



**TENNESSEE BUREAU OF ETHICS AND CAMPAIGN FINANCE
REGISTRY OF ELECTION FINANCE**

**Campaign Finance Audit of
Senator Eric Stewart
Election Year 2008**



Audit Team:

Jay Moeck, CPA, CFE
Audit Director

Tabitha Furlong, CFE
Senior Auditor

STATE OF TENNESSEE



BUREAU OF ETHICS AND CAMPAIGN FINANCE
REGISTRY OF ELECTION FINANCE
404 JAMES ROBERTSON PARKWAY, SUITE 104
NASHVILLE, TN 37243-1360
(615) 741-7959
Fax: (615) 532-8905

BOARD MEMBERS
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AUDIT DIRECTOR
Jay Moeck CPA, CFE

February 10, 2010

Members of the Registry of Election Finance
404 James Robertson Parkway, Suite 104
Nashville, TN 37243-1360

Ladies and Gentlemen,

Transmitted herewith are the agreed upon procedures for the campaign finance audit of Eric Stewart's 2008 election campaign for the Senate. This audit was conducted pursuant to the requirements of T.C.A. § 2-10-212.

The procedures were developed to aid the Registry of Election Finance in its responsibilities to monitor and enforce Tennessee's Campaign Financial Disclosure Law and Campaign Contribution Limits Law. The candidate is responsible for complying with campaign finance laws and the accuracy of campaign financial disclosures. The sufficiency of these procedures is solely the responsibility of the Registry's internal audit group. Consequently, we make no representation regarding the sufficiency of the agreed upon procedures described in the report for any other purpose than aiding the Registry.

This report is intended for the information and use of the Members of the Tennessee Registry of Election Finance as outlined; and is not intended to be and should not be used by anyone other than the Registry without understanding the objectives, purposes, and underlying assumptions. This report, however, is a matter of public record.

Sincerely,

Jay Moeck, CPA, CFE
Audit Director

STATE OF TENNESSEE
BUREAU OF ETHICS AND CAMPAIGN FINANCE
REGISTRY OF ELECTION FINANCE

Audit Highlights
Sen. Eric Stewart
2008 Campaign Finance Audit

AUDIT OBJECTIVES

The objectives of the audit were to determine Sen. Eric Stewart's compliance with certain provisions of campaign finance disclosure laws and regulations; compliance with certain provisions of campaign contribution limits laws and regulations; accuracy and completeness of the disclosures on the 2008 First Quarter, 2008 Second Quarter, 2008 Pre-Primary, 2008 Third Quarter, 2008 Pre-General, and 2008 Fourth Quarter Campaign Financial Disclosure Statements; and to recommend appropriate actions to correct any deficiencies.

FINDINGS

1. Sen. Stewart failed to report contributions received during his 2008 campaign. Sen. Stewart failed to report contributions totaling \$13,893.35 that he received during his 2008 campaign. The addition of these contributions will result in an increase in contributions by approximately 5%. Sen. Stewart's failure to report these contributions violated T.C.A. § 2-10-105(a), which states that candidates shall file a statement of all contributions received.

2. Sen. Stewart's campaign records indicated that he overstated his reported contributions by \$4,200. Sen. Stewart overstated his contributions from individuals by \$4,200. The overstatement of contributions is a violation of T.C.A. § 2-10-107(a)(2)(A)(i), which requires accurate reporting of contributions on campaign financial disclosure statements.

3. Sen. Stewart did not properly maintain his campaign records to verify the existence of contributions and expenses reported and his compliance with campaign finance statutes. Sen. Stewart did not maintain or obtain sufficient campaign records for contributions to verify the existence of the contributions and compliance with all campaign finance statutes. In addition, Sen. Stewart did not maintain or obtain sufficient campaign records for expenses to verify the expense occurred and compliance with all campaign finance statutes.

4. Sen. Stewart did not follow Registry rules for bookkeeping. Sen. Stewart did not follow Registry rules for bookkeeping and failed to maintain a campaign account properly. Although not required by statute, the Registry has developed guidance for candidates for maintaining their records of campaign activities. This guidance is not the sole method for maintaining records and does not include all variations of campaign activities; however, if the candidate had followed the guidance, he may have averted the findings noted.

5. Sen. Stewart failed to report all campaign activities and failed to provide support for the location of campaign assets.

Sen. Stewart's campaign bank account on January 15, 2009 had a negative balance of \$11,081.59. This appears to indicate that the Franklin County United Bank is providing a loan to the candidate. The candidate disclosed no loan related to this negative balance. In addition, the campaign records indicated that at January 15, 2009, the campaign had funds totaling \$15,850, however, the candidate failed to provide support for the location of these funds.

6. Sen. Stewart failed to report \$30,909.89 in campaign expenditures during his 2008 campaign.

Sen. Stewart failed to report \$30,909.89 in campaign expenditures during his 2008 campaign. Sen. Stewart's failure to report these expenditures violated T.C.A. § 2-10-105(a), which requires a candidate to prepare a statement of all expenditures made by or on behalf of the candidate. The addition of these expenditures will result in an increase in expenditures by approximately 11%.

7. Sen. Stewart's campaign records indicated that he overstated his reported expenses by \$1,217.88.

Sen. Stewart overstated his reported itemized expenditures by \$1,217.88. The overstatement of expenses is a violation of T.C.A. § 2-10-107(a)(2)(B), which requires accurate reporting of expenses on campaign financial disclosure statements.

8. Sen. Stewart removed \$21,887.80 from his campaign account without reporting the related disbursements on his campaign financial disclosure statements.

Sen. Stewart's campaign account and campaign records indicated that he removed \$21,887.80 in campaign funds from his campaign account without reporting a related expense on any campaign financial disclosure statement. In addition, Sen. Stewart provided no documentation to support the purpose for removing the funds from the campaign account. As a result, we could not determine if the removal of funds should have been reported as expenses pursuant to T.C.A. § 2-10-105 or if the expenses were allowable as defined by T.C.A. § 2-10-114.

9. Sen. Stewart failed to provide supporting documentation for \$34,700.96 in expenditures reported.

Sen. Stewart reported \$23,653.17 in expenditures on his 2008 fourth quarter report, \$10,347.79 in expenditures on his 2008 pre-general report, and \$700 in expenditures on his 2008 third quarter report that were not supported by a disbursement from the campaign account. In addition, Sen. Stewart failed to obtain or maintain invoices, receipts, or other supporting documentation for these expenditures. Due to the lack of documentation, we could not determine if the expenses should have been reported pursuant to T.C.A. § 2-10-105 or if the expenses were allowable as defined by T.C.A. § 2-10-114. In addition, we could not determine if these expenses actually occurred or the source of payment.

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INTRODUCTION

AUDIT AUTHORITY

In February 2006, the Tennessee Legislators and Governor Phil Bredesen enacted the “Comprehensive Governmental Ethics Reform Act of 2006,” which amended Tennessee’s campaign finance disclosure laws and duties of the Registry of Election Finance. The legislation established the audits of campaign disclosure reports. T.C.A. §§ 2-10-206, 2-10-212 authorize the Registry of Election Finance (the “Registry”) to conduct audits of campaign financial disclosure statements filed with the Registry. The audit was initiated based on T.C.A. § 2-10-212(2), which requires the Registry to audit approximately two percent of all candidates for the general assembly.

AUDIT PURPOSE

The Registry’s campaign finance audits were developed to assist and encourage candidate compliance with campaign disclosure laws. The audit process assists the Registry in providing timely and accurate campaign information to government officials and the general public. Campaign audits provide a tool to the Registry to evaluate the effectiveness of the campaign financial disclosure process. In addition, the audits assist the Registry with the enforcement of campaign finance limit laws and campaign finance disclosure laws. Finally, the audit reports are intended to assist the candidate and the State of Tennessee with promoting governmental accountability and integrity.

AUDIT SCOPE

During non-election years, Tennessee’s campaign financial disclosure law requires candidates to make biannual financial disclosures as of the date of the first contribution or first expenditure, whichever occurs earlier. The biannual reporting periods are from January 16 to June 30 and July 1 to January 15 of each year. During election years, the disclosures expand to quarterly, pre-primary, and pre-general reports. Therefore, the audit reviewed Sen. Stewart’s disclosures on his 2008 First Quarter, 2008 Second Quarter, 2008 Pre-Primary, 2008 Third Quarter, 2008 Pre-General, and 2008 Fourth Quarter Campaign Financial Disclosure Statements.

CAMPAIGN OVERVIEW

CAMPAIGN ORGANIZATION

Sen. Stewart was a candidate in the November 4, 2008 general election for the Senate District 14. Sen. Stewart filed an Appointment of Political Treasurer Statement with the Registry on January 17, 2008, appointing Cortney Sanders as political treasurer.

The candidate's first financial disclosure for the 2008 campaign was the 2008 first quarter report filed on April 9, 2008. Sen. Stewart's last disclosure report for the 2008 campaign was the 2008 fourth quarter report, which he amended on February 10, 2009. The 2008 fourth quarter report indicated \$11,945.55 in cash on hand, \$29,500.10 in outstanding obligations, and \$0.00 in outstanding loans. The candidate has completed his 2008 election campaign reporting requirements by transferring the remaining balance to his 2012 election campaign account.

OVERVIEW OF FINANCIAL ACTIVITIES

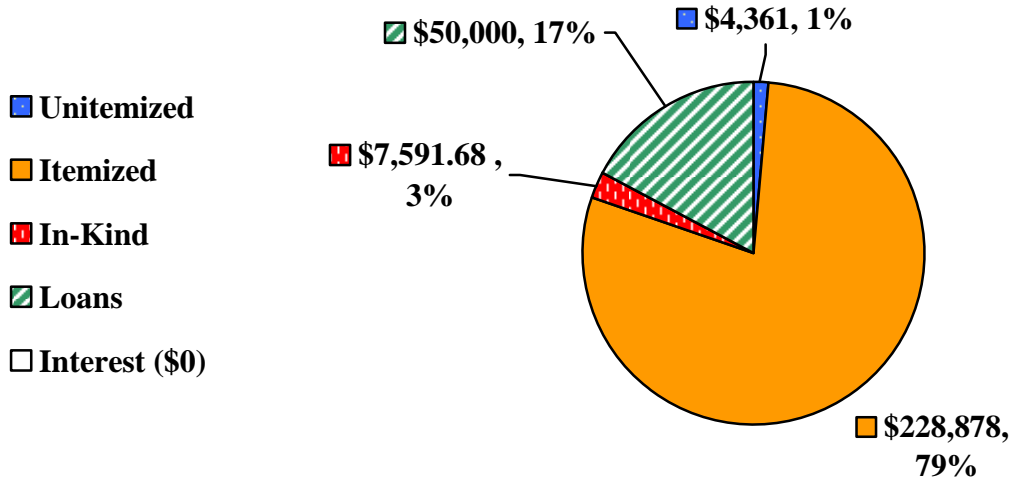
The following financial amounts are a summary of the financial disclosures made by the candidate. The summarized amounts are from the following disclosure reports: 2008 first quarter, 2008 second quarter, 2008 pre-primary, 2008 third quarter, 2008 pre-general, and 2008 fourth quarter reports after amendments. The amounts displayed are for informational purposes only.

<u>Summary of Financial Activity</u>		
<u>(Un-audited Amounts)</u>		
Cash on hand at January 16, 2008		\$0.00
Receipts		
Un-Itemized	\$4,361.00	
Itemized	228,878.00	
Loans received	50,000.00	
Interest	0.00	
Total receipts		<u>\$283,239.00</u>
Disbursements		
Un-Itemized	0.00	
Itemized	221,293.45	
Loans principal payments	50,000.00	
Total disbursements		<u>\$271,293.45</u>
Cash on hand at January 15, 2009		<u>\$11,945.55</u>
Loans outstanding at January 15, 2009		\$0.00
Obligations at January 15, 2009		\$29,500.10
Total in-kind contributions received		\$7,591.68

CHARTS

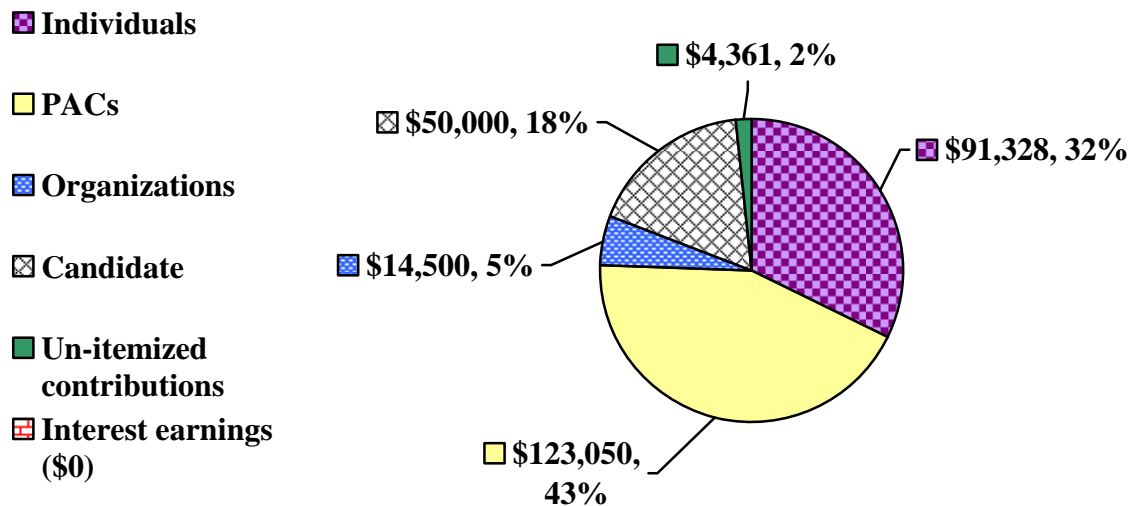
2008 ELECTION CAMPAIGN CONTRIBUTIONS

The following chart shows the contributions reported by the candidate for the 2008 election campaign.



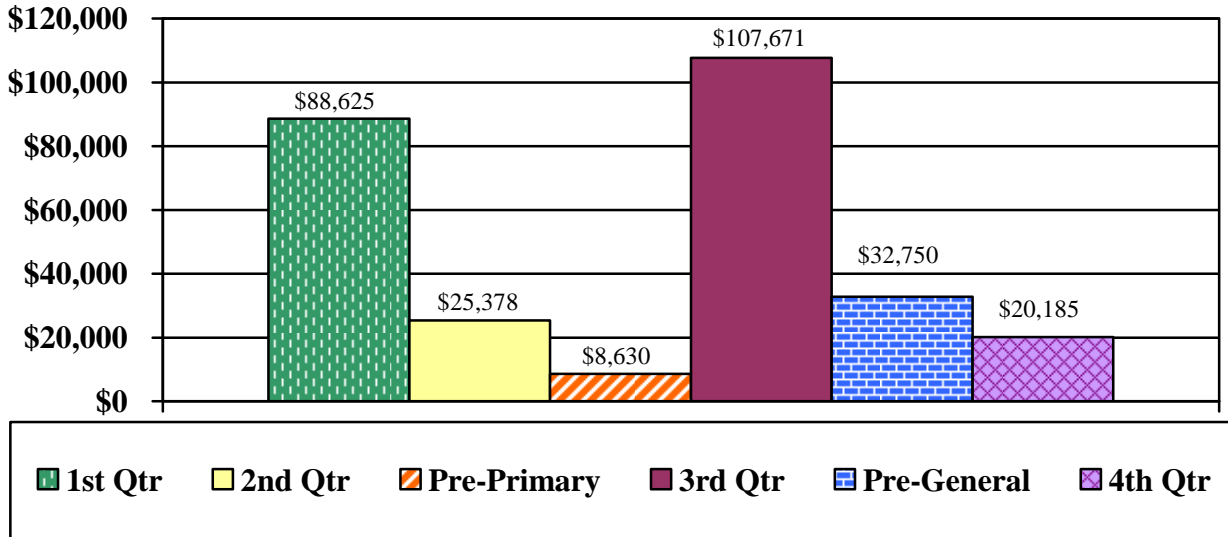
2008 ELECTION CONTRIBUTIONS BY SOURCE

The following chart shows the monetary contributions reported by the candidate for the 2008 election campaign. Organizations in this chart represent non-profit organizations, individual's campaign organizations, or businesses.



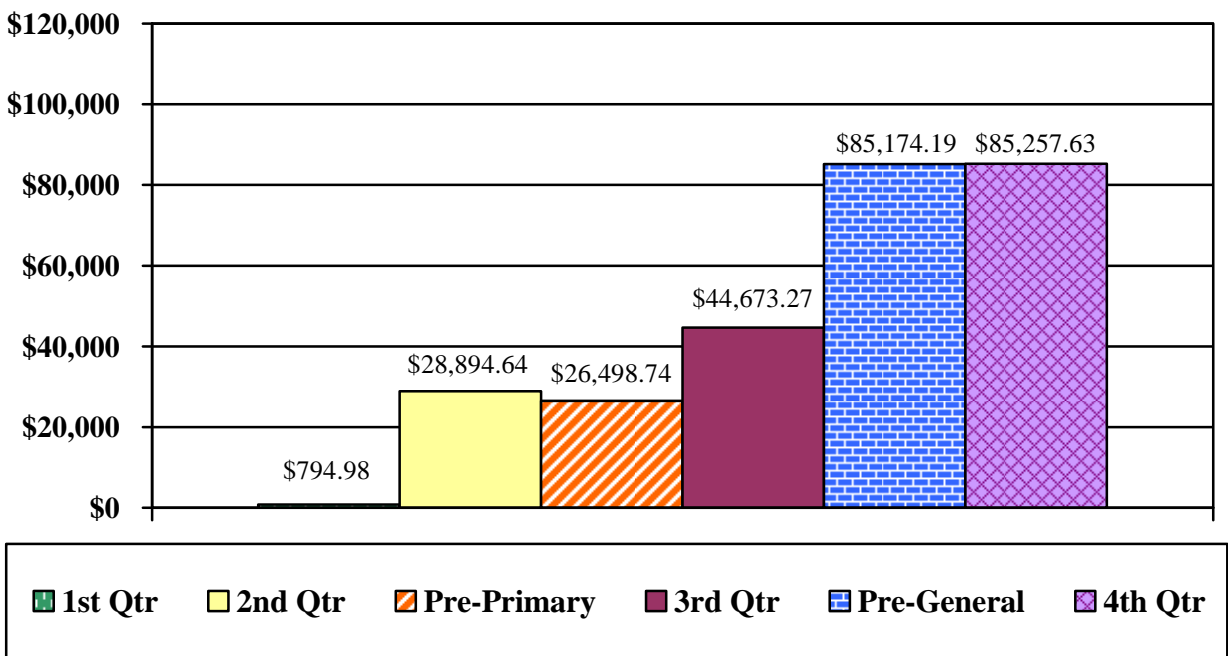
2008 ELECTION CONTRIBUTIONS BY REPORTING PERIOD

The following chart shows the contributions that the candidate reported for the 2008 election campaign by reporting period.



2008 ELECTION EXPENSES BY REPORTING PERIOD

The following chart shows the expenses that the candidate reported for the 2008 election campaign by reporting period.



OBJECTIVES, METHODOLOGIES, CONCLUSIONS

CONTRIBUTIONS AND RECEIPTS

Audit Objectives:

The objectives of our audit of contributions and loans were to determine whether:

- all campaign contributions from individuals and Political Action Committees (PACs) were within limits;
- all contributions were from non-prohibited sources;
- all contributions received were reported, reported in the proper period, reported in compliance with T.C.A. §§2-10-105 and 2-10-107, and reported in compliance with the Registry's rules;
- all monetary contributions were supported by bank statements and deposit slips;
- all in-kind contributions were supported by donation letter or other appropriate supporting documentation;
- all interest and other investment earnings received were reported, reported in the proper period, and supported by bank or investment statements;
- all loans received were reported to the Registry, reported in the proper period, report in compliance with T.C.A. §§2-10-105 and 2-10-107, and reported in compliance with the Registry's rules; and
- all loans received from lending institutions were supported by loan agreements.

Audit Methodology:

The Registry obtained Sen. Stewart's 2008 Campaign Financial Disclosure Statements from January 16, 2008 to January 15, 2009. We requested Sen. Stewart to provide his campaign records to support all contributions, loans, and interest that he received during his 2008 election campaign. Sen. Stewart's campaign records for contributions included bank statements, contributor lists, and check copies. The following steps were performed on Sen. Stewart's campaign documentation:

- The documentation was reviewed to determine if the candidate's monetary contributions received from January 16, 2008 through January 15, 2009 totaled \$233,239.
- Listings of monetary contributions by type were prepared from the candidate's campaign records and compared to the candidate's bank statements to determine if the candidate deposited all funds into a campaign bank account and properly recorded the funds.

- The listings of monetary contributions were compared to the candidate's campaign disclosures and the bank statements to determine if all receipts received were reported.
- A sample of sixteen itemized monetary contributions were prepared and compared to the candidate's disclosures reported during the election to determine if campaign contributions from individuals and PACs complied with campaign contribution limits, T.C.A. § 2-10-301, et seq.; contributions were properly reported; contributions were reported in the proper period; contributions were reported in compliance with T.C.A. §§ 2-10-105, 2-10-107; and contributions were reported in compliance with the Registry's rules.
- The documentation was reviewed to determine if the candidate's in-kind contributions received from January 16, 2008 through January 15, 2009 totaled \$7,591.68.
- The documentation was reviewed to determine if the candidate's loans received from January 16, 2008 through January 15, 2009 totaled \$50,000.
- A list of loans received and payments made by source was prepared and compared to the candidate's bank statements to determine if the candidate deposited all loan proceeds into a campaign bank account and made all payments from campaign funds.
- The list of loans was compared to loan agreements or other supporting documentation to determine the source and terms of the loans received.

Audit Conclusion:

Sen. Stewart's 2008 Campaign Financial Disclosure Statements from January 16, 2008 to January 15, 2009 included the 2008 first quarter, 2008 second quarter, 2008 pre-primary, 2008 third quarter, 2008 pre-general, and 2008 fourth quarter. The campaign records indicated that Sen. Stewart failed to report \$1,562.62 in contributions received from individuals and organizations. In addition, he failed to report personal contributions totaling \$12,330.73 in violation of T.C.A. § 2-10-105(a) (Finding 1). Sen. Stewart overstated his reported contributions by \$4,200 in violation of T.C.A. § 2-10-107(a)(2)(A)(i) (Finding 2).

Sen. Stewart did not properly maintain campaign records for any un-itemized, in-kind, loan, and interest contributions. In addition, Sen. Stewart failed to maintain documentation for several itemized contributions. As a result, we could not determine the candidate's compliance with various campaign finance statutes (Finding 3). Sen. Stewart did not follow Registry rules for bookkeeping and failed to maintain a campaign account properly (Finding 4). In addition, the campaign records indicated that as of January 15, 2009, Sen. Stewart reported \$17,350 in contributions that he has not deposited into the campaign account. The campaign records do not indicate the location of \$15,850 in campaign funds. (Finding 5). In addition, Sen. Stewart's campaign bank account on January 15, 2009 had a negative balance of \$11,081.59. The candidate disclosed no loan related to this negative balance in violation of T.C.A. § 2-10-105(a) (Finding 5). Except for the items noted above, the sample items tested complied with campaign finance disclosure laws and campaign limits laws.

FINDINGS

1. Sen. Stewart failed to report contributions received during his 2008 campaign.

Sen. Stewart failed to report \$1,562.62 in contributions that he received from individuals and organizations. In addition, he failed to report personal contributions totaling \$12,330.73. The following is a list of the contributions that the candidate did not report:

- a personal loan of \$305.73 made during the pre-primary reporting period,
- a personal loan of \$700 made during the pre-primary reporting period,
- a personal loan of \$4,000 made during the pre-primary reporting period,
- a personal loan of \$1,225 made during the fourth quarter reporting period,
- a personal loan of \$5,000 made during the fourth quarter reporting period,
- a personal loan of \$1,100 made during the fourth quarter reporting period,
- funds collected from individuals through an online collection service during the fourth quarter of \$362.62,
- an organization's \$200 contribution received during the fourth quarter reporting period,
- an individual's \$300 contribution received during the fourth quarter reporting period,
- an individual's \$100 contribution received during the fourth quarter reporting period,
- an individual's \$100 contribution received during the fourth quarter reporting period,
- an individual's \$100 contribution received during the fourth quarter reporting period,
- an individual's \$100 contribution received during the fourth quarter reporting period,
- an individual's \$100 contribution received during the fourth quarter reporting period,
- an individual's \$100 contribution received during the fourth quarter reporting period,
- an individual's \$100 contribution received during the fourth quarter reporting period,
- an individual's \$100 contribution received during the fourth quarter reporting period,

In total, Sen. Stewart failed to report \$13,893.35 in contributions that he received during his 2008 campaign. The addition of these contributions will result in an increase in contributions of approximately 5%. Sen. Stewart's failure to report these contributions violated T.C.A. § 2-10-105(a), which states that candidates shall file a statement of all contributions received.

2. Sen. Stewart's campaign records indicated that he overstated his reported contributions by \$4,200.

Sen. Stewart overstated contributions on his campaign disclosure reports by \$4,200. The \$4,200 overstatement of contributions is a violation of T.C.A. §2-10-107(a)(2)(A)(i), which requires accurate reporting of contributions on campaign financial disclosure statements. Sen. Stewart overstated contributions from individuals by reporting four \$1,000 contributions that he stated were actually voided and returned to two contributors. Based on a review of the campaign bank account, Sen. Stewart never deposited the funds into the account. As a result, the funds appear to have been returned as the candidate stated. The remaining \$200 overstatement was due to the candidate reporting a contribution twice. The candidate misspelled the contributor's last name for one entry which resulted in the double reporting of the contributions. The overstatements appear to have occurred as a result of the candidate's failure to follow the Registry rules for reconciling campaign disclosures to his campaign bank account and the improper use of a campaign account (Findings 3 and 4).

3. Sen. Stewart did not properly maintain his campaign records to verify the existence of contributions and expenses reported and his compliance with campaign finance statutes.

Sen. Stewart did not maintain or obtain sufficient campaign records for contributions and expenses in order to verify their existence or compliance with all campaign finance statutes. Without the campaign records for all contributions, we could not determine Sen. Stewart's compliance with campaign finance statutes. In addition, we could not verify the existence of certain contributions and expenses. The details of the contributions and expenses with insufficient records are listed below:

- Sen. Stewart reported a \$200 itemized contribution from an individual. The candidate's campaign account showed no record of the candidate depositing these funds. In addition, the candidate failed to provide any other supporting documentation to indicate that he received the funds. The candidate's records included some copies of contributor checks and listings of contributors with amounts contributed by deposit date. The candidate did not include a copy of the contribution check or list the contribution in the listing. As a result, we could not determine the existence or compliance of these funds.
- Sen. Stewart failed to maintain supporting documentation for all un-itemized contributions received totaling \$4,361. Based on the bank records, the candidate deposited the un-itemized contributions into his campaign bank account; however, he did not provide any documentation to show who contributed the funds.

- Sen. Stewart failed to maintain supporting documentation for all in-kind contributions reported totaling \$7,591.68.
- Sen. Stewart failed to maintain and retain supporting documentation for itemized contributions. The candidate provided bank statements that showed the total deposits made and listings for some deposits showing the contributor's name and amount contributed. The candidate appeared to have been retaining copies of contribution checks and donation cards to support the contributions reported; however, the candidate's records only included contribution check copies for 160 of 551 itemized contributions reported. Sen. Stewart stated in a letter to the auditor that in December 2008 he moved out of his campaign office and all of his receipts, invoices, check copies, and other campaign records were inadvertently thrown out during that move. As a part of the audit process, Sen. Stewart attempted to restore portions of the campaign records; however, we could only match the remaining contributions by total amount deposited to the listings provided.
- Sen. Stewart failed to obtain or maintain vendor receipts or any other supporting documentation for 93 of 119 (approximately 78%) itemized expenditures reported. As a result, Sen. Stewart violated T.C.A. § 2-10-212(c), which states that candidates shall retain copies of all checks, bank statements, and vendor receipts for two (2) years after the date of the election to which the records refer.
- Sen. Stewart failed to maintain supporting documentation for all obligations reported totaling \$29,500.10.
- Sen. Stewart failed to maintain supporting documentation for loans reported and failed to maintain records related to investment activities. Sen. Stewart reported receiving a \$50,000 loan on his 2008 first quarter report and the payment of the loan on his 2008 fourth quarter report. Based on the bank statements, the candidate did not deposit these funds into the campaign account or disburse these funds from the account. When asked about the loan transactions, Sen. Stewart stated that he obtained the loan from Citizens Community Bank using a personal credit. He also stated that he placed the proceeds from the loan into a certificate of deposit (CD) for his campaign. The candidate stated that he used the funds received from the CD at maturity (principal investment and interest earned) to pay the loan principal and a portion of the interest due. As noted above, the candidate reported receiving the loan and loan payment; however, the interest earned on the CD was not reported as a contribution, but was reported as an offset of interest paid on the loan. (The net of the interest earned and interest expense was reported as an expense.) No campaign records were provided to the Registry that supported the loan or investment campaign activities during the audit process. On February 8, 2010, just prior to the report release, the candidate provided support for the loan and investment activities. The loan and investment was \$50,000. The total interest earned on the CD was \$823.86. The fees and interest due on the loan was \$1,591.83.

As noted above, without the specific contributors' names, amounts contributed, and other detailed information, we could not determine the candidate's compliance with the following campaign finance statutes:

- T.C.A. § 2-10-107(a)(2)(A)(i) requires contributions of more than \$100 from one source received during a reporting period to be itemized. The itemized information for each contributor must include name, address, occupation, employer, date of receipt, and amount of contribution.
- T.C.A. § 2-10-302 establishes limits on contributions to candidates from a person or multicandidate political campaign committee (PAC).
- T.C.A. § 2-10-311(a) limits cash contributions to \$50 per election for each contributor.
- T.C.A. § 2-10-105(h)(1)(B) requires the reporting of loans received by lender and guarantee.

4. Sen. Stewart did not follow Registry rules for bookkeeping.

Sen. Stewart did not follow Registry rules for bookkeeping and failed to maintain a campaign account properly. Although not required by statute, the Registry has developed guidance for candidates for maintaining their records of campaign activities. This guidance is not the sole method for maintaining records and does not include all variations of campaign activities; however, if the candidate had followed the guidance, he may have averted the findings noted.

Sen. Stewart failed to maintain a campaign account properly by depositing all campaign contributions into the campaign account prior to disbursement. The candidate paid for several campaign expenses from personal funds, which resulted in personal loan contributions to be reported incorrectly. In addition, Sen. Stewart retained funds from deposits to pay campaign expenses, which created a lack of supporting documentation and could have prevented some of the improper reporting of contributions and expenses. In addition, see Finding 5 for additional contributions not deposited. The candidate did not implement the following Registry rules:

- Registry Rules 0530-1-1-.02(1), 0530-1-1-.02(2), and 0530-1-1-.02(4) state that campaign contributions should be deposited into the campaign account within ten (10) business days of the receipt date, not commingled with any other funds, and from which all expenses are paid. The rules define a campaign account as a separate account into which all contributions shall be deposited and from which all campaign monies are expended.
- Registry Rule 0530-1-1-.02(8) states that a candidate should perform bank reconciliations that reconcile the bank account and the campaign records to the financial disclosure statements.

5. Sen. Stewart failed to report all campaign activities and failed to provide support for the location of campaign assets.

Sen. Stewart's campaign bank account on January 15, 2009 had a negative balance of \$11,081.59. Based on review of the bank statements, the bank is paying disbursements regardless of the lack of funds in the campaign account. This appears to indicate that Franklin County United Bank is providing a loan to the campaign or personally to the candidate. In either case, the candidate disclosed no related loan on his campaign financial disclosure reports. In addition, the bank does not appear to be charging interest on the loan; however, the bank is charging "insufficient fund fees" of approximately \$28 per check. Similar to the loan, the candidate failed to report all of these bank fees. The fees are included in the unreported expense included in Finding 6.

Sen. Stewart's negative campaign account balance was the direct result of the candidate not depositing all funds into the campaign account. The audited records and disclosures indicated the campaign balance at January 15, 2009 was \$4,768.41. The difference between the bank account and the campaign balance was \$15,850. Of the \$15,850 difference, the candidate failed to deposit \$17,350 in contributions reported. The remaining \$1,500 is check that has not cleared the campaign bank account as of January 15, 2009. The candidate supported the un-cleared check by a photocopy of the check written. The campaign records do not indicate the use of the \$17,350 in campaign funds or the location of the \$15,850 in campaign assets. The candidate only provided bank statements through January 15, 2009. We did not audit any subsequent transactions, which may affect the amounts placed into the campaign account. In addition, as noted in Finding 4, the candidate's records were not complete. We based the negative campaign balance and the difference between deposited funds and the campaign balance on the information provided. Additional bank statements or campaign records that could better reflect the activities noted in Findings 4, 8, and 9 could increase or decrease both the negative account balance required to be reported as a loan and the amounts indicated as not deposited into the campaign account. Sen. Stewart's failure to report the loan violated T.C.A. § 2-10-105(a), which states that candidates shall file a statement of all contributions received, which includes loan contributions.

DISBURSEMENTS AND OBLIGATIONS

Audit Objectives:

The objectives of our audit of disbursements and obligations were to determine whether:

- all disbursements and obligations were supported by vendor receipts, canceled checks, and bank statements;
- all disbursements and obligations were made for non-prohibited activities; and
- all disbursements and obligations were reported, reported in the proper period, reported in compliance with T.C.A. §§ 2-10-107, 2-10-114, and reported in compliance with the Registry rules.

Audit Methodology:

The Registry obtained Sen. Stewart's 2008 Campaign Financial Disclosure Statements from January 16, 2008 to January 15, 2009. We requested Sen. Stewart to provide his campaign records to support all expenses that he had during his 2008 election campaign. Sen. Stewart's campaign records for expenses included bank statements, copies of cancelled checks, vendor receipts/invoices, and credit card statements. The following steps were performed on Sen. Stewart's campaign documentation:

- The documentation was reviewed to determine if the candidate's disbursements from January 16, 2008 through January 15, 2009 totaled \$271,293.45.
- A list of disbursements was prepared and compared to the candidate's bank statements and copies of cleared checks to determine if the candidate expended all funds from the campaign bank account.
- The list of disbursements was compared to the candidate's campaign disclosures and the bank statements to determine if all disbursements were reported.
- A sample of thirty-two itemized expenditures were reviewed to determine if all expenditures were reported, reported in the proper period, reported in compliance with T.C.A. §§ 2-10-107, 2-10-114, and reported in compliance with the Registry's rules.
- The documentation was reviewed to determine if the candidate's obligations outstanding at January 15, 2009 totaled \$29,500.10

Audit Conclusion:

Sen. Stewart's 2008 Campaign Financial Disclosure Statements and campaign records indicated that Sen. Stewart failed to report \$30,909.89 in campaign expenditures during his 2008 campaign in violation of T.C.A. § 2-10-105(a) (Finding 6). In addition, Sen. Stewart overstated his itemized expenditures by \$1,217.88 in violation of T.C.A. § 2-10-107(a)(2)(B) (Finding 7).

Sen. Stewart removed \$21,887.80 from his campaign account without reporting the disbursements as expenses on his campaign financial disclosure reports. In addition, Sen. Stewart provided no documentation for the purpose of the removal of the funds. As a result, we could not determine whether the candidate should have reported the removal of funds or if the removal was allowable (Finding 8). Sen. Stewart failed to provide supporting documentation for \$34,700.96 in expenditures reported on his campaign financial disclosure statements. Similar to Finding 8, we could not determine whether the candidate should have reported the expenses or if the expenses were allowable due to the lack of documentation. In addition, we could not determine if these expenses occurred or the source of payment (Finding 9).

Sen. Stewart did not properly maintain campaign records for any loan payments, interest payments, or obligations incurred. Sen. Stewart failed to obtain or maintain vendor receipts or any other supporting documentation for 94 of 119 (approximately 79%) itemized expenditures reported. As a result, we could not determine the candidate's compliance with various campaign finance statutes (Finding 3). Finally, Sen. Stewart did not follow Registry rules for bookkeeping and failed to maintain a campaign account properly (Finding 4). Except for the items noted above, the sample items tested complied with campaign finance disclosure laws and campaign limits laws.

FINDINGS

6. Sen. Stewart failed to report \$30,909.89 in campaign expenditures during his 2008 campaign.

Sen. Stewart failed to report \$30,909.89 in campaign expenditures during his 2008 campaign. Sen. Stewart's campaign records indicated that he did not disclose the following campaign expenditures:

- an expenditure to Netfire for \$4,000 on March 14, 2008,
- an expenditure to The Thomas Lindsey Group for \$3,000 on March 24, 2008,
- an expenditure to Razor Sharp for \$5,000 on June 9, 2008,
- an expenditure to The Thomas Lindsey Group for \$3,000 on June 30, 2008,
- several expenditures to Franklin County United Bank totaling \$81 for bank fees during the pre-primary reporting period,
- an expenditure to Nicole Reese for \$600 on July 17, 2008,
- an expenditure to Mailsource for \$6,000 on July 18, 2008,
- an expenditure to Kyle Stewart for \$5,000 on July 31, 2008,
- an expenditure to WCDT for \$360 that cleared the bank on August 8, 2008 that the candidate stated should be reported in the pre-primary reporting period,
- an expenditure to Cheyne Stewart for \$700 on July 16, 2008,
- several expenditures to Franklin County United Bank totaling \$252 for bank fees during the third quarter reporting period,
- an expenditure to Food Lion for \$10.73 on August 8, 2008,
- an expenditure to Cassie Chandler for \$2,400 on September 4, 2008,

- an expenditure to Kroger for \$30.16 on September 19, 2008,
- several expenditures to Franklin County United Bank totaling \$224 for bank fees during the pre-general reporting period, and
- several expenditures to Franklin County United Bank totaling \$252 for bank fees during the fourth quarter reporting period.

The addition of these expenditures will result in an increase in expenses of approximately 11%. Sen. Stewart's failure to report these expenditures violated T.C.A. § 2-10-105(a), which requires a candidate to prepare a statement of all expenditures made by or on behalf of the candidate.

7. Sen. Stewart's campaign records indicated that he overstated his reported expenses by \$1,217.88.

Sen. Stewart overstated his itemized expenditures by \$1,217.88. The overstatement of expenses is a violation of T.C.A. § 2-10-107(a)(2)(B), which requires accurate reporting of expenses on campaign financial disclosure statements. Sen. Stewart overstated an expenditure for campaign worker services by \$200 on June 27, 2008. Sen. Stewart reported the expense as \$700; however, based on the candidate's statements and campaign records, the expense should be \$500. In addition, Sen. Stewart reported a \$400 expenditure on July 20, 2008; however, in a letter to the auditor, Sen. Stewart stated that the expense was a business expense that he inadvertently added to the campaign disclosure report. Finally, the candidate reported a \$617.88 expenditure twice during the pre-primary reporting period. The overstatements appear to have occurred as a result of the candidate's failure to follow the Registry rules for reconciling campaign disclosures to his campaign bank account and the improper use of a campaign account (Findings 3 and 4).

8. Sen. Stewart removed \$21,887.80 from his campaign account without reporting the related disbursements on his campaign financial disclosure statements.

Sen. Stewart's campaign records indicated that he removed \$21,887.80 in campaign funds from the campaign account without reporting a related expense on any campaign financial disclosure statement. Unlike Finding 6, the candidate failed to provide any campaign records to support that a campaign expense occurred. Based on the candidate's bank statements, he removed the funds from his campaign account by eight debit memos totaling \$21,500 and two checks totaling \$387.80. The debit memos appear to either represent cash withdrawals or wire transfers. In either case, no vendor or payee was listed to establish the purpose of the withdrawals. In addition, the candidate failed to provide invoices or receipts to support expenses for the debit memos.

For the two checks, the candidate wrote one check to cash for \$300. Based on the campaign bank statement, the candidate disbursed the other check for \$87.80 from the account but the copy of the cancelled check was not included in the campaign records. In both cases, we could not determine the purpose or payee of the funds since the candidate failed to provide any supporting invoice or receipt for these expenses. As a result, we could not determine if the removal of funds should have been reported as campaign expenses pursuant to T.C.A. § 2-10-105 or if the expenses were allowable as defined by T.C.A. § 2-10-114.

9. Sen. Stewart failed to provide supporting documentation for \$34,700.96 in expenditures reported.

Sen. Stewart disclosed \$23,653.17 in expenditures on his 2008 fourth quarter report, \$10,347.79 in expenditures on his 2008 pre-general report, and \$700 in expenditures on his 2008 third quarter report that were not supported by a disbursement from the campaign account. In addition, Sen. Stewart failed to obtain or maintain invoices, receipts, or other supporting documentation to support these expenditures. Similar Finding 8, due to the lack of documentation, we could not determine if the expenses should have been reported pursuant to T.C.A. § 2-10-105 or if the expenses were allowable as defined by T.C.A. § 2-10-114. Unlike the funds removed from the account in Finding 8, we could not determine if these expenses actually occurred or the sources of payments.

As part of the audit procedures, we matched cleared checks on the bank statements through January 15, 2009 (the last day of the campaign bank statement provided) to expenditures the candidate reported on his disclosure statements for the 2008 election campaign. If the candidate disbursed these expenditures from the campaign bank account, the checks may have cleared the bank after the last bank statement provided. Otherwise, the candidate paid these expenditures from his personal funds or other donors' funds. If the candidate paid the expenditures with funds outside of the campaign account, he should have reported additional campaign contributions on his campaign financial disclosure statements. Since we could not determine the candidate paid for these expenditures, we did not include the additional contributions in the findings for the contributions and receipts section above. The expenditure amounts included in this finding were also included in the 94 items listed in bullet point 5 of Finding 3.

RECOMMENDATION TO CANDIDATE

Sen. Stewart should amend his campaign financial disclosure reports to include all campaign contributions received and all expenditures made. In addition, Sen. Stewart should review his campaign records and amend his disclosures to reflect all campaign activities.

Sen. Stewart should develop a campaign record-keeping system that adequately meets the requirements of the campaign financial disclosure statutes. The system should ensure that the candidate maintains campaign and personal funds separately and that he obtains and retains documentation for each contribution received and expenditure made. Finally, the candidate should reconcile the campaign bank account to the campaign disclosure statements to ensure that all campaign finance activities are recorded and reported properly.

RECOMMENDATION TO REGISTRY

We recommend the Registry approve the audit performed as being sufficient and complete. Additionally, we recommend the Registry post the audit report to the Registry's website. The report and related findings will assist current and future candidates in understanding the audit process, the purposes of Registry rules, and types of procedures needed to comply with campaign finance laws.

RESOLUTIONS

CANDIDATE'S CORRECTIVE ACTIONS

After notifying Sen. Stewart of the above findings, he chose to take corrective actions on his reports prior to the Registry's approval of the audit. Sen. Stewart amended his 2008 First Quarter, Second Quarter, Pre-Primary, Third Quarter, Pre-General, and Fourth Quarter Campaign Financial Disclosure Statements on February 3, 2010. Findings 3 and 4 were not listed below since the finding did not require corrections to the reports. Findings 5, 8 and 9 require additional information to be provided to the Registry from the candidate, prior to corrective actions being made.

Corrective Actions - Finding 1:

Sen. Stewart amended the reports listed below to add the \$1,575 in contributions that he received from individuals and organizations. In addition, he added personal contributions totaling \$12,330.73. The current amended reports properly disclosed the contributions noted in finding 1.

- Sen. Stewart amended his pre-primary report by adding three personal loan contributions in the amounts of \$305.73, \$700 and \$4,000.
- Sen. Stewart amended his fourth quarter report by adding three personal loan contributions in the amounts of \$1,225, \$5,000 and \$1,100.
- Sen. Stewart amended his fourth quarter report by adding seven \$100 contribution from seven individuals. In addition he adding a \$300 contribution from an individual.
- Sen. Stewart amended his fourth quarter report by adding a \$200 contribution from an organization.
- Sen. Stewart amended his second quarter, third quarter, pre-general and fourth quarter reports by adding the contributions listed below totaling \$375. In addition, he added expenses of \$12.38, also listed below for fees to an online service provider. The additional transactions properly disclose bullet point 7 of finding 1.
 - a. He added a \$100 contribution from an individual on the second quarter report
 - b. He added a \$25 contribution from an individual on the second quarter report
 - c. He added a \$100 contribution from an individual on the pre-general report
 - d. He added a \$50 contribution from an individual on the pre-general report
 - e. He added a \$100 contribution from an individual on the fourth quarter report
 - f. He added \$4.23 in expenses to the second quarter report
 - g. He added \$4.95 in expenses to the third quarter report
 - h. He added \$3.20 in expenses to the fourth quarter report

Corrective Actions - Finding 2:

Sen. Stewart amended the reports listed below to remove the \$4,200 in contributions that he overstated. The current amended reports properly disclosed the contributions noted in finding 2.

- Sen. Stewart amended his first quarter report by adding two \$1,000 contribution adjustments for two individuals, thus removing the contributions from his reports.
- Sen. Stewart amended his third quarter report by adding two \$1,000 contribution adjustments for two individuals, thus removing the contributions from his reports.
- Sen. Stewart amended his first quarter report by removing a contribution \$200 from an individual.

Corrective Actions - Finding 6:

Sen. Stewart amended the reports listed below to add the \$30,909.89 in campaign expenditures. The current amended reports properly disclosed the expenses noted in finding 6.

- Sen. Stewart amended his first quarter report by adding an itemized expenditure of \$4,000 to Netfire.
- Sen. Stewart amended his first quarter report by adding an itemized expenditure of \$3,000 to The Thomas Lindsey Group.
- Sen. Stewart amended his second quarter report by adding an itemized expenditure of \$5,000 to Razor Sharp.
- Sen. Stewart amended his second quarter report by adding an itemized expenditure of \$3,000 to The Thomas Lindsey Group.
- Sen. Stewart amended his pre-primary report by adding an itemized expenditure of \$81 to Franklin County United Bank.
- Sen. Stewart amended his pre-primary report by adding an itemized expenditure of \$600 to Nicole Reese.
- Sen. Stewart amended his pre-primary report by adding an itemized expenditure of \$6,000 to Mailsource.
- Sen. Stewart amended his pre-primary report by adding an itemized expenditure of \$5,000 to Kyle Stewart.
- Sen. Stewart amended his pre-primary report by adding an itemized expenditure of \$360 to WCDDT.

- Sen. Stewart amended his pre-primary report by adding an itemized expenditure of \$600 to Cheyne Stewart.
- Sen. Stewart amended his third quarter report by adding an itemized expenditure of \$252 to Franklin County United Bank.
- Sen. Stewart amended his third quarter report by adding an itemized expenditure of \$10.73 to Food Lion.
- Sen. Stewart amended his third quarter report by adding an itemized expenditure of \$2,400 to Cassie Chandler.
- Sen. Stewart amended his third quarter report by adding an itemized expenditure of \$30.16 to Kroger.
- Sen. Stewart amended his pre-general report by adding an itemized expenditure of \$224 to Franklin County United Bank.
- Sen. Stewart amended his fourth quarter report by adding an itemized expenditure of \$252 to Franklin County United Bank.

Corrective Actions - Finding 7:

Sen. Stewart amended the reports listed below to remove the \$1,217.88 in expenses that he overstated. The current amended reports properly disclose the expenses noted in finding 7.

- Sen. Stewart amended his second quarter report by changing the an itemized expenditure to Cheyne Stewart on 6/27/2008 from of \$700 to \$500.
- Sen. Stewart amended his pre-primary report by removing an itemized expenditure of \$400 to the Herald Chronicle.
- Sen. Stewart amended his pre-primary report by removing an itemized expenditure of \$617.88 to the PC Signs.

REGISTRY OF ELECTION FINANCE ACTIONS

The Members of the Registry of Election Finance reviewed the 2008 audit of Sen. Stewart during the February 10, 2009 regular monthly meeting. The report contained nine findings with recommendations for corrective actions. The Registry voted to accept and approve the audit report and to issue a show cause notice for failing to report campaign contributions received, for overstating reported contributions, and for not properly maintaining campaign records to verify compliance with campaign finance statutes. Subsequent actions by the Registry related to the show cause notice will appear in the subsequent board minutes.