

**Tennessee Ethics Commission**  
**August 31, 2010**  
**Minutes**

The Tennessee Ethics Commission met on Tuesday, August 31, 2010 at 9:00 a.m. at the Bureau of Ethics and Campaign Finance office. Commissioners John K. King, R. Larry Brown, Charles H. Farmer, Linda W. Knight, and Dianne F. Neal were present. Chairman King called the meeting to order at 9:15 a.m.

***June 14, 2010 Minutes***

Commissioner Knight proposed amending the minutes on the matter of the *Request for Advisory Opinion – Tony Gottlieb* to add the reasoning why the Commission denied the request. Specifically, the addition was “because 1) Mr. Gottlieb has no standing with the Commission, and 2) the Commission has no jurisdiction to render an opinion on a facial challenge to the constitutionality of the statute.” The amendment was accepted without objection. Commissioner Neal made the motion to approve the minutes as amended and Chairman King seconded. The minutes as amended were approved 5-0.

***Requests for Reconsideration***

*J. Bennett, 2010-030 (Local Officeholder)*

Staff requested reconsideration of the \$10,000 civil penalty imposed on Mr. Bennett in the May 26, 2010 meeting. Staff subsequently learned that Mr. Bennett was not in office and, that as a utility commissioner, was not required to file the Statement of Interests. Commissioner Neal moved to set aside the \$10,000 penalty because he was never required to file and Commissioner Brown seconded. The motion passed 5-0.

*Eliza D. Parker, 2010-074 (Candidate for Local Office)*

Ms. Parker requested reconsideration of the \$250 civil penalty imposed in the June 14, 2010 meeting. Commissioner Knight moved to reconsider and to reduce the penalty to \$100. Commissioner Brown seconded and the motion passed 5-0.

*Ronald Eydt, 2010-015 (Local Officeholder)*

Mr. Eydt requested reconsideration of the \$50 civil penalty imposed in the May 26, 2010 meeting. Commissioner Brown moved to not reconsider and to let the assessment stand. Chairman King seconded and the motion passed 5-0.

*Jerry Dryden, 2010-010 (Local Officeholder)*

Mr. Dryden requested reconsideration of the \$25 civil penalty imposed in the May 26, 2010 meeting. Chairman King moved to reconsider and to assess no penalty. Commissioner Brown seconded and the motion passed 5-0.

*Jorene Choate, 2010-031 (Local Officeholder)*

Ms. Choate requested reconsideration of the \$10,000 civil penalty imposed in the May 26, 2010 meeting. Commissioner Knight moved to reconsider, reduce the Class 1 penalty to \$500 and waive the Class 2 penalty. Commissioner Neal seconded and the motion passed 5-0.

*Dennis Houser, 2010-035 (Local Officeholder)*

Mr. Houser requested reconsideration of the \$2,000 civil penalty imposed at the May 26, 2010 meeting. Commissioner Knight moved to reconsider, reduce the Class 1 penalty to \$500 and impose no Class 2 penalty. Chairman King seconded and the motion passed 5-0.

*Lonnie Carver, 2010-052 (Local Officeholder)*

Mr. Carver requested reconsideration of the \$1,850 civil penalty imposed at the June 14, 2010 meeting. Commissioner Farmer made the motion to reduce the penalty to \$50 and Commissioner Neal seconded. Motion passed 5-0.

*Roosevelt Whitfield, 2010-042 (Local Officeholder)*

Mr. Whitfield requested reconsideration of the \$2,000 civil penalty imposed at the May 26, 2010 meeting. Commissioner Knight moved to reconsider and to reduce the penalty to \$100. Commissioner Neal seconded and the motion passed 5-0.

*Ken R. Smith, 2010-077 (Local Candidate)*

Mr. Smith requested reconsideration of the \$475 civil penalty imposed at the June 14, 2010, meeting. Commissioner Farmer moved to set aside the assessment and Commissioner Neal seconded. The motion passed 5-0.

*Bill Lockett, 2010-036 (Local Officeholder)*

Mr. Lockett requested reconsideration of the \$10,000 civil penalty imposed at the May 26, 2010 meeting. Commissioner Brown moved to reconsider, assess a \$500 Class 1 penalty and no Class 2 penalty. Commissioner King seconded. The motion failed 3-2 with Commissioners Knight and Farmer voting no.

Commissioner Knight made the motion to not reconsider and Commissioner Neal seconded. The motion failed 2-3 with Commissioners King, Brown and Farmer voting no.

Commissioner Knight moved to reconsider and Commissioner Brown seconded. The motion passed 5-0.

Commissioner Brown moved to assess a \$750 Class 1 penalty and a \$250 Class 2 penalty. Commissioner King seconded and the motion passed 4-1 with Commissioner Knight voting no.

*Marion Hawn, 2010-034 (Local Officeholder)*

Mr. Hawn requested reconsideration of the \$2,000 civil penalty imposed at the May 26, 2010 meeting. Commissioner Brown moved to reconsider, assess a \$200 Class 1 penalty, and waive the Class 2 penalty. Commissioner Neal seconded and the motion passed 5-0.

*Jerry Ford, 2010-032 (Local Candidate)*

Rep. Henry Fincher represented Mr. Ford before the Commission and explained why Mr. Ford believed he had filed the Statement of Interests. Mr. Ford then addressed the Commission and answered questions. After consideration, Chairman King moved for reconsideration of the penalty and Commissioner Neal seconded. The motion passed 5-0. Commissioner Farmer moved to waive any assessment and Commissioner Neal seconded. The motion passed 5-0.

*Chris Smithson – 2010-051(Local Officeholder)*

Chairman King explained that Chris Smithson was present and has asked to address the Commission on two cases. Since Mr. Smithson was not on the agenda, Chairman King asked if there was a motion to amend the agenda to add Mr. Smithson. Commissioner Brown made the motion and Commissioner Neal seconded. The motion passed 5-0.

Mr. Smithson explained to the Commission why his Statement of Interests was not timely filed and requested reconsideration of the \$10,000 penalty imposed at the June 14, 2010 meeting. Commissioner Neal made the motion to reconsider this request and Chairman King seconded. The motion passed 5-0. After discussion and consideration of Mr. Smithson's statement, Commissioner Farmer moved to assess a penalty of \$50 and Commissioner Neal seconded. Chairman King clarified that the \$50 penalty is a Class 1 penalty and a Class 2 penalty would not be imposed. The motion passed 5-0.

***Assessments – Employers of Lobbyists***

*Consumer Data Industry Association, 2010-079*

Commissioner Neal moved to assess the maximum civil penalty (\$750) for failure to pay the registration fee. Commissioner Farmer seconded and the motion passed 5-0.

*Tennessee Network of Child Care Providers, 2010-082*

Charles Taylor, President of Tennessee Network of Child Care Providers, provided a statement explaining why the expenditure report had not been timely filed. Commissioner Farmer moved to assess a \$25 penalty and Commissioner Neal seconded. The motion passed 5-0.

*Nashville Academy of Medicine, 2010-080*

Commissioner Neal moved to assess a \$75 civil penalty for failure to timely file the expenditure report. Chairman King seconded and the motion passed 5-0.

*Southeast Energy Efficiency Alliance, 2010-086*

Ben Taube, Executive Director of Southeast Energy Efficiency Alliance, provided a statement explaining why the expenditure report had not been timely filed. Commissioner Knight moved to assess a \$75 civil penalty and Commissioner Farmer seconded. The motion passed 5-0.

*Tennessee Citizen Action, 2010-083*

Mary Mancini introduced herself as the new Executive Director of Tennessee Citizen Action. She stated that she was not asking for reconsideration but was explaining the late filing. Commissioner Knight moved to assess a \$75 penalty and Commissioner Farmer seconded. The motion passed 5-0.

*Americare Health Properties, LLC – 2010-084*

Commissioner Neal moved to assess a \$150 civil penalty and Commissioner Brown seconded. The motion passed 5-0. It was noted that the civil penalty has been paid.

*Asurion Insurance Services – 2010-081*

Brantley Phillips, an attorney representing Asurion, provided a statement regarding the late filing of the expenditure report. Commissioner Neal moved to assess the maximum allowable civil penalty of \$200. Commissioner Brown seconded and the motion passed 5-0.

***Assessments - Lobbyist***

*Michael Warmsley, 2010-054 and 2010-055*

Commissioner Knight moved to assess a civil penalty of \$750 for each case for failure to timely pay registration fees. Commissioner Farmer seconded and the motion passed 5-0.

***Assessments – Local Officials***

*Dennis Johnson – 2010-088*

Commissioner Brown moved to assess a \$25 civil penalty and Chairman King seconded. The motion passed 5-0. It was noted that Mr. Johnson has paid the penalty.

*Bill Harris, 2010-087*

Commissioner Knight moved to assess a \$425 civil penalty and Chairman King seconded. The motion passed 5-0.

*Amanda Crouch – 2010-048*

Chairman King moved to assess a \$10,000 civil penalty (\$750 Class 1 and \$9250 Class 2). Commissioner Brown seconded and the motion passed 5-0.

*Scott Novem – 2010-050*

Commissioner Farmer moved to assess a \$10,000 civil penalty (\$750 Class 1 and \$9250 Class 2). Commissioner Neal seconded and the motion passed 5-0.

*Richard Evans – 2010-047*

Commissioner Farmer moved to assess a \$10,000 civil penalty (\$750 Class 1 and \$9250 Class 2). Commissioner Neal seconded and the motion passed 5-0.

***Assessments – Local Candidates***

*William Barrick – 2010-099*

Mr. Barrick provided a statement regarding the late filing. Commissioner Farmer moved to waive the penalty and Commissioner Knight seconded. The motion passed 5-0.

*James Breeding – 2010-100*

*Tracy Northcutt – 2010-102*

*Jason Singleton – 2010-104*

*Daniel A. Williams – 2010-152*

*William Jason Kemmer – 2010-154*

Commissioner Knight made the motion to assess a \$25 civil penalty for the above-named candidates. Commissioner Brown seconded and the motion passed 5-0.

*Shyna Rayder – 2010-103*

Ms. Rayder provided a statement regarding the late filing. Chairman King moved that no penalty be imposed and Commissioner Neal seconded. The motion passed 5-0.

*Shenna Gaddis – 2010-153*

Ms. Gaddis provided a statement regarding the late filing. Commissioner Brown moved that no penalty be assessed and Commissioner Knight seconded. The motion passed 5-0.

*Chris Smithson – 2010-078*

Based on the same consideration of Mr. Smithson's previous request, Commissioner Farmer moved to impose no penalty and Commissioner Neal seconded. The motion passed 5-0.

*Gary L. Johnson – 2010-108*

*W. Frank Smith – 2010-111*

*Carroll Cate – 2010-156*

Commissioner Farmer made the motion to assess a \$50 civil penalty and Commissioner Neal seconded. The motion passed 5-0.

*Jeff Evans – 2010-106*

*Linda Faye Key – 2010-109*

Mr. Evans and Ms. Key provided statements regarding the late filings. Commissioner Brown moved that no penalty be assessed and Commissioner Neal seconded. The motion passed 5-0.

*Tim Duncan – 2010-122*

*Roger Owens – 2010-113*

*Charles W. Lee, Jr. – 2010-114*

*Dean Winters – 2010-115*

*Tony Perry – 2010-155*

Commissioner Knight moved that a \$75 civil penalty be assessed on each of the above named candidates. Commissioner Neal seconded and the motion passed 5-0.

*Dewey Madison – 2010-119*

Mr. Madison provided a statement regarding his filing. Commissioner Brown moved that no penalty be assessed, based on the fact that Mr. Madison did not an effort to file (envelope incorrectly addressed). Chairman King seconded and the motion passed 4-1 with Commissioner Knight voting no.

*Linda Mabry – 2010-151*

Commissioner Knight moved that a \$125 civil penalty be assessed and Commissioner Neal seconded. The motion passed 5-0.

*Laura Warren – 2010-117*

Commissioner Neal moved to assess a \$225 civil penalty and Commissioner Knight seconded. The motion passed 5-0.

*James Clary – 2010-118*

Mr. Clary provided a statement regarding his late filing. Commissioner Brown moved that a \$100 civil penalty be assessed and Commissioner Farmer seconded. The motion passed 5-0.

*Andrew Mullins – 2010-119*

Mr. Mullins provided a statement regarding his late filing. Commissioner Knight moved that a \$150 civil penalty be assessed and Commissioner Brown seconded. The motion passed 5-0.

*Jerry McCoin – 2010-120*

Commissioner Neal made the motion that a \$300 civil penalty be assessed and Chairman King seconded. The motion passed 5-0.

*Mike Creasy – 2010-128*

Commissioner Knight moved that Class 1 \$750 and Class 2 \$1250 penalties be imposed. Chairman King seconded and the motion passed 5-0.

*Scott Hansert, 2010-143*

Mr. Hansert explained that he thought he had complied when he filed campaign finance documents and filed the Statement of Interests as soon as he realized his error. Commissioner Knight made the motion to assess a Class 1 penalty of \$100 and no Class 2 penalty. Chairman King seconded. The motion passed 5-0.

*Jeff Merritt – 2010-123*

*Scott B. Allen – 2010-147*

*Scott D. Guy – 2010-144*

Commissioner Knight moved that Class 1 \$750 and Class 2 \$1250 penalties be imposed. Commissioner Brown seconded and the motion passed 5-0.

*Darlene Monday Davis – 2010-145*

Chairman King moved to impose no penalty and Commissioner Brown seconded. The motion passed 5-0.

*Ty Owen – 2010-148*

Commissioner Neal moved to impose no penalty and Commissioner Brown seconded. The motion passed 5-0.

*Leo Awgowhat – 2010-149*

Commissioner Brown moved to assess Class 1 \$750 and Class 2 \$1250 penalties. Commissioner Knight seconded and the motion passed 5-0.

*Janice Birchfield – 2010-124*

Commissioner Knight moved to assess a Class 1 \$750 penalty and to waive the Class 2 penalty. Chairman King seconded and the motion passed 5-0.

*Danny Shelton – 2010-131*

Commissioner Brown made the motion to assess Class 1 \$750 and Class 2 \$1750 penalties. Chairman King seconded and the motion passed 5-0.

*Bryan Williams – 2010-132*

Commissioner Brown moved to assess no penalty and Commissioner Neal seconded. The motion passed 5-0.

*Tim King – 2010-126*

Commissioner Knight made the motion to assess a \$750 Class 1 penalty and no Class 2 penalty. Commissioner Neal seconded and the motion passed 5-0.

*Coleman Thompson – 2010-137*

Commissioner Brown made the motion to assess a \$750 Class 1 penalty and a \$2250 Class 2 penalty. Commissioner Knight seconded and the motion passed 5-0.

*Darrell K. Moore – 2010-136*

Commissioner Brown made the motion to assess \$750 Class 1 and \$2250 Class 2 penalties. Commissioner Knight seconded and the motion passed 5-0.

*Tish Beck – 2010-138*

Commissioner Knight made the motion to assess \$750 Class 1 and \$2250 Class 2 penalties. Commissioner Brown seconded and the motion passed 5-0.

*Sandra Becton – 2010-122*

Commissioner Brown recused himself from considering and voting on this matter. Commissioner Knight moved to assess Class 1 \$750 and Class 2 \$9250 penalties. Commissioner Farmer seconded and the motion passed 4-0.

*Lawrence Turley – 2010-130*

Commissioner Brown moved to assess no penalty and Commissioner Farmer seconded. The motion passed 5-0.

*Robert Rominger – 2010-133*

Commissioner Knight moved to assess Class 1 \$750 and Class 2 \$9250 penalties. Commissioner Farmer seconded and the motion passed 5-0.

*Reginald Milton – 2010-134*

Commissioner Brown moved to assess Class 1 \$750 and Class 2 \$750 penalties. Commissioner Knight seconded and the motion passed 5-0.

*Clay Perry – 2010-135*

Commissioner Knight made the motion to assess Class 1 \$750 and Class 2 \$2250 penalties. Commissioner Brown seconded and the motion passed 5-0.

*Joseph Kerr – 2010-139*

*Karen Tyler – 2010-140*

*Tina Dickerson – 2010-141*

*John Duncan – 2010-142*

*Lester Bolton – 2010-146*

Commissioner Farmer moved to assess Class 1 \$750 and Class 2 \$9250 penalties. Commissioner Brown seconded and the motion passed 5-0.

*Carmichael Johnson – 2010-150*

Commissioner Brown recused himself from considering and voting on this matter. Commissioner Farmer moved to assess Class 1 \$750 and Class 2 \$9250 penalties. Chairman King seconded and the motion passed 4-0.

***Assessments - State Candidates***

*Thomas Ken Owens – 2010-093*

Commissioner Neal moved to assess a \$50 penalty and Commissioner Brown seconded. The motion passed 5-0.

*Boyce McCall, Sr. – 2010-092*

Mr. McCall appeared before the Commission and explained he wanted to pay the civil penalty before he proceeded on other issues. Chairman King ruled that Mr. McCall's other issues were irrelevant to the matter before the Commission. Commissioner Farmer moved to assess a \$50 civil penalty and accept Mr. McCall's payment. Commissioner Neal seconded. The motion passed 4-1 with Commissioner Knight voting no.

*Howard Switzer – 2010-096*

Commissioner Neal moved to assess a \$50 penalty and Commissioner Farmer seconded. The motion passed 5-0.

*Keith Clotfelter – 2010-089*

Commissioner Neal moved to assess a \$75 penalty and Commissioner Brown seconded. The motion passed 5-0.

*Steve Hall – 2010-090*

Commissioner Farmer moved to assess no penalty. Commissioner Brown seconded and the motion passed 5-0.

*Priscilla G. Steele – 2010-095*

Commissioner Farmer moved to assess no penalty. Commissioner Neal seconded and the motion passed 5-0.

Commissioner Farmer excused himself from the remainder of the meeting which left four remaining members for a quorum.

*Jay Kalbes – 2010-091*

Commissioner Neal moved to assess a \$50 penalty and Commissioner Brown seconded. The motion passed 4-0.

*Mitzi Turnage – 2010-097*

Commissioner Neal moved to assess a \$50 penalty and Commissioner Brown seconded. The motion passed 4-0.

### ***Request for Contested Case Hearing***

Ritchie Power Sports was assessed a \$750 civil penalty at the June 14, 2010 meeting for failure to timely file an employer of lobbyist expenditure report. On behalf of Ritchie Power Sports, Mr. Wilson Ritchie has requested a contested case hearing. The issue before the Commission is whether to hear the case, refer the hearing to an administrative law judge to hear, or to hear the case along with an administrative law judge.

Chairman King noted that he had recused himself from this cast at the June 14 meeting because of representing Mr. Ritchie on an issue in Knox County. However, because this vote would be on a procedural matter only, he did not deem it a sufficient conflict to recuse himself. No member objected. Commissioner Brown moved to refer it to an administrative law judge and Commissioner Neal seconded. The motion passed 4-0.

### ***Rules 0580-01-1; 0580-03-01; 0580-06-01***

John Allyn, Counsel, explained each rule as proposed. Chairman King moved to approve the proposed rules and Commissioner Brown seconded. The motion passed 4-0.

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

Mr. Rawlins explained that the Bureau had a Government Operations Committee hearing and that the Committee had chosen not to conduct an audit of the Bureau but asked questions. The Committee did have a quorum to meet but did not have a quorum to vote so no action was taken.

The meeting adjourned at 2:50 p.m.