



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

**Campaign Finance Audit of
Len Silverman
Election Year 2014**



Audit Team:

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STATE OF TENNESSEE



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January 13, 2016

Members of the Registry of Election Finance
404 James Robertson Parkway, Suite 104
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Ladies and Gentlemen,

Transmitted herewith are the agreed upon procedures for the campaign finance audit of Len Silverman's 2014 election campaign for House of Representatives, District 45. 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 Bureau of Ethics and Campaign Finance's 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
Len Silverman
2014 Campaign Finance Audit

AUDIT OBJECTIVES

The objectives of the audit were to determine Mr. Len Silverman's compliance with certain provisions of campaign finance disclosure laws and regulations; compliance with certain provisions of campaign contribution limit laws and regulations; accuracy and completeness of the disclosures on the 2013 Early Year-End Supplemental, 2014 First Quarter, 2014 Second Quarter, 2014 Pre-Primary, 2014 Third Quarter and 2014 Fourth Quarter Campaign Financial Disclosure Statements; and to recommend appropriate actions to correct any deficiencies.

FINDING(S)

- 1. Mr. Silverman failed to maintain contributor data for \$350 in cash contributions.**
- 2. Mr. Silverman violated T.C.A. §2-10-107(a)(2)(A)(i) by failing to itemize \$250 in campaign contributions from a contributor who contributed in excess of \$100 during a reporting period.**
- 3. Mr. Silverman failed to report \$2,158.68 in obligations incurred in violation of T.C.A. §2-10-107(e).**
- 4. Mr. Silverman failed to obtain and/or retain supporting documentation for several campaign expenditures and in-kind contributions.**

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INTRODUCTION

AUDIT AUTHORITY

Tennessee Code Annotated (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. The Registry’s 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 Mr. Len Silverman’s disclosures on his 2013 Early Year-end Supplemental, 2014 First Quarter, 2014 Second Quarter, 2014 Pre-Primary, 2014 Third Quarter, and 2014 Fourth Quarter Campaign Financial Disclosure Statements.

CAMPAIGN OVERVIEW

CAMPAIGN ORGANIZATION

Mr. Len Silverman was a candidate in the August 7, 2014 primary election for House of Representatives District 45. Mr. Silverman filed an Appointment of Political Treasurer Statement with the Registry on November 6, 2013 appointing Mark R. Lowhorn as political treasurer.

The candidate's first financial disclosure for the 2014 campaign was the 2013 Early Year-End Supplemental report filed on January 30, 2014. As of September 30, 2015, Mr. Silverman's most recent financial disclosure was the 2015 Annual Mid-Year Supplemental report, which he amended on August 10, 2015. The 2015 Mid-Year report indicated \$86.99 on hand, \$86.99 in outstanding obligations, and no outstanding loans. The candidate has not completed his 2014 election filings; the candidate's next report will be the 2015 Annual Year-End Supplemental report due on February 1, 2016.

OVERVIEW OF FINANCIAL ACTIVITIES

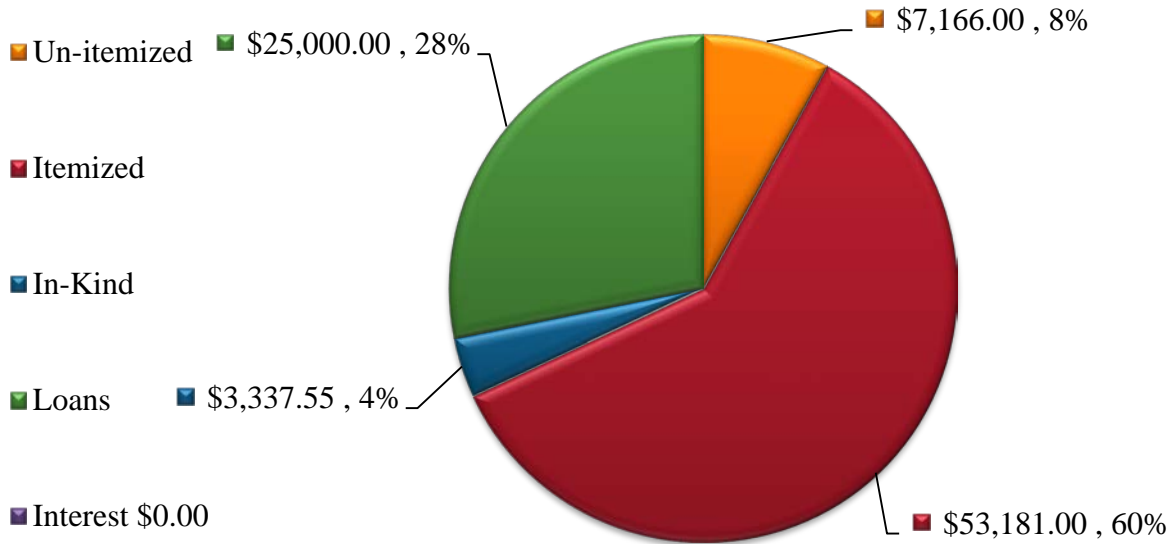
The following financial amounts are a summary of the financial disclosures made by the candidate. The summarized amounts are from the following disclosure reports: 2013 Early Mid-year Supplemental, 2013 Early Year-end Supplemental, 2014 First Quarter, 2014 Second Quarter, 2014 Pre-Primary, 2014 Third Quarter and 2014 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 July 1, 2013		\$0.00
Receipts		
Un-Itemized	\$7,166.00	
Itemized	53,181.00	
Loans received	25,000.00	
Interest	0.00	
Total receipts		<u>\$85,347.00</u>
Disbursements		
Un-Itemized	1,487.55	
Itemized	57,597.51	
Loans principal payments	25,000.00	
Obligation payments	0.00	
Total disbursements		<u>\$84,085.06</u>
Cash on hand at January 15, 2015		<u>\$1,261.94</u>
Loans outstanding at January 15, 2015		\$0.00
Obligations at January 15, 2015		\$0.00
Total in-kind contributions received		\$3,337.55

CHARTS

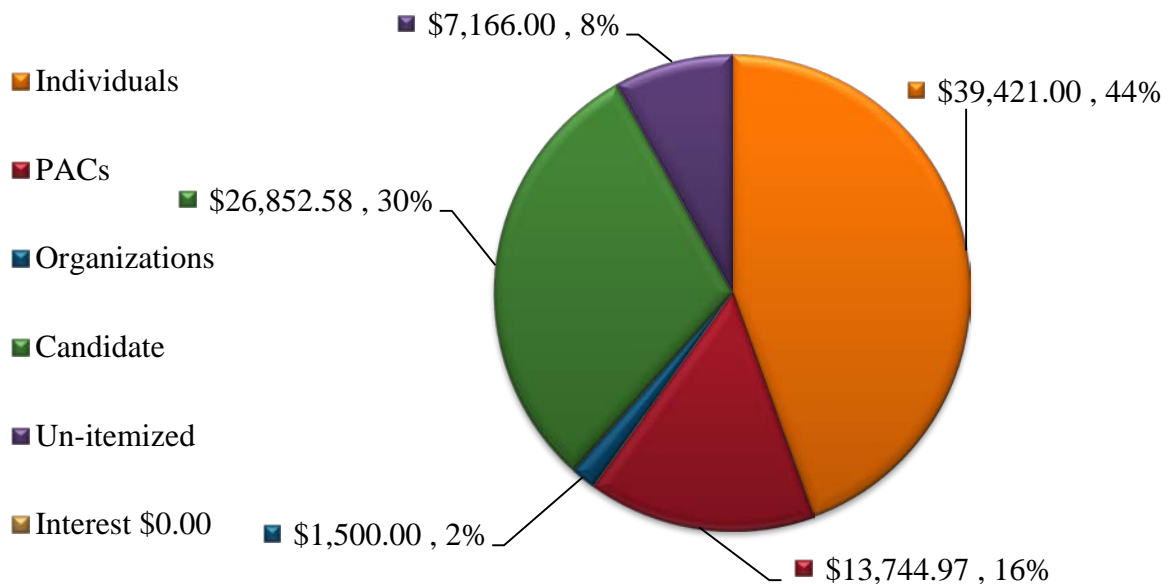
2014 ELECTION CAMPAIGN CONTRIBUTIONS

The following chart shows the contributions reported by the candidate for the 2014 election campaign.



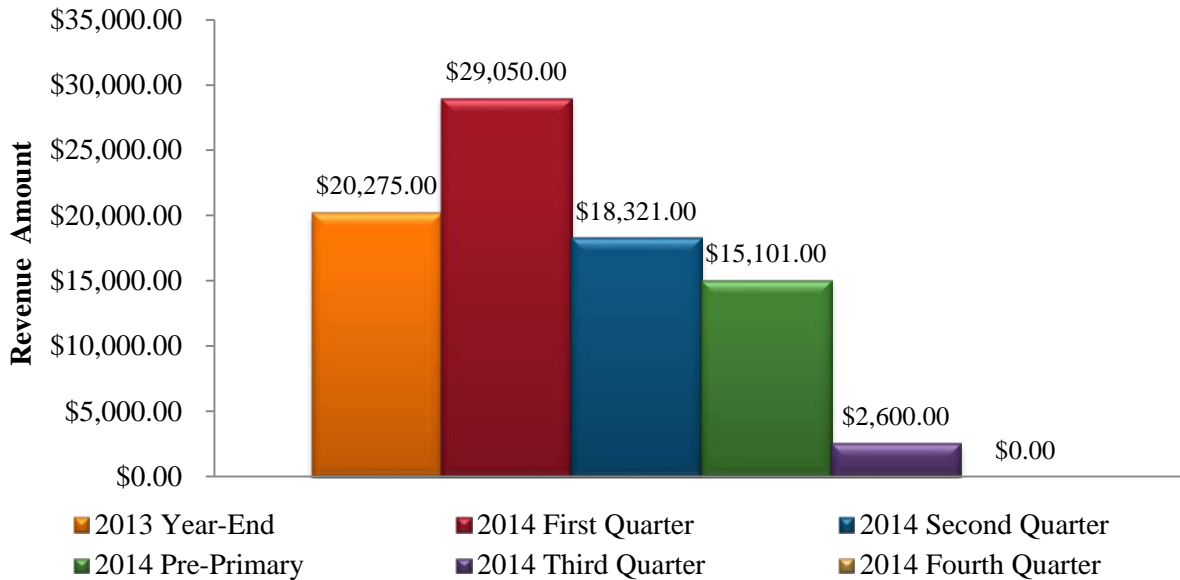
2014 ELECTION CONTRIBUTIONS BY SOURCE

The following chart shows the monetary contributions reported by the candidate for the 2014 election campaign. Organizations in this chart represent non-profit organizations, non-PAC campaign organizations, or businesses.



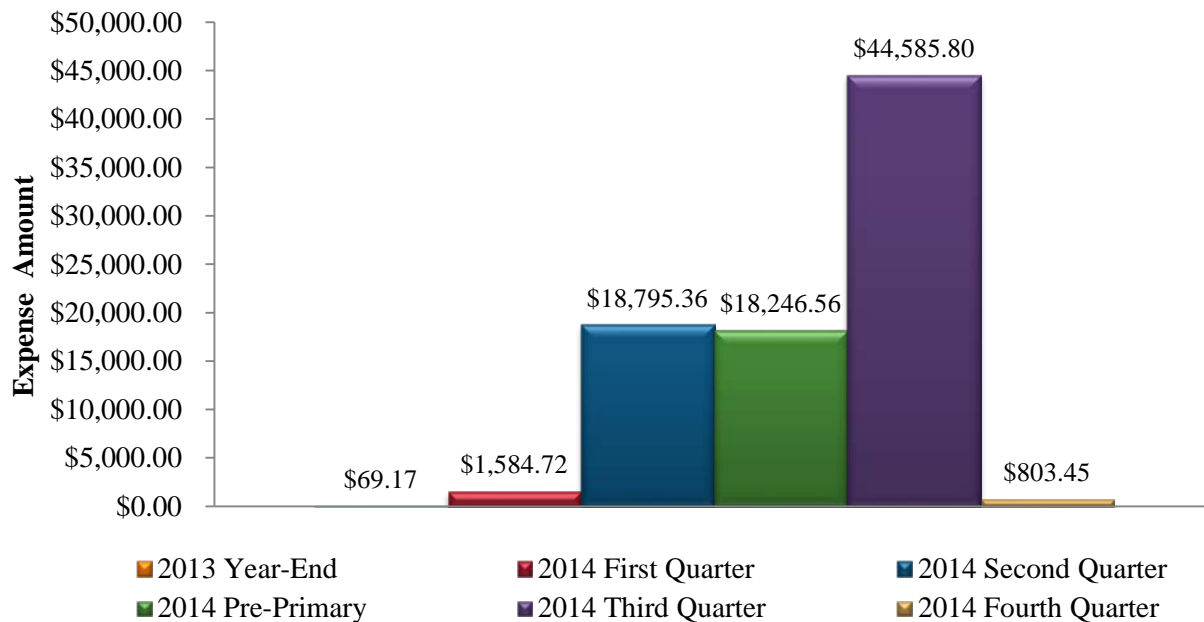
2014 ELECTION CONTRIBUTIONS BY REPORTING PERIOD

The following chart shows the contributions that the candidate reported for the 2014 election campaign by reporting period.



2014 ELECTION EXPENSES BY REPORTING PERIOD

The following chart shows the expenses that the candidate reported for the 2014 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 campaign 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 Mr. Len Silverman's 2014 Campaign Financial Disclosure Statements from July 1, 2013 to January 15, 2015. We requested Mr. Silverman provide his campaign records to support all contributions, loans, and interest that he received during his 2014 election campaign. Mr. Silverman's campaign records for contributions included bank statements, deposit slip copies, contributor check copies, and contributor listings. The following steps were performed on Mr. Silverman's campaign documentation:

- The documentation was reviewed to determine if the candidate's monetary contributions and interest received from July 1, 2013 to January 15, 2015 totaled \$60,347 and in-kind contributions totaled \$3,337.55.

- A reconciliation of monetary contributions reported to funds deposited into the campaign accounts was prepared to determine if the candidate deposited all funds into a campaign bank account and properly reported the funds in his campaign account on his campaign disclosures.
- A sample of un-itemized and itemized monetary contributions was 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 and 2-10-107; and contributions were reported in compliance with the Registry's rules.
- In-kind contributions by contributor was compared to the candidate's itemized contributions 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.
- The documentation was reviewed to determine if the candidate's loans received from July 1, 2013 to January 15, 2015 totaled \$25,000.
- 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 reviewed to determine if all loan activity was reported to the Registry, reported in the proper period, reported in compliance with T.C.A. §§2-10-105 and 2-10-107, and all loans were in compliance with the Registry's rules.

Audit Conclusion:

Mr. Silverman's 2014 Campaign Financial Disclosure Statements from July 1, 2013 to January 15, 2015 and the candidate campaign records indicated that he received and deposited monetary contributions totaling \$60,347. Also, Mr. Silverman's campaign records supported the campaign disclosures of a candidate provided loan of \$25,000. The audit indicated the contributions complied with campaign finance laws and Registry rules except Mr. Silverman failed to properly maintain contributor data for \$350 in cash contributions (Finding 1). Also, Mr. Silverman failed to itemize \$250 in campaign contributions during the pre-primary reporting period. Finally, Mr. Silverman's campaign records supported \$1,974.81 of the \$3,337.55 in-kind contributions (Finding 2). The \$1,362.74 difference was not supported by any record except the campaign finance disclosure (Finding 3 in the Disbursement and Obligation section). The campaign records and disclosures indicated that Mr. Silverman had no interest earnings.

FINDINGS

1. Mr. Silverman failed to maintain contributor data for \$350 in cash contributions.

Mr. Silverman did not maintain or obtain sufficient contribution campaign records to verify compliance with all campaign finance statutes for several contributions. Mr. Silverman's campaign records indicated that he received cash contributions totaling \$350 from anonymous contributors. The candidate prepared a reconciliation of contributions to his disclosures; this reconciliation identified four cash transactions totaling \$350. These were the only cash transactions per the candidate campaign records. Without the specific contributor's names and amounts contributed we could not determine Mr. Silverman's compliance with the following campaign finance statutes for cash contributions:

- 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. §2-10-311(a) limits cash contributions to \$50 per election for each contributor.

2. Mr. Silverman violated T.C.A. §2-10-107(a)(2)(A)(i) by failing to itemize \$250 in campaign contributions from a contributor who contributed in excess of \$100 during a reporting period.

Mr. Len Silverman included \$250 in un-itemized contributions received from an individual that were required to be itemized during the 2014 Pre-Primary reporting period. T.C.A. §2-10-107(a)(2)(A)(i) requires contributions of more than \$100 received from one source during a reporting period to be itemized. The campaign records indicate \$250 was deposited by ATM during the Pre-Primary reporting period; however, the contributor data was not included in the campaign records. When the disclosure was prepared the entire amount was included in un-itemized contributions.

As part of the audit process the candidate contacted the bank to get the detail of the ATM deposit. The bank provided a copy of a check for the entire \$250 deposit. This means the entire amount was contributed by one person and was greater than \$100, therefore, the contribution was required to be itemized. The itemized information for each contributor must include name, address, occupation, employer, date of receipt and amount of the contribution. The \$250 in contributions represents approximately 3.5% of the un-itemized contributions reported by Mr. Silverman for his 2014 campaign.

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 and 2-10-114, and reported in compliance with the Registry rules.

Audit Methodology:

The Registry obtained Mr. Silverman's 2014 Campaign Financial Disclosure Statements from July 1, 2013 to January 15, 2015. We requested Mr. Silverman provide campaign records to support all expenses during his 2014 election campaign. Mr. Silverman's campaign records for expenses included bank statements, cancelled checks and vendor receipts/invoices. The following steps were performed on his campaign documentation:

- The documentation was reviewed to determine if the candidate's disbursements from July 1, 2013 to January 15, 2015 totaled \$84,085.06.
- 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 un-itemized and 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 and 2-10-114, and reported in compliance with the Registry's rules.

Audit Conclusion:

Mr. Len Silverman's 2014 Campaign Financial Disclosure Statements from July 1, 2013 to January 15, 2015 and the candidate campaign records indicated that he had expenses totaling \$84,085.06. The audit indicated the contributions complied with campaign finance laws and Registry rules except Mr. Silverman failed to properly report \$1,418.24 in obligations incurred in violation of T.C.A §2-10-107(e)(Finding 2). Also Mr. Silverman failed to maintain and provide

supporting documentation for all campaign expenses and for all the funds disbursed from the campaign account (Finding 3).

FINDINGS

3. Mr. Silverman failed to report \$2,158.68 in obligations incurred in violation of T.C.A §2-10-107(e).

During the 2014 election Mr. Silverman incurred several advertising expenses. The review of three of these advertising expenses indicated \$2,158.68 of the expenses should have been reported as an itemized obligation and then a subsequent payment reported as an obligation payment. The candidate instead reported them as an expense when payment was made.

Based on the campaign records for the three expenses it appears services were provided and invoiced in one reporting period and then paid in a subsequent reporting period. The purpose of obligation reporting is to show credit type relationships that can be established between a campaign and a vendor. The relationship establishes an expense the campaign will have to pay at a future point but the candidate can use the service or good in the current reporting period. The three advertising expenses meet the definition of an obligation.

Two of the obligations should have been reported on the Pre-Primary report (\$425 and \$1,383.68) and one on the Third Quarter report. Then in a subsequent period the payment would be shown as an obligation payment. The failure to report obligations incurred is a violation of T.C.A §2-10-107(e).

4. Mr. Silverman failed to obtain and/or retain supporting documentation for several campaign expenditures and in-kind contributions.

Mr. Silverman failed to obtain or maintain vendor receipts or other supporting documentation for four of twenty itemized expenditures selected for testing during the audit (Approximately 20% of the tested expenses). The total of the un-supported itemized expenses was \$4,212.88 (Approximately 7% of the total itemized expenses report for his 2014 campaign). Also, Mr. Silverman failed to obtain or maintain vendor receipts or other supporting documentation for three of five (approximately 60%) of the expenditures that relate to the change in balance he reported on his fourth quarter report. These expenses totaled \$398.33 (Approximately 50% of the expense the candidate indicated he incurred in the 2014 Fourth Quarter). The failure to obtain and/or retain all vendor receipts for all campaign expenses is a violation of T.C.A. § 2-10-212(c), which states that candidates shall retain copies of all checks, bank statements, and vendor receipts for two years after the date of the election. Although the campaign bank account shows disbursements of funds in amounts of the report expenses and a few of the disbursement checks were retained to show the entity paid, without other supporting documentation the audit cannot confirm the disbursements report by the candidate are accurately reported or allowable expenses per campaign finance laws.

In addition to the failure to retain support for expenses, Mr. Silverman failed to retain support for six in-kind contributions reported totaling \$1,362.47. Based on the candidate's disclosure and other similar supported in-kind contributions, two of these contributions were

expenses paid by the candidate during the 2013 Year-End reporting period, no receipt, invoice or other supporting document was retained by the candidate to show any payment. The remaining three in-kind contributions were all disclosed on July 10, 2014 (2014 Pre-Primary reporting period) with the description campaign event and the cost being allocated to three contributors in the amounts of \$500, \$500 and \$290.

In the auditors experience this type of disclosure appears to indicate a fundraising event hosted by the contributors with the cost being paid by the contributors and the cost of the event being estimated on the disclosure. The support for such an event should either be the various receipts or invoices for the event costs or a letter from the contributors which includes an estimate of the costs incurred for the event. The letter should also include the allocation of the cost to each contributor so their individual contribution may be reported. The candidate retained no such records, therefore the amount of the contribution cannot be verified. The audit also cannot confirm the allocation was based on the expenses incurred by each contributor. In fact, the allocation appears to allocate based on the campaign limit amounts available for each contributor. This was determined as the entire event total as reported was \$1,290 but was allocated so two contributors reach their primary max limit of \$1,500 by allocating them \$500 each and the remaining \$290 being allocated to the third person. Similar to the lack of support for expenses, the failure to retain the in-kind contribution support restricts the audit from being able to confirm the contributor name, the contribution amount or that the underlying expenses related to these contributions were incurred by the contributor.

RECOMMENDATION TO CANDIDATE

Mr. Silverman should amend his 2014 Pre-Primary Campaign Financial Disclosure Statement to ensure that he properly reported all itemized and un-itemized contributions. Mr. Silverman's disclosure could be amended for finding 3; however, the audit recommends the candidate not correct the obligation and obligation payments currently reported as expenses. The current expense disclosures reported by the candidate reflect all the information the correction would provide except for the timing of the disclosure is late. For future reporting periods, the candidate should develop a campaign record-keeping system that adequately meets the requirements of the campaign financial disclosure statutes. The system should ensure that the campaign reports expenses timely and obligations as they occur. In addition, the record keeping system should include the retention of all vendor invoices and receipts. Also, the candidate should maintain support for all contributions made both monetary and in-kind. Finally, the candidate should reconcile the campaign bank account and campaign records to the campaign disclosure statements to ensure that all campaign finance activities are properly recorded, reported and supported.

RECOMMENDATION TO REGISTRY

We recommend the Members of the Registry consider the findings for possible further action. We recommend the Registry approve the audit performed as being sufficient and complete. Finally, we recommend the Registry post the audit report to the Registry's web site notwithstanding whether a significant penalty is assessed, as outlined in T.C.A. §2-10-212(f). 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 discussing the above findings with Len Silverman, he chose to take corrective actions on prior to the Registry's approval of the audit. The corrective actions are detailed below, included in the corrections are amendments made by Mr. Silverman to his 2014 Pre-Primary Campaign Financial Disclosure Statement on November 2, 2015.

Corrective Actions - Finding 2:

Mr. Silverman increased itemized monetary contributions by adding a contributor's contribution of \$250 on his 2014 Pre-Primary report. Also, he reduced un-itemized contributions by \$250. The correction properly reports the contributions noted in Finding 2.

REGISTRY OF ELECTION FINANCE ACTIONS

The Members of the Registry of Election Finance reviewed the 2014 campaign finance audit of Mr. Silverman during the January 2016 regular monthly meeting. The report contained four findings with the candidate corrective actions. The Registry voted to accept and approve the audit report with no further action.