

REGISTRY OF ELECTION FINANCE

The Registry of Election Finance met Wednesday, February 12, 2003, at Suite 1614 of Parkway Towers, 404 James Robertson Parkway, Nashville, Tennessee.

Attending the meeting were board members Michael McCroskey, George Harding, Henry Fincher, William Long, Darlene McNeece, Wilbert Minter and Karen Dunavant.

On motion by Dunavant, seconded by McNeece, the minutes from the January 8, 2003 meeting were approved unanimously.

Request for Reconsideration

02-51 James Elliott, for failure to file a 2002 post-primary campaign financial disclosure report. Class two (2), no report filed, maximum ten thousand (\$10,000) civil penalty. Mr. Elliott has had no previous matters before the board.

The board voted at its January 8, 2003 meeting to defer any action until the February meeting to allow Mr. Elliott time to file the original campaign financial disclosure report with the Registry.

Director Rawlins informed the board that at this time the original report still had not been filed.

A motion was made by Harding, seconded by Minter, not to reconsider the \$10,000 assessed civil penalty. The motion not to reconsider the \$10,000 assessment against Mr. Elliott passed the board 5 to 0 (Fincher and McCroskey not present at this time).

During the meeting, Mr. Elliott's original report was received by the Registry along with a sworn statement explaining that a family illness had prevented him from responding and filing the required report with the Registry sooner.

A motion was made by Harding, seconded by Long, to reconsider the \$10,000 assessment against Mr. Elliott. The motion to reconsider passed the board unanimously. A motion was then made by McCroskey, seconded by McNeece, to assess Mr. Elliott a \$500 civil penalty. The motion to assess Mr. Elliott a \$500 civil penalty passed the board 4 to 3, with Dunavant, Harding, and Minter voting "no."

02-64 Sheila Godwin, for failure to timely file a 2002 post-primary campaign financial disclosure report. Class one (1), 21 days late for a maximum five hundred twenty-five (\$525) civil penalty. Ms. Godwin has had no matters before the board.

The board voted at its January 8, 2003 meeting to assess Ms. Godwin a \$250 civil penalty after she failed to timely file the required report. Ms. Godwin submitted a statement and requested a reconsideration of the assessment.

In her statement, Ms. Godwin explained that she was unable to locate her treasurer who had been out of town. Ms. Godwin further explained that during this time

she had moved and the post office had not forwarded her mail to her new address, which caused delay and misplacement of her mail.

A motion was made by Harding, seconded by Minter, to reconsider the \$250 assessment against Ms. Godwin. The motion to reconsider the assessment passed the board unanimously. After discussion, a motion was made by Harding, seconded by Minter, to reaffirm the \$250 assessment. The motion to reaffirm the \$250 assessment against Ms. Godwin passed the board unanimously.

02-47 Brenda Woods, for failure to file a 2002 pre-primary campaign financial disclosure report. Class two (2), no report filed, maximum ten thousand (\$10,000) civil penalty. Ms. Woods has had previous matters before the board.

The board voted at its December 11, 2002 meeting to assess Ms. Woods a \$500 civil penalty for her failure to file the required campaign financial disclosure report.

Ms. Woods submitted a faxed statement to the Registry requesting to personally appear before the board and to ask for a reconsideration of the \$500 assessment against her at the next meeting. In this statement, Ms. Woods stated that all paperwork had been completed and that she was unaware that it was her responsibility to file reports with both the Hardeman County Election Commission and the Registry.

Director Rawlins informed the board that he contacted Ms. Woods to make sure that she would be appearing at the February 12th board meeting. Ms. Woods stated that she would be unable to attend because of a previous appointment.

On motion by Harding, seconded by Long, the board voted unanimously to defer any action in this case until the March 12 meeting to allow Ms. Woods an opportunity to personally appear before the board on this matter.

02-75 West Tennessee ABC, for failure to file a 2002 3rd 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 January 8, 2003 meeting to assess the organization a \$5,000 civil penalty for their failure to file the required campaign financial disclosure report. The organization requested a reconsideration of the assessment.

H. Marcy Hiers, executive director for the organization, submitted a statement for the board's consideration. In this statement Mr. Hiers explained that a turnover of staff contributed to their failure to file the required report. Mr. Hiers further explained that the organization has had an excellent record regarding the timely filing of reports and that once they were aware of their failure to file they immediately responded and filed the report. Mr. Hiers noted that procedures have been taken to ensure timely filing of all future reports.

A motion was made by Harding to not reconsider the matter. This motion died for lack of a second. A motion was made by McCroskey, seconded by Dunavant, to reconsider the \$5,000 assessment against the organization. The motion to reconsider passed the board 6 to 1, with Harding voting "no." A motion was then made by McCroskey, seconded by McNeece, to assess the organization a \$3,000 civil penalty. The motion to assess the organization a \$3,000 civil penalty passed the board 4 to 3, with Fincher, Harding and Long voting "no."

02-74 Shelby County Democratic Executive Committee, for failure to timely file a 2002 3rd quarter campaign financial disclosure report. Class two (2), 37 days late, 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 \$2,500 civil penalty for their failure to timely file the required report. The organization requested a reconsideration of the assessment.

Matt Kuhn, treasurer for the organization, submitted a statement for the board's consideration. In his statement, Mr. Kuhn asked that the board take into consideration the extenuating family circumstances surrounding the late filing of the required report. Mr. Kuhn noted that the organization did not make any contributions to any candidate during the reporting period.

No motion was made to reconsider the \$2,500 assessment against the organization.

Sworn Statements Submitted

02-69 Anderson County Democratic Executive Committee, for failure to file a 2002 3rd quarter campaign financial disclosure report. Class two (2), 46 days late, 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 defer any action in this case to allow time for the Registry staff to contact the Anderson County Election Office and verify that the required report was timely filed with their office.

Director Rawlins informed the board that the report had been timely filed with the Anderson County Election Commission on December 12, 2002.

A motion was made by Harding, seconded by Fincher, to take no further action in this matter. The motion to take no further action failed the board 3 to 3, with Dunavant and Long voting "no" and Minter "abstaining." A motion was then made by Fincher, seconded by Harding to assess the organization a \$200 civil penalty. The motion to assess the organization a \$200 civil penalty passed the board 5 to 1, with McCroskey voting "no" and Minter "abstaining."

Cases Subject to Approval for Civil Penalty

03-01 Gabriel Givens, for failure to file a 2002 pre-general campaign financial disclosure report. Class two (2), no report filed, maximum ten thousand (\$10,000) civil penalty. Mr. Givens has had no previous matters before the board.

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

03-02 Ruth Ogles, for failure to file a 2002 pre-general campaign financial disclosure report. Class two (2), 56 days late (was filed with Shelby County Election

Commission 2 days late), maximum (\$10,000) civil penalty. Ms. Ogles has an outstanding \$10,000 civil penalty for her failure to file a 2002 post-primary campaign financial disclosure report.

Director Rawlins informed the board that Paula Casey, a representative for Ms. Ogles, had contacted him and explained that the pre-general report, along with the post-primary report, had been filed timely with the Shelby County Election Commission. Ms. Casey further explained that she assumed the reports would be forwarded from the Shelby County office to the Registry.

Director Rawlins contacted the Shelby County Election Commission to confirm that Ms. Ogles did file the pre-general report timely but that the post-primary report had been filed late.

A motion was made by McCroskey, seconded by Fincher, to reconsider case 02-57 assessing Ms. Ogles a \$10,000 civil penalty for failure to file a 2002 post-primary campaign financial disclosure report. The motion to reconsider case 02-57 passed the board unanimously. A motion was then made by Long, seconded by McCroskey, to consolidate cases 02-57 and 03-02 and assess a combined civil penalty of \$1,000. The motion to assess a \$1,000 civil penalty passed the board unanimously.

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

Director Rawlins informed the board that the required report was filed by Rep. Towns on January 31, 2003 but that there has been no response to the show cause notice.

A motion was made by McCroskey to assess Rep. Towns a \$10,000 civil penalty. The motion to assess Rep. Towns a \$10,000 civil penalty died for a lack of a second. A motion was made by Harding to assess Rep. Towns a \$500 civil penalty. The motion to assess Rep. Towns a \$500 civil penalty died for a lack of a second. A motion was then made by Long, seconded by McCroskey, to assess Rep. Towns a \$5,000 civil penalty. The motion to assess Rep. Towns a \$5,000 civil penalty passed the board 4 to 3, with Fincher, Harding and Minter voting “no.”

03-04 Roscoe Dixon, for failure to file a 2002 post-primary campaign financial disclosure report. Class two (2), no report filed, maximum ten thousand (\$10,000) civil penalty. Sen. Dixon has had previous matters before the board.

Sen. Dixon contacted the Registry and asked to appear before the board at the March meeting to ask for a reconsideration in a previous case.

On motion by McCroskey, seconded by Fincher, the board voted unanimously to postpone any action in this matter until the March meeting to allow Sen. Dixon an opportunity to appear before the board on both matters.

Cases Considered for Issuance of Show Cause Notices

Thelma Harper, for failure to file a 2002 pre-general campaign financial disclosure report. Class two (2), no report filed, maximum ten thousand (\$10,000) civil penalty. Sen. Harper has had no previous matters before the board.

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

Opinion Request on T.C.A. §3-6-108(i)

Senator Joe M. Haynes requested the Registry to issue a ruling regarding whether they were going to enforce the prohibition of contributions from lobbyists and PACs controlled by lobbyists to non-incumbents legislative candidates during regular annual legislative session. While T.C.A. §3-6-108(i) prohibits such contributions, the Attorney General has opined that the statute is unconstitutional as applied to non-incumbent candidates.

After discussion of this matter a motion was made by Harding, seconded by Minter, not to attempt to enforce that provision of the law for non-incumbent candidates. A friendly amendment was made by Minter, accepted by Harding, resolving to abide by the Attorney General Opinion No. 01-134 where the Attorney General has declared this provision unenforceable as it pertains to non-incumbent candidates. The motion to abide by Opinion No. 01-134 failed by a 4 to 3 vote, with Dunavant, Long, McCroskey and McNeece voting “no.”

A motion was then made by McCroskey, seconded by Dunavant, stating that the Registry will abide by Attorney General Opinion No. 01-134 and not enforce T.C.A. §3-6-108(i) as it applies to non-incumbent candidates in the 12th senate district race. A friendly amendment was made by Long, accepted by McCroskey and Dunavant, stating that at this time the Registry declines to take a position at variance with Attorney General Opinion No. 01-134 as it applies to the enforcement of T.C.A. §3-6-108(i) against non-incumbent candidates. The motion passed the board unanimously.

Reported Financial Expenses

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

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

Other Business

John Jay Hooker appeared at the Registry meeting to request that the Registry reconsider its position on not enforcing T.C.A. §2-10-302 (c), which limits the amount of contributions a candidate can make to his/her own campaign. The Registry allowed Mr. Hooker to speak for five minutes on the matter. The Registry chose not to take up the matter at the present time.

Board member Michael McCroskey requested Director Rawlins to place on the March 12 agenda for discussion the statute specifying limits on the amount of monies that a candidate may contribute to his/her own campaign. Presently, the Registry is not enforcing those limits, as the State Attorney General has opined that those limits are

unconstitutional. McCroskey also asked that Director Rawlins to prepare the appropriate information, including any Attorney General opinions, and request a representative from the Attorney General's office be present for discussion of the matter at the March 12, 2003 meeting.

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

The board's next regularly scheduled meeting will be Wednesday, March 12, 2003 at 10:30 am. At 1614 Parkway Towers, 404 James Robertson Parkway, Nashville, Tennessee.