

# REGISTRY OF ELECTION FINANCE

The Registry of Election Finance met Wednesday, July 13, 2005, at Suite 1614 of Parkway Towers, 404 James Robertson Parkway, Nashville, Tennessee.

Attending the meeting were board members Darlene McNeece, William Long, Lee Anne Murray, Marian Ott, George Harding and John McClarty.

On motion by Long, seconded by Harding, the minutes from the June 8, 2005 meeting were approved unanimously.

## ***Requests for Reconsideration***

***05-17 William Baird***, for failure to file a 2004 Statement of Interests report. Class two (2), no report filed, maximum ten thousand (\$10,000) civil penalty. Rep. Baird has had previous matters before the board. (see below)

The board voted at its June 8, 2005 meeting to issue Rep. Baird a \$5,000 civil penalty for his failure to file the required report. Rep. Baird requested a reconsideration of the assessment.

Rep. Baird, along with his attorney, appeared before the board and explained that all of the information needed to complete the required report was in storage due to the fact that he was remodeling his home and that it took some time to locate the information. Rep. Baird's attorney stated that Rep. Baird has now hired a CPA to keep up with his records, set-up a reminder system in his calendar, and has requested an ID and password for the Registry's electronic filing system to insure that he files all reports timely in the future.

A motion was made by Harding, seconded by Murray, to not reconsider the matter. The motion to not reconsider failed the board by a 3 to 3 vote, with McClarty, Murray and Ott voting "no." A motion was made by Ott, seconded by Murray, to reconsider the \$5,000 civil penalty assessment for case 05-17 against Rep. Baird but not to reconsider the \$10,000 assessment for case 05-18. The motion to reconsider the \$5,000 assessment for case 05-17, but not to reconsider the \$10,000 assessment in case 05-18 passed the board 5 to 1, with Harding voting "no." A motion was made by McClarty to assess Rep. Baird a \$500 civil penalty for case 05-17. The motion to assess Rep. Baird a \$500 civil penalty for case 05-17 died for a lack of a second. A motion was then made by Murray, seconded by Long, to assess Rep. Baird a \$1,000 civil penalty for case 05-17. The motion to assess Rep. Baird a \$1,000 civil penalty for case 05-17 passed the board 5 to 1, with Harding voting "no." (see below)

***05-18 William Baird***, for failure to file a 2004 post-general campaign financial disclosure report. Class two (2), no report filed, maximum ten thousand (\$10,000) civil penalty. Rep. Baird has had previous matters before the board.

The board voted at its June 8, 2005 meeting to issue Rep. Baird a \$10,000 civil penalty for his failure to file the required report. Rep. Baird requested a reconsideration of the assessment.

Rep. Baird, along with his attorney, appeared before the board and explained that all of the information needed to complete the required report was in storage due to the fact that he was remodeling his home and that it took some time to locate the information. Rep. Baird's attorney stated that Rep. Baird has now hired a CPA to keep up with his records, set-up a reminder system in his calendar, and has requested an ID and password for the Registry's electronic filing system to insure that he files all reports timely in the future.

A motion was made by Harding, seconded by Murray, to not reconsider the matter. The motion to not reconsider failed the board by a 3 to 3 vote, with McClarty, Murray and Ott voting "no." A motion was made by Ott, seconded by Murray, to reconsider the \$5,000 civil penalty assessment for case 05-17 against Rep. Baird but not to reconsider the \$10,000 assessment for case 05-18. The motion to reconsider the \$5,000 assessment for case 05-17 but not to reconsider the \$10,000 assessment case 05-18 passed the board 5 to 1, with Harding voting "no." A motion was made by McClarty to assess Rep. Baird a \$500 civil penalty for case 05-17. The motion to assess Rep. Baird a \$500 civil penalty for case 05-17 died for a lack of a second. A motion was then made by Murray, seconded by Long, to assess Rep. Baird a \$1,000 civil penalty for case 05-17. The motion to assess Rep. Baird a \$1,000 civil penalty for case 05-17 passed the board 5 to 1, with Harding voting "no." (see above)

**04-43 Jeff Hagood Fund for a Better Tennessee**, for failure to file a 2004 2<sup>nd</sup> 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 November 10, 2004 meeting to issue the organization a \$10,000 civil penalty for their failure to file the required report. The organization requested a reconsideration of the assessment.

Director Rawlins informed the board that Lynn Tarpy, treasurer for the organization, requested that their case be postponed until the next regularly scheduled meeting because he had to be in court and would be unable to personally appear before the board concerning his case.

On motion by Harding, seconded by McClarty, the board voted unanimously to postpone any action in this case until the next regularly scheduled meeting.

**05-22 Jeff Hagood Fund for a Better Tennessee**, for failure to file a 2004 4<sup>th</sup> 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 8, 2005 meeting to issue the organization a \$10,000 civil penalty for their failure to file the required report. The organization requested a reconsideration of the assessment.

Director Rawlins informed the board that Lynn Tarpy, treasurer for the organization, requested that their case be postponed until the next regularly scheduled

meeting because he had to be in court and would be unable to personally appear before the board concerning his case.

On motion by Harding, seconded by McClarty, the board voted unanimously to postpone any action in this case until the next regularly scheduled meeting.

**02-44 Greater Kingsport Republican Women**, for failure to file a 2002 2<sup>nd</sup> quarter campaign financial disclosure report. Class two (2), maximum ten thousand (\$10,000) civil penalty. The organization has had previous matters before the board.

The Registry voted at its October 9, 2002 meeting to issue the organization a \$10,000 civil penalty for their failure to file the required report. The organization requested a reconsideration of the assessment.

Brenda Kilgore, treasurer of the organization, submitted a sworn statement for the board's consideration. In this statement, Ms. Kilgore explained that because of an internal problem all information was sent to the previous treasurer and therefore she was unaware that there was an outstanding civil penalty against the organization. Ms. Kilgore further explained that when she became aware of her failure to file the required report, she filed the report and assumed that filing made her compliant and that the fine was therefore waived.

On motion by Murray, seconded by McClarty, the board voted unanimously to not reconsider this matter.

**02-72 Jefferson County Democratic Party**, for failure to file a 2002 3<sup>rd</sup> 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 January 8, 2003 meeting to assess the organization a \$10,000 civil penalty for their failure to file the required report. The organization requested a reconsideration of the assessment.

Betty Watkins, County Chair of the Jefferson County Democratic Party, submitted a statement for the board's consideration. Ms. Watkins informed the board that in researching their files the required reports were filed with the Registry in July 2004. Ms. Watkins further informed the board that at the time the reports were due, the former treasurer had been overwhelmed by family illness. Ms. Watkins noted that a CPA has been elected as treasurer to maintain all records in the future.

On motion by Harding, seconded by McClarty, the board voted unanimously to not reconsider this matter.

**03-07 Jefferson County Democratic Party**, for failure to file a 2002 4<sup>th</sup> 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 April 9, 2003 meeting to assess the organization a \$10,000 civil penalty for their failure to file the required report. The organization requested a reconsideration of the assessment.

Betty Watkins, County Chair of the Jefferson County Democratic Party, submitted a statement for the board's consideration. Ms. Watkins informed the board

that in researching their files the required reports were filed with the Registry in July 2004. Ms. Watkins further informed the board that at the time the reports were due, the former treasurer had been overwhelmed by family illness. Ms. Watkins noted that a CPA has been elected as treasurer to maintain all records in the future.

On motion by Harding, seconded by McClarty, the board voted unanimously to not reconsider this matter.

### ***Sworn Statements Submitted***

**05-27 Sonata Stanton**, for failure to file a 2004 year-end lobbying activities report. Class one (1), over 30 days late, maximum seven hundred fifty (\$750) civil penalty. Ms. Stanton has had no previous matters before the board.

The board voted at its June 8, 2005 meeting to issue Ms. Stanton a show cause notice.

Ms. Stanton submitted a sworn statement for the board's consideration. In her statement, Ms. Stanton explained that she changed employment and that because her former employer did not forward the notices sent by the Registry to submit the required report to her, she was unaware of her failure to file.

A motion was made by Long to assess Ms. Stanton a \$250 civil penalty. Long then withdrew his motion. A motion was then made by Ott, seconded by Long, to assess Ms. Stanton a \$500 civil penalty. The motion to assess Ms. Stanton a \$500 civil penalty passed the board unanimously.

### ***Cases Subject to Approval for Civil Penalty***

**05-25 Charles Bennett**, for failure to file a 2004 year-end lobbying activities report. Class one (1), over 30 days late, maximum seven hundred fifty (\$750) civil penalty. Mr. Bennett has had a previous matter before the board.

The board voted at its June 8, 2005 meeting to issue Mr. Bennett a show cause notice.

Registry staff 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 Mr. Bennett a \$750 civil penalty.

**05-26 Christopher Burruss**, for failure to file a 2004 year-end lobbying activities report. Class one (1), over 30 days late, maximum seven hundred fifty (\$750) civil penalty. Mr. Burruss has had a previous matter before the board.

The board voted at its June 8, 2005 meeting to issue Mr. Burruss a show cause notice.

Registry staff 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 Ott, the board voted unanimously to assess Mr. Burruss a \$750 civil penalty.

**05-28 Timothy Willis**, for failure to timely file a 2004 year-end lobbying activities report. Class one (1), over 30 days late, maximum seven hundred fifty (\$750) civil penalty. Mr. Willis has had no previous matters before the board.

The board voted at its June 8, 2005 meeting to issue Mr. Willis a show cause notice.

Mr. Willis submitted a sworn statement for the board's consideration of his case. In this statement, Mr. Willis explained that he had no lobbying activities in 2004 and that he has submitted an accurate report for the reporting period.

On motion by Murray, seconded by McNeece, the board voted unanimously to assess Mr. Willis a \$250 civil penalty.

**05-29 Johnson County Republican Party**, for failure to file a 2005 1<sup>st</sup> 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 8, 2005 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 Long, seconded by Ott, the board voted unanimously to assess the organization a \$10,000 civil penalty.

**05-30 Take Back Tennessee**, for failure to file a 2005 1<sup>st</sup> 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 8, 2005 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 Murray, seconded by McClarty, the board voted unanimously to assess the organization a \$10,000 civil penalty.

**05-31 Unicoi County Democratic Party**, for failure to file a 2005 1<sup>st</sup> 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 8, 2005 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 Harding, seconded by Murray, the board voted unanimously to assess the organization a \$10,000 civil penalty.

**05-32 WHAM PAC**, for failure to file a 2005 1<sup>st</sup> 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 8, 2005 meeting to issue the organization a show cause notice.

Elizabeth Howard, treasurer for the organization, personally appeared before the board and explained that the previous treasurer moved and that when she realized the report had not been filed she appointed herself treasurer and filed the required report with the Registry.

A motion was made by Murray, seconded by Harding, to assess the organization a \$2,500 civil penalty. A friendly amendment was made by Long, accepted by Murray and Harding, to assess the organization a \$500 civil penalty. The motion to assess the organization a \$500 civil penalty passed the board unanimously.

### ***Cases Considered for Issuance of Show Cause Notices***

***Michael Hooks***, for failure to file a 2005 post-primary/pre-general campaign financial disclosure report. Class two (2), no report filed, maximum ten thousand (\$10,000) civil penalty. Mr. Hooks has had previous matters before the board.

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

***Barry Sterling***, for failure to timely file a 2005 post-primary/pre-general campaign financial disclosure report. Class two (2), 42 days late, maximum ten thousand (\$10,000) civil penalty. Mr. Sterling has had no previous matters before the board.

Stacey Lumpkin, Social Services Director for the Overton Park Health Care Center, provided a statement for the board's consideration. Ms. Lumpkin explained that Mr. Sterling had been admitted to the hospital for numerous medical conditions during the time that the required report was due. Ms. Lumpkin further stated that Mr. Sterling continues to be in the hospital receiving therapy.

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

***Citizens Watch 2000 PAC***, for failure to timely file a 2005 1<sup>st</sup> quarter campaign financial disclosure report. Class one (1), 13 days late, maximum three hundred twenty-five (\$325) civil penalty. The organization has had previous matters before the board.

On motion by Long, seconded by McNeece, the board voted unanimously to issue a show cause notice.

***Mary Taylor Shelby***, for failure to file a 2005 statement of interests report. Class two (2), no report filed, maximum ten thousand (\$10,000) civil penalty. Ms. Shelby has had no previous matters before the board.

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

***Kathryn Bowers***, for accepting a campaign contribution during legislative session. Class two (2), maximum ten thousand (\$10,000) civil penalty. Rep. Bowers has had previous matters before the board.

Director Rawlins informed the board that Sen. Bowers reported on her 2005 post-primary/pre-general report that she received an in-kind contribution of \$570 from David Acey for "transportation – van" on March 16, 2005. Director Rawlins further informed the board that he sent Sen. Bowers a letter requesting information on the in-kind contribution, because it was received during legislative session. Sen. Bowers responded that she was unaware that she could not accept in-kind contributions during session. Sen. Bowers then amended her report to show an obligation to Mr. Acey for the \$570.

On motion by Harding, seconded by Murray, the board voted unanimously to issue Sen. Bowers a show cause notice.

### ***Sworn Complaint against Osbie Howard, Rep. Joe Armstrong and Rep. Larry Miller***

Director Rawlins informed the board that the Registry received a sworn complaint, from Barry Schmittou (who was present at the meeting), alleging that Rep. Joe Armstrong and Rep. Larry Miller accepted a meal from Osbie Howard, chief executive for United American Healthcare Corporation (OmniCare) while OmniCare had a registered lobbyist. The Registry had been provided documents by the Bureau of TennCare which showed travel reimbursement forms that had been submitted by Mr. Howard to United American Healthcare.

On motion by Harding, seconded by Long, the board voted unanimously to issue Osbie Howard, Rep. Joe Armstrong and Rep. Larry Miller show cause notices for receiving and giving gifts that are unallowable under the lobbying law.

The documents provided to the Registry by the Bureau of TennCare also showed meal and travel reimbursement to Mr. Howard for meals and travel for Mr. Dixon and Mr. Ford while they were members of the general assembly. A motion was made by Ott, seconded by Murray, the board voted unanimously to issue Roscoe Dixon and John Ford show cause notices for receiving gifts unallowable under the lobbying law.

### ***Sworn Complaint against Gov. John Wilder***

Director Rawlins informed the board that the Registry received a sworn complaint, from Barry Schmittou (who was present at the meeting), alleging that Gov. Wilder violated campaign finance laws by receiving contributions that exceeded the contribution limits.

On motion by Ott, seconded by Long, the board voted unanimously to dismiss the sworn complaint against Gov. Wilder.

### ***Sworn Complaint against Sen. Mike Williams***

Director Rawlins informed the board that the Registry received a sworn complaint, from Barry Schmittou (who was present at the meeting), alleging that Sen. Williams may have mistakenly or fraudulently misused campaign funds by purchasing Season Bristol Speedway tickets with campaign money and then using them as a final payment on a personal loan to Denise Davenport. (An affidavit from Ms. Davenport was included with the sworn complaint.)

Director Rawlins informed the board that Sen. Williams reimbursed his campaign for the tickets.

On motion by Murray, seconded by Ott, the board voted unanimously to issue Sen. Williams a show cause notice.

### ***Reported Financial Expenses***

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

Director Rawlins presented the expenditure reports for the 2004/2005 fiscal year through May 31, 2005.

### ***Executive Director's Report***

Director Rawlins provided the board with an Attorney General's Opinion on candidates using their campaign funds to pay for civil penalty assessments. In this opinion, the Attorney General opined that candidate's cannot use their campaign funds to pay civil penalty assessments.

Director Rawlins informed the board that the annual COGEL conference is scheduled for December 4 through 7 in Boston, Massachusetts.

### ***Other Business***

Edward Bearman, attorney for Sen. John Ford, had originally requested for a delay in the reconsideration of case 05-11 until the August meeting. On July 7, 2005, the Registry received a letter from Mr. Bearman stating that the board did not need to delay action until the August meeting but that they could instead base their decision on the brief submitted on the appeal of the matter.

On motion by Murray, seconded by Ott, the board voted unanimously to postpone any action in this matter until the August meeting.

Long, seconded by Murray made a motion, to adjourn the meeting until the next regularly scheduled meeting. The motion passed unanimously.