionally, Mr. Farmer did not respond to the board's show cause hearing notice.

On motion by McCroskey, seconded by Harding, the board voted unanimously to assess Mr. Farmer a \$10,000 civil penalty.

**00-12 – James Roberts**, for failure to file a 1999 supplemental annual campaign financial disclosure report. Class two (2), maximum civil penalty \$10,000.

Director Williams informed the members that Mr. Roberts had failed to respond to the board's show cause hearing notice.

On motion by McCroskey, seconded by Gilbert, the board voted unanimously to assess Mr. Roberts a \$1000 civil penalty.

**00-13 – Tennesseans for Common Sense, Accountability and Reform**, for failure to timely file a 1999 4<sup>th</sup> quarter report. Class one (1), maximum civil penalty \$175.

Assistant Director Rawlins reported that the committee has not responded to the board's show cause hearing notice.

On motion by Gilbert, seconded by McCroskey, the board voted to assess a \$175, with Harding abstaining.

### ***Persons subject to possible issuance of show cause hearing notices:***

**Democratic Women's Club of Davidson County PAC**, for failure to timely file a 1999 4<sup>th</sup> quarter campaign financial disclosure report. Class one (1), maximum civil penalty \$300.

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

**Tennessee Republican Victory Committee**, for failure to file a 1999 4<sup>th</sup> quarter campaign financial disclosure report. Class two (2), maximum civil penalty \$10,000.

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

**Eye PAC**, for failure to timely file a 1999 4<sup>th</sup> quarter campaign financial disclosure report. Class one (1), maximum civil penalty \$50.

On motion by Gilbert, seconded by Hubbard, the board voted unanimously to take no action in this matter.

**Tennessee Latino American PAC**, for failure to timely file a 2000 1<sup>st</sup> quarter campaign financial disclosure report. Class one (1), maximum civil penalty \$200.

On motion by McCroskey, seconded by Harding, the board voted unanimously to issue a show cause in this matter.

**Bonita Tippett Hamm**, for failure to timely file a 1999 year-end lobbying activities report. She registered as a lobbyist for Tennessee Manufactured Housing Association in 1999. Maximum civil penalty \$100.

On motion by Hubbard, seconded by Gilbert, the board voted unanimously to take no action in this matter.

**Donna Weisner**, for failure to timely file a 1999 year-end lobbying activities report. Maximum \$100 civil penalty.

On motion by Hubbard, seconded by Gilbert, the board voted unanimously to take no action in this matter.

**Bruce Cantrell**, for failure to file a 1999 early supplemental annual disclosure report. Class two (2), maximum civil penalty \$10,000.

Mr. Cantrell opened a campaign account in January 1998 to run for state senate, but did not qualify to run for that office. However, Director Williams reported to the board that Mr. Cantrell does have a balance of contributions and an outstanding loan in his 2000 campaign account.

On motion by Harding, seconded by McCroskey, the board voted unanimously to issue a show cause in this matter.

### ***Budget report:***

Harding inquired as to the estimate of the cost by Local Government Data Processing System to conduct a study to determine the needs of the Registry to develop an electronic filing system for filing campaign finance reports. Assistant Director Rawlins reminded the members that the estimate provided by that company was between \$10,000 and \$15,000. Rawlins reported that the Registry would probably have the money leftover in the 1999-2000 budget at the end of the fiscal year to cover the cost of the study.

On motion by Gilbert, seconded by Hubbard, the board voted to authorize the staff to go through the necessary procedures to obtain a study of an electronic filing system to be conducted Local Government Data Processing Systems with the understanding that the study will belong to the Registry when it is completed. Harding, who is a member of the board of directors of that organization, abstained from voting.

Director Williams recommended to the members that the staff be authorized to obtain a new phone system. She explained to the members that the current system being utilized by staff is out of date and is no longer being used by state agencies. Currently, when frequent necessary repairs are being made to the system only refurbished parts can be obtained with which to make those repairs. Director Williams disseminated an estimate of the cost for a new phone system provided by the Department of General Services. The estimate showed that the one time cost would be \$1,765, with an estimated monthly increase of \$80.

On motion by Hubbard, seconded by McCroskey, the board voted unanimously to approve a new phone system.

Assistant Director Rawlins presented the board a budget report for the present fiscal year through March 30, 2000. Rawlins also provided the members a list of individuals and organizations who paid outstanding civil penalties owed to the Registry during April.

On motion by Hubbard, seconded by Harding, the board voted unanimously to approve the budget as presented.

### ***Executive Director's report:***

As directed by the board at the April meeting, Director Williams reported to the members that she had traveled to Memphis on April 30 to meet with District Attorney General Bill Gibbons to provide him copies of the pertinent documents from Doug Morris' campaign finance file and to present him with the Registry's request that General Gibbons' office conduct a criminal investigation of this matter.

In response to the board's request presented to the District Attorney General, Director Williams provided the members a copy of a letter written to Mr. Morris by General Gibbons informing him that the Tennessee Bureau of Investigation would be asked to conduct an investigation of Mr. Morris' claim of repayment of an obligation to Morris Advertising Agency made to his 1996 campaign for state representative for possible violations of the campaign finance laws.

Director Williams disseminated a copy of pending legislation to the members which affect the disclosure laws that the Registry enforces. Williams pointed out to the board the bills that are presently pending before the General Assembly that are still viable as of the date of the meeting.

Director Williams reported to the members that the next annual COGEL conference is scheduled for December 3-6, 2000 in Tampa, Florida. She asked the members to consider who should attend this meeting and to have further discussions on this matter at the June meeting, as the hotel where the conference is being held is expected to be booked early.

***Other business:***

Board member Gilbert recommended to the members that they again consider presenting proposed campaign finance rules to the General Assembly, as there are apparently several areas of the campaign finance laws that are still in need of clarification. He suggested such an approach, especially in light of the fact that the members of the General Assembly have failed to act legislatively on the recommendations by the Registry as to areas of the disclosure laws that should be addressed for clarity.

In light of Gilbert's recommendation and the discussion of the members, Director Williams suggested that staff take a look at the last set of rules that the board promulgated and any other areas under the campaign finance laws that the staff felt that clarification was needed and present those rules to the board for consideration at the June meeting. She also suggested that lunch be provided to the members for a working session on proposed rules at the June meeting.

The May meeting was adjourned until the next meeting date, which was scheduled for June 14, 2000, at 10:30 a.m. CDST.