

REGISTRY OF ELECTION FINANCE

The Registry of Election Finance met Wednesday, July 9, 2003, at Suite 1614 of Parkway Towers, 404 James Robertson Parkway, Nashville, Tennessee.

Attending the meeting were board members Henry Fincher, Darlene McNeece, Wilbert Minter, Lee Anne Murray, William Long and Karen Dunavant.

On motion by Minter, seconded by McNeece, the minutes from the June 11, 2003 meeting were approved unanimously.

Request for Reconsideration

03-17 Conservative Forum of Tennessee, for possible violations of the Campaign Financial Disclosure Law. Class two (2), maximum ten thousand (\$10,000) civil penalty.

The Registry received two sworn complaints alleging that Conservative Forum of Tennessee was involved in the 12th district senate election without being registered as a PAC. The complaints stated that the organization had a web site that stated "Vote No on Tommy Kilby". The board voted at its April meeting to issue a show cause notice to the organization to show cause why they should not be held in violation of the campaign finance law. In addition, the board requested the Registry's Executive Director to make reasonable effort to determine the chief administrative officer of the group and for their name to appear in the show cause notice.

A sworn statement, along with an appointment of political treasurer statement registering Conservative Forum of Tennessee as a PAC, was filed by Debra Maggart in response to the show cause notice. In her statement, Ms. Maggart stated that the group was formed to give conservatives a forum to express their opinions. In addition, she stated that she was not aware that placing "Vote No" on the web site would require the group to register as a PAC.

The board voted at its June 11, 2003 meeting to assess the organization a \$5,000 civil penalty. The Registry received requests for reconsideration from Randy Stamps and Debra Maggart along with sworn statements.

In his sworn statement Mr. Stamps explained that he was unaware that the Registry board expected a response to the show cause notice from him. Mr. Stamps also explained that as of February 2003 he was no longer involved in the organization. Mr. Stamps further explained that he made his cell phone available to Ms. Maggart for use with the Conservative Forum and has had no direct or consistent access to the phone since February of this year.

In her sworn statement Ms. Maggart stated that the intent of the organization was to provide information and did not direct anyone to place the poster of Rep. Tommy Kilby on the web site. Ms. Maggart further stated that upon reviewing the web site and seeing the poster she did not realize that the poster would require the organization to register as a PAC. Ms. Maggart noted that the web site was never advertised and had limited public contact.

On motion by Fincher, seconded by Dunavant, the board voted unanimously not to reconsider the assessment against the organization. The board stated that the \$5,000 civil penalty assessment is appropriate and that Mr. Stamps and Ms. Maggart have failed to show further evidence or explanation to warrant a reduction of the assessment.

03-24 Kwame Lillard, for failure to file a 2002 post-general campaign financial disclosure report. Class two (2), no report filed, maximum ten thousand (\$10,000) civil penalty. Mr. Lillard has had no previous matters before the board.

The board voted at its April meeting to issue Mr. Lillard a show cause notice for his failure to file the required report.

The board voted at its June 11, 2003 meeting to assess Mr. Lillard a \$100 civil penalty for his failure to file the required report. Mr. Lillard submitted a statement asking for the board's reconsideration of the civil penalty assessment against him.

In this statement Mr. Lillard explained that the treasurer of his campaign, who has since passed away, had become ill. Mr. Lillard further explained that he assumed that his treasurer would complete the required reports and file them timely. Mr. Lillard noted that the oversight was not intended but simply a task without a dedicated person to complete the work.

On motion by Long, seconded by Dunavant, the board voted unanimously not to reconsider the \$100 civil penalty assessment against Mr. Lillard.

03-25 Calvin Moore, for failure to file a 2002 post-general campaign financial disclosure report. Class two (2), no report filed, maximum ten thousand (\$10,000) civil penalty. Mr. Moore has had no previous matters before the board.

The board voted at its April meeting to issue Mr. Moore a show cause notice for his failure to file the required report.

The board voted at its June 11, 2003 meeting to assess Mr. Moore a \$400 civil penalty for his failure to file the required report. Mr. Moore requested a reconsideration of the assessment.

Mr. Moore submitted a statement for the board's consideration. In this statement Mr. Moore explained that he had moved to Florida after the 2002 election and that his elderly father, who had volunteered to forward his mail, signed for the registered letters and failed to forward them. Mr. Moore also noted that his daughter, who was his campaign treasurer, was unaware that there was an additional filing to be made. Mr. Moore noted that as soon as he found out about the problem he filed the necessary report with the Registry and had received no other correspondence until the Registry's Order was received.

A motion was made by Dunavant, seconded by Long, the board voted unanimously to reconsider the \$400 assessment against Mr. Moore. On motion by Long, seconded by Minter, the board voted unanimously to assess Mr. Moore a \$200 civil penalty.

03-23 Steven Buttry, for failure to file a 2002 statement of interest report. Class two (2), no report filed, maximum ten thousand (\$10,000) civil penalty. Rep. Buttry has had no previous matters before the board.

The board voted at its June 11, 2003 meeting to assess Rep. Buttry a \$5,000 civil penalty for his failure to file the required report. Rep. Buttry requested to appear before the board to request a reconsideration of the assessment.

Rep. Buttry appeared before the board and stated that he has now filed the required report and that he did not realize that the report had not been filed timely. Rep. Buttry further stated that his failure to file was an innocent and unintentional mistake and that he would make every effort to file timely with the Registry in the future.

On motion by Dunavant, seconded by McNeece, the board voted unanimously to reconsider the \$5,000 assessment against Rep. Buttry. A motion was made by Long, seconded by McNeece, to assess Rep. Buttry a \$100 civil penalty. The motion to assess Rep. Buttry a \$100 civil penalty passed the board unanimously.

Show Cause Hearings

03-36 RAAMPAC, for possible violations of the Campaign Financial Disclosure Law. Class two (2), maximum ten thousand (\$10,000) civil penalty. The organization has had no previous matters before the board.

Director Rawlins informed the board that John Rutherford, Executive Director for Tennessee Citizen Action, submitted a sworn complaint to the Registry. In this sworn complaint Mr. Rutherford questions whether RAAMPAC can legally make \$15,000 in contributions to Mark Goins' for Senate campaign. Mr. Rutherford expresses concern that the organization was used as a conduit to make an illegal contribution to the Mark Goins' campaign from a \$25,000 contribution John Gregory made to RAAMPAC.

The board voted at its June 11, 2003 meeting to issue RAAMPAC and John Gregory show cause notices. Both RAAMPAC and Mr. Gregory requested to appear before the board at the next regularly scheduled meeting to ask for consideration.

Director Rawlins presented the facts of the case and distributed sworn statements received by the Registry from several individuals on behalf of the organization and Mr. Gregory.

Ed Bryant, Lewis Donelson and Mark Manno personally appeared before the board as counsel for Mr. Gregory. Thomas Smith, treasurer of RAAMPAC, and Paul Ney, counsel for RAAMPAC, personally appeared before the board on behalf of RAAMPAC.

Congressman Bryant explained that it has been Mr. Gregory's routine practice over the years to give contributions to state and local parties, individuals and PACs. Congressman Bryant further explained that Mr. Gregory did not earmark or provide directions or instructions to RAAMPAC when he made the contribution. Congressman Bryant stated that Mr. Gregory simply made a contribution to a political action committee and did not violate state provisions pertaining to indirect contributions or limitations.

Mr. Ney stated that RAAMPAC was a registered PAC and meet the definition of a PAC. In addition, Mr. Ney stated that no monies were earmarked for Mr. Goins' campaign. Mr. Smith stated that other than making a contribution Mr. Gregory was not involved in the organization. Mr. Smith also stated that the organization has followed the rules as set forth in the Campaign Financial Disclosure Laws.

The board had discussion on the intent of RAAMPAC and Mr. Gregory and on whether the Campaign Finance Law is clear and precise on when a PAC can give money and how often they can give contributions.

After further discussion, a motion was made by Long, seconded by McNeece, to take no further action in this matter. The motion to take no action failed 3 to 3, with Fincher, Minter and Murray voting “no.” A friendly amendment was made by Fincher, declined by Long and McNeece, to defer action on this matter and to get guidance on this issue from the Attorney General.

Fincher then made a motion, seconded by Minter, to get guidance from the Attorney General as to what timeframe to look at to determine when to determine when a organization actually becomes a PAC. This motion failed the board 3 to 3, with Dunavant, Long and McNeece voting “no.”

After further discussion, a motion was made by Minter, seconded by Fincher, to seek an opinion from the Attorney General regarding the definition of a PAC and what timeframe should be viewed in order to establish when a PAC becomes a PAC. A friendly amendment was then made by Murray, accepted by Minter and Fincher, to include in the opinion request whether there is any state or federal guidance on what constitutes a conduit. The motion as amended passed the board 5 to 1, with Long voting “no.”

Chairman Fincher noted that the board would take no adverse action against the parties on the show cause notices without allowing them the opportunity to appear before the board.

03-37 Kathryn Bowers, for failure to file a 2002 post-general campaign financial disclosure report. Class two (2), no report filed, maximum ten thousand (\$10,000) civil penalty. Rep. Bowers has had previous matters before the board.

The board voted at its June 11, 2003 meeting to issue Rep. Bowers a show cause notice for her failure to file the required report. Rep. Bowers requested to personally appear at the board’s next regularly scheduled meeting.

Rep. Bowers personally appeared before the board and explained that she was late filing the required report because some of the documentation needed to have a complete and accurate report was missing. Rep. Bowers further explained that all of the information was collected and that she has now filed the required report.

On motion by Fincher, seconded by Long, the board voted unanimously to assess Rep. Bowers a \$1,000 civil penalty.

Sworn Statements Submitted

03-27 Dewayne Bunch, for failure to timely file a 2002 statement of interest report. Class one (1), 21 days late, maximum five hundred twenty-five (\$525) civil penalty. Rep. Bunch has had no previous matters before the board.

The board voted at its April meeting to issue Rep. Bunch a show cause notice for his failure to timely file the required report.

At the June meeting, the board voted to defer any action in this case until the July 9, 2003 meeting. Rep. Bunch submitted a statement for the board’s consideration.

In this statement Rep. Bunch explained that his failure to timely file the required report was simply an oversight by his campaign and himself. Rep. Bunch further explained that family responsibilities and preparation for the upcoming legislative session were factors in the untimely submission of the required report.

On motion by Long, seconded by Dunavant, the board voted unanimously to assess Rep. Bunch a \$50 civil penalty.

Cases Subject to Approval for Civil Penalty

03-28 John DeBerry, for failure to timely file a 2002 statement of interest report. Class one (1), 28 days late, maximum seven hundred (\$700) civil penalty. Rep. DeBerry has had previous matters before the board.

The board voted to defer any action in this case until the July 9, 2003 meeting. Rep. DeBerry personally appeared before the board to ask for consideration of his case.

Rep. DeBerry stated that he did not realize that he had not filed the report timely. Rep. DeBerry further stated that he was unaware that penalties had been accruing against him for his failure to timely file.

On motion by Murray, seconded by Minter, the board voted unanimously to assess Rep. DeBerry a \$150 civil penalty.

03-31 CASS PAC, for failure to timely file a 2003 1st quarter campaign financial disclosure report. Class one (1), seven days late, maximum one hundred seventy-five (\$175) civil penalty. The organization has had no previous matters before the board.

The board voted at its June 11, 2003 meeting to issue the organization a show cause notice.

Director Rawlins informed the board that there has been no response to the show cause notice. On motion by Dunavant, seconded by Murray, the board voted unanimously to assess the organization a \$175 civil penalty.

03-32 DCRP Candidate Fund, for failure to file a 2003 1st quarter campaign financial disclosure report. Class two (2), no report filed, maximum ten thousand (\$10,000) civil penalty. The organization has had no previous matters before the board.

The board voted at its June 11, 2003 meeting to issue the organization a show cause notice.

Carla Perkins, treasurer for the organization, submitted a statement for the board's consideration. In this statement Ms. Perkins states that the required report was originally filed on April 8, 2003. Ms. Perkins further stated that when it came to her attention that the original filing never reached the Registry she faxed a copy of the original filing on approximately June 4, 2003. Ms. Perkins stated that she attached a second submission of the report, newly notarized, along with her statement. Ms. Perkins noted that the report was submitted in good faith and apologized for the inconvenience.

Director Rawlins informed the board that the Registry had not received a report from the organization by either mail or fax until the report filed with the statement was received from Ms. Perkins.

On motion by Long, seconded by McNeece, the board voted unanimously to assess the organization a \$200 civil penalty.

03-33 Jefferson County Democratic Party, for failure to file a 2003 1st quarter campaign financial disclosure report. Class two (2), no report filed, maximum ten thousand (\$10,000) civil penalty. The organization has had previous matters before the board.

The board voted at its June 11, 2003 meeting to issue the organization a show cause notice.

Director Rawlins informed the board that there has been no response to the show cause notice and that the report still has not been filed. Director Rawlins further informed the board that the organization has two outstanding civil penalties with the Registry totaling \$20,000.

On motion by Fincher, seconded by Long, the board voted unanimously to close the organization's account with the Registry. The board noted that this action is being taken due to the failure of the committee to respond to any correspondence that has been sent to them.

03-34 Save Our Schools PAC, for failure to timely file a 2003 1st quarter campaign financial disclosure statement. Class one (1), nine days late, maximum two hundred twenty-five (\$225) civil penalty. The organization has had a previous matter before the board.

The board voted at its June 11, 2003 meeting to issue the organization a show cause notice for their failure to timely file the required report.

Director Rawlins informed the board that a representative from the organization contacted him and asked that their case be deferred until the next regularly scheduled meeting to allow them an opportunity to appear before the board and respond the show cause notice.

On motion by Dunavant, seconded by Long, the board voted unanimously to defer any action in this case until the next regularly scheduled meeting to allow the organization an opportunity to appear and respond to the show cause notice.

03-35 Tennessee Democratic Executive Committee, for failure to timely file a 2003 1st quarter campaign financial disclosure statement. Class one (1), eight days late, maximum two hundred (\$200) civil penalty. The organization has had no previous matters before the board.

The board voted at its June 11, 2003 meeting to issue the organization a show cause notice for their failure to timely file the required report.

Director Rawlins informed the board that a note was received with the report stating that the organization had computer software problems and thus the report was not timely filed.

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

03-38 Thelma Harper, for failure to file a 2002 allocation of unexpended funds report. Class two (2), no report filed, maximum ten thousand (\$10,000) civil penalty. Sen. Harper has had a previous matter before the board.

The board voted at its June 11, 2003 meeting to issue Sen. Harper a show cause notice for her failure to file the required report.

Director Rawlins informed the board that there has been no response to the show cause notice and that the report still has not been filed.

On motion by Long, seconded by Murray, the board voted unanimously to assess Sen. Harper a \$500 civil penalty.

03-39 Joe McCord, for failure to timely file a 2002 allocation of unexpended funds report. Class one (1), ten days late, maximum two hundred fifty (\$250) civil penalty. Rep. McCord has had previous matters before the board.

The board voted at its June 11, 2003 to issue Rep. McCord a show cause notice for his failure to timely file the required report.

Rep. McCord submitted a statement to the board apologizing and explaining that he was confused since the post general disclosure report and allocation report were both due at the same time. Rep. McCord further explained that he thought he had filed the necessary reports not realizing that there were actually two forms due.

On motion by Long, seconded by McNeece, the board voted unanimously to take no further action in this matter.

03-40 Nathan Vaughn, for failure to file a 2002 statement of interests report. Class one (1), 26 days late, maximum six hundred fifty (\$650) civil penalty. Rep. Vaughn has had no previous matters before the board.

The board voted at its June 11, 2003 to issue Rep. Vaughn a show cause notice for his failure to timely file the required report.

Rep. Vaughn submitted a statement for the board's consideration. In this statement Rep. Vaughn apologized and explained that he thought the required report had been filed. Rep. Vaughn further explained that when he realized that the report had not been filed he immediately completed and filed the required report with the Registry.

On motion by Dunavant, seconded by McNeece, the board voted unanimously to assess Rep. Vaughn a \$100 civil penalty.

Reported Financial Expenses

Director Rawlins presented the expenditure reports for the 2002/2003 fiscal year through May 31, 2003.

Additionally, Director Rawlins provided the board members with a list of civil penalties that have been paid year to date.

Other Business

After discussion, the board voted to meet on August 13, 2003 only if the Attorney General opinion, requested in the RAAMPAC matter, had been received by August 8, 2003. If the opinion was not received by August 8, 2003, the next meeting will be held on September 10, 2003.

On motion by Fincher, seconded by Dunavant, the board voted unanimously to not tape record the monthly board meetings.

A motion was made by Fincher, seconded by Murray, to adjourn the meeting until the next regularly scheduled meeting. The motion passed unanimously.