

REGISTRY OF ELECTION FINANCE

The Registry of Election Finance met Wednesday, April 14, 2004, at Suite 1614 of Parkway Towers, 404 James Robertson Parkway, Nashville, Tennessee.

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

McNeece requested the March 10, 2004 minutes reflect that the motion to issue a show cause notice to the Tennessee Walking Horse Breeders & Exhibitors Association was seconded by Dunavant. On motion by Fincher, seconded by Ott, the minutes from the March 10, 2004 meeting were approved unanimously with the amendment requested by McNeece.

Request for Reconsideration

03-49 Alonzo Grant, for failure to file a 2003 annual supplemental campaign financial disclosure statement. Class two (2), no report filed, maximum ten thousand (\$10,000) civil penalty. Mr. Grant has had previous matters with the board.

The board voted at its January 14, 2004 meeting to assess Mr. Grant a \$10,000 civil penalty for his failure to file the required report. Mr. Grant requested a reconsideration of the assessment.

Mr. Grant personally appeared before the board and explained that all of the notices to file were sent to his treasurer's address and that he never received the information to file from his treasurer. Mr. Grant further explained that his treasurer should have filed the report but did not.

On motion by Fincher, seconded by Murray, the board voted unanimously to reconsider the \$10,000 assessment against Mr. Grant. A motion was then made by Murray, seconded by McNeece, to assess Mr. Grant a \$250 civil penalty. The motion to assess Mr. Grant a \$250 civil penalty passed the board 6 to 1, with Dunavant voting "no."

Show Cause Hearings

04-15 Susan Lynn, for soliciting campaign contributions during legislative session through her campaign web site.

The board voted at its March 10, 2004 meeting to issue Rep. Lynn a show cause notice based on the sworn complaint filed against her by John Rutherford.

Rep. Lynn personally appeared before the board and explained that she did receive a five dollar (\$5) campaign contribution from Mr. Rutherford. Rep. Lynn further explained that she did not actively solicit campaign contributions during legislative session and that the web site link allowing contributions to be made has been disabled. In addition, Rep. Lynn stated that the five dollar (\$5) campaign contribution given to her by Mr. Rutherford was refunded within the sixty (60) day grace period.

After discussion, on motion by Fincher, seconded by Murray, the board voted unanimously to assess Rep. Lynn a \$50 civil penalty.

04-21 Susan Lynn, for failure to timely file a 2003 Statement of Interest report. Class one (1), twenty-two days late, maximum five hundred fifty (\$550) civil penalty. Rep. Lynn has had a previous matter before the board (see above).

Rep. Lynn was present at this meeting and agreed to have her hearing heard at the April 14, 2004 meeting.

Rep. Lynn explained that the notice to file had been lost in a stack of mail and that she never found the notice among all of her paperwork.

On motion by Murray, seconded by McNeece, the board voted unanimously to issue a show cause notice. A motion was then made by Fincher, seconded by McNeece to assess Rep. Lynn a \$50 civil penalty. The motion to assess Rep. Lynn a \$50 civil penalty passed the board unanimously. (Dunavant not present at this time)

04-13 Michael Hooks, Jr., for possible violations of the Lobbyist Registration and Disclosure Law.

The board voted at its March 10, 2004 meeting to issue Mr. Hooks a show cause notice for his possible failure to timely register as a lobbyist for 2004.

Mr. Hooks personally appeared before the board and explained that he was unaware that he was not registered for 2004. Mr. Hooks further explained that his failure to register was a matter of oversight and miscommunication with his staff. In addition, Mr. Hooks stated that he has now properly registered as a lobbyist for 2004.

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

04-17 Michael Hooks, Jr., for failure to file a 2003 year-end lobbying activities report. Class one (1), 49 days late, maximum seven hundred fifty (\$750) civil penalty. Mr. Hooks has had a previous matter before the board (see above.)

Mr. Hooks was present at this meeting and agreed to have his hearing heard at the April 14, 2004 meeting.

Mr. Hooks stated that the lobbying activities report was late because he was holding onto the report until he received his bank statement so that he could check for any contributions made to candidates. Mr. Hooks further stated that he wanted to make sure that the report was complete and correct before filing it with the Registry.

On motion by Fincher, seconded by Minter, the board voted unanimously to issue a show cause notice. A motion was then made by Fincher, seconded by Minter to assess Mr. Hooks a \$100 civil penalty. The motion to assess Mr. Hooks a \$100 civil penalty passed the board unanimously. (Dunavant not present at this time)

Sworn Statements Submitted

04-05 Washington County Democratic Party, for failure to file a 2003 4th quarter campaign financial disclosure report. Class two (2), no report filed, for a maximum ten thousand (\$10,000) civil penalty. The organization has had no previous matters before the board.

The board voted at its March 10, 2004 meeting to issue the organization a show cause notice.

Steve Johnston, treasurer for the organization, submitted a statement for the board's consideration. In his statement, Mr. Johnston explained that he did file the report timely. Mr. Johnston attached a copy of the time stamped report filed with the Washington County Election Commission dated January 12, 2004. In addition, Mr. Johnston attached a copy of a U. S. Post Office tracking notice showing delivery to the Registry office on January 15, 2004 at 6:48 am.

Director Rawlins stated to the board that it appears the report was mailed to the Registry and accepted at the State's mailroom but the report did not get from the mailroom to the Registry.

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

04-08 Maria Clara Mejia, for failure to timely file a 2003 year-end lobbying activities report. Class one (1), eight days late, maximum two hundred (\$200) civil penalty. Ms. Mejia has had no previous matters before the board.

The board voted at its March 10, 2004 meeting to issue Ms. Mejia a show cause notice.

Ms. Mejia submitted a sworn statement for the board's consideration of her case. In her statement, Ms. Mejia stated that she mailed the lobbying activities report on February 20 and was unaware that it was not received by the Registry.

Director Rawlins explained that the Registry received the report, mailed by Ms. Mejia on February 20, but by the time the Registry received the report it was eight (8) days late.

On motion by Fincher, seconded by Murray, the board voted unanimously to assess Ms. Mejia a \$25 civil penalty.

04-10 Ernest B. Williams, IV, for failure to timely file a 2003 year-end lobbying activities report. Class one (1), ten days late, maximum two hundred fifty (\$250) civil penalty. Mr. Williams has had no previous matters before the board.

The board voted at its March 10, 2004 meeting to issue Mr. Williams a show cause notice.

Mr. Williams submitted a sworn statement for the board's consideration of his case. In his statement, Mr. Williams explained that he never received the original notice and that upon receiving the certified notice he immediately completed the report and hand-delivered it to the Registry.

On motion by Fincher, seconded by McNeece, the board voted unanimously to assess Mr. Williams a \$50 civil penalty.

04-11 Diana Davis, for possible violations of the Lobbyist Registration and Disclosure Law.

The board voted at its March 10, 2004 meeting to issue Ms. Davis a show cause notice for her possible failure to register as a lobbyist for 2004.

Ms. Davis submitted a sworn statement for the board's consideration. In her statement, Ms. Davis stated that although she had registered as a lobbyist in previous

years she was not registered for 2004. Ms. Davis explained that she did receive an identification badge as a benefit of being a member of the Tennessee Lobbyist Association. Ms. Davis further stated that she destroyed the "ID tag" on January 26, 2004.

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

Cases Subject to Approval for Civil Penalty

04-03 QCAS Good Government Fund, for failure to file a 2003 4th quarter campaign financial disclosure report. Class two (2), no report filed, for a maximum ten thousand (\$10,000) civil penalty. The organization has had previous matters before the board.

The board voted at its March 10, 2004 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.

On motion by Fincher, seconded by Dunavant, the board voted 5 to 1 to assess the organization a \$10,000 civil penalty, with Dunavant voting "no" and Murray recusing herself because of a potential conflict.

04-04 Tennessee Walking Horse Breeders & Exhibitors Association, for failure to timely file a 2003 4th quarter campaign financial disclosure report. Class one (1), seventeen days late for a maximum four hundred twenty-five (\$425) civil penalty. The organization has had previous matters before the board.

The board voted at its March 10, 2004 meeting to issue the organization a show cause notice.

The Registry received by facsimile a statement from Tennessee Walking Horse Breeders & Exhibitors Assoc. PAC. The statement explained that the group had been trying to close out and terminate the PAC for several months. In addition, the group stated that the PAC had no activity other than paying a previous civil penalty.

A motion was made by Murray to assess the organization a \$50 civil penalty. The motion to assess the organization a \$50 civil penalty died for a lack of a second. A motion was then made by Fincher, seconded by Minter, to assess the organization a \$250 civil penalty. The motion to assess the organization a \$250 civil penalty passed the board unanimously. (Dunavant was not present at this time)

04-06 Larry R. Hyatt, for failure to timely file a 2003 year-end lobbying activities report. Class one (1), 12 days late, maximum three hundred (\$300) civil penalty. Mr. Hyatt has had no previous matters before the board.

The board voted at its March 10, 2004 meeting to issue Mr. Hyatt a show cause notice.

Mr. Hyatt submitted a sworn statement for the board's consideration. In this statement Mr. Hyatt explained that his failure to timely file the required report was due to family illness requiring him to be out of town often. Mr. Hyatt further explained that the

filing of the report was overlooked and when he discovered that it had not been filed, he immediately did so.

On motion by Murray, seconded by McNeece, the board voted unanimously to take no further action in this matter. (Dunavant was not present at this time)

04-07 Hoyt Marquis, for failure to timely file a 2003 year-end lobbying activities report. Class one (1), 13 days late, maximum three hundred twenty-five (\$325) civil penalty. Mr. Marquis has had no previous matters before the board.

The board voted at its March 10, 2004 meeting to issue Mr. Marquis a show cause notice.

Registry staff informed the board that there has been no response to the show cause notice.

On motion by Fincher, seconded by Murray, the board voted unanimously to assess Mr. Marquis a \$100 civil penalty. (Dunavant was not present at this time)

04-09 Shelby H. White, for failure to timely file a 2003 year-end lobbying activities report. Class one (1), seven days late, maximum one hundred seventy-five (\$175) civil penalty. Mr. White has had no previous matters before the board.

The board voted at its March 10, 2004 meeting to issue Mr. White a show cause notice.

Registry staff informed the board that there has been no response to the show cause notice.

On motion by Fincher, seconded by Murray, the board voted unanimously to assess Mr. White a \$25 civil penalty. (Dunavant was not present at this time)

04-12 Darren Helmers, for possible violations of the Lobbyist Registration and Disclosure Law.

The board voted at its March 10, 2004 meeting to issue Mr. Helmers a show cause notice for his possible failure to register as a lobbyist for 2004.

Mr. Helmers personally appeared at the Registry meeting to explain why he failed to register as a lobbyist in a timely manner. Mr. Helmers explained that this process had been taken care of for him in the past when he worked at a law firm. Now that he is working for himself, Mr. Helmers stated that he simply failed to remember to turn in the registration form.

On motion by Fincher, seconded by Minter, the board voted unanimously to assess Mr. Helmers a \$50 civil penalty. (Dunavant was not present at this time)

04-14 April Montgomery, for possible violations of the Lobbyist Registration and Disclosure Law.

The board voted at its March 10, 2004 meeting to issue Ms. Montgomery a show cause notice for her possible failure to register as a lobbyist for 2004.

Ms. Montgomery submitted a sworn statement for the board's consideration. In this statement Ms. Montgomery stated that although she had registered as a lobbyist in previous years she was not registered for 2004 but that she did receive an identification badge as a benefit of being a member of the Tennessee Lobbyist Association. Ms.

Montgomery apologized for getting an identification badge and enclosed it with her statement to the Registry.

On motion by Murray, seconded by Ott, the board voted unanimously to take no further action in this matter. (Dunavant was not present at this time)

Show Cause Notice to Dismiss

04-02 Executive Committee (Marshall County Republican Party PAC), for failure to file a 2003 4th quarter campaign financial disclosure report. Class two (2), no report filed, for a maximum ten thousand (\$10,000) civil penalty. The organization has had no previous matters before the board.

The board voted at its March 10, 2004 meeting to assess the organization a show cause notice.

Director Rawlins informed the board that the Executive Committee was actually the Marshall County Republican Party PAC, which was already registered and had filed timely. When appointing a new treasurer, the organization listed their name as Executive Committee instead of Marshall County Republican Party. This resulted in the Registry registering a new PAC. The Registry then assumed the new PAC did not file their 4th quarter campaign financial disclosure report.

On motion by Fincher, seconded by McNeece, the board voted unanimously to withdraw the motion for show cause and take no further action in this matter.

Cases Considered for Issuance of Show Cause Notices

William Baird, for failure to timely file a 2003 Statement of Interest report. Class one (1), six days late, maximum one hundred fifty (\$150) civil penalty. Rep. Baird has had previous matters before the board (see below).

On motion by Fincher, seconded by Murray, the board voted to issue a show cause notice. (Dunavant not present at this time)

Glen Casada, for failure to file a 2003 Statement of Interest report. Class two (2), no report filed, maximum ten thousand (\$10,000) civil penalty. Rep. Casada has had no previous matters before the board.

On motion by Fincher, seconded by Murray, the board voted to issue a show cause notice. (Dunavant not present at this time)

Robert Jones, for failure to file a 2003 Statement of Interest report. Class two (2), no report filed, maximum ten thousand (\$10,000) civil penalty. Mr. Jones has had no previous matters before the board.

On motion by Fincher, seconded by Murray, the board voted to issue a show cause notice. (Dunavant not present at this time)

William Baird, for failure to timely file a 2003 annual supplemental campaign financial disclosure report. Class one (1), six days late, maximum one hundred fifty (\$150) civil penalty. Rep. Baird has had previous matters before the board (see above).

On motion by Fincher, seconded by Murray, the board voted to issue a show cause notice. (Dunavant not present at this time)

Robert E. Lee Harris, for failure to file a 2003 annual supplemental campaign financial disclosure report. Class two (2), no report filed, maximum ten thousand (\$10,000) civil penalty. Mr. Harris has had previous matters before the board.

On motion by Fincher, seconded by Murray, the board voted to issue a show cause notice. (Dunavant not present at this time)

William Robinson, Jr., for failure to file a 2003 annual supplemental campaign financial disclosure report. Class two (2), no report filed, maximum ten thousand (\$10,000) civil penalty. Mr. Robinson has had no previous matters before the board.

On motion by Fincher, seconded by Murray, the board voted to issue a show cause notice. (Dunavant not present at this time)

Edwin Sanders, II, for failure to file a 2003 annual supplemental campaign financial disclosure report. Class two (2), 53 days late, maximum ten thousand (\$10,000) civil penalty. Mr. Sanders has had a previous matter before the board.

On motion by Fincher, seconded by Murray, the board voted to issue a show cause notice. (Dunavant not present at this time)

Mark Thomas, for failure to timely file a 2003 annual supplemental campaign financial disclosure report. Class one (1), 19 days late, maximum four hundred seventy-five (\$475) civil penalty. Mr. Thomas has had no previous matters before the board.

On motion by Fincher, seconded by Murray, the board voted to issue a show cause notice. (Dunavant not present at this time)

Tennessee Latino American PAC, for failure to file 2003 4th quarter campaign financial disclosure statement. Class two (2), no report filed, maximum ten thousand (\$10,000) civil penalty. The organization has had previous matters before the board.

On motion by Fincher, seconded by Murray, the board voted to issue a show cause notice. (Dunavant not present at this time)

Jeb Beasley, for failure to file a 2003 year-end lobbying activities report. Class one (1), no report filed, maximum seven hundred fifty (\$750) civil penalty. Mr. Beasley has had no previous matters before the board.

On motion by Fincher, seconded by Murray, the board voted to issue a show cause notice. (Dunavant not present at this time)

Reported Financial Expenses

Director Rawlins presented the expenditure reports for the 2003/2004 fiscal year through February 29, 2004.

Other Business

- Anne Phillips, who was declared ineligible to qualify to run for House of Representatives in District 33 in the 2004 election, appeared before the board to explain why she felt she should be eligible to qualify for election.

Director Rawlins informed Ms. Phillips that the discussion would be for informational purposes only and that the board would take no action on this matter. Director Rawlins explained to the board that Ms. Phillips was deemed ineligible to qualify to run for office in the 2004 elections because she failed to file an annual supplemental campaign financial disclosure statement for her 2000 campaign. All certified notices mailed to Ms. Phillips were returned “unclaimed” and on May 21, 2002, the Registry notified Ms. Phillips by mail that she was ineligible to qualify as a candidate for state or local office because of her failure to file the required campaign financial disclosure report.

Director Rawlins explained that Ms. Phillips filed an annual supplemental campaign financial disclosure report on April 1, 2004 but that the report did not meet the disclosure requirements established in T.C.A. §2-10-107.

Jeff Hagood, Ms. Phillips' attorney, stated that Ms. Phillips met the petition deadline and questioned why she was not given the opportunity to correct the supplemental annual report and then allowed to qualify.

Ms. Phillips stated that it was 30 miles roundtrip to the post office and because of the distance she did not go to the post office to pickup the certified notices. Ms. Phillips further stated that she has now complied and filed the required report and wanted to appeal the decision to declare her ineligible to qualify for the 2004 elections.

The Registry thanked Ms. Phillips and Mr. Hagood for coming and on motion by Fincher, seconded by McNeece, the board voted unanimously to take no action.

- After discussion, on motion by Minter, seconded by Ott, the board voted unanimously to request that Director Rawlins develop language to instruct legislators on what they can and cannot say or use on web sites.
- Fincher informed the board that the Rules of Civil Procedure allow mail sent, out of state, return receipt requested to be deemed service when returned "unclaimed." In addition, the Supreme Court currently has requested that the Rules of Civil Procedure be amended to allow “unclaimed” to count as service on in-state mail. The board requested that Director Rawlins request an Attorney General opinion on using the dates of “unclaimed” mail for civil penalty purposes.

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