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March 28, 2017

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The Freedom Center
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Nashville, TN 37203

RE: In the Matter of: Williamson Strong

Docket No. 38.01-132673J

Enclosed is an *Initial Order* rendered in connection with the above-styled case.

Administrative Procedures Division
Tennessee Department of State

/llp
Enclosure



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NOTICE

ATTACHED IS AN INITIAL ORDER RENDERED BY AN ADMINISTRATIVE JUDGE WITH THE ADMINISTRATIVE PROCEDURES DIVISION.

THE INITIAL ORDER IS NOT A FINAL ORDER BUT SHALL BECOME A FINAL ORDER UNLESS EITHER PARTY FILES A PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION NO LATER THAN WEDNESDAY, APRIL 12, 2017. THE ADDRESS OF THE ADMINISTRATIVE PROCEDURES DIVISION IS:

SECRETARY OF STATE
ADMINISTRATIVE PROCEDURES DIVISION
WILLIAM R. SNODGRASS TOWER
312 ROSA PARKS AVENUE, 8th FLOOR
NASHVILLE, TENNESSEE 37243-1102

PLEASE CONSULT APPENDIX A AFFIXED TO THE INITIAL ORDER FOR NOTICE OF REVIEW PROCEDURES.

BEFORE THE TENNESSEE REGISTRY OF ELECTION FINANCE

Tennessee Registry of Election Finance,)	
<i>ex rel. Susan Curlee,</i>)	
)	
Petitioner,)	
)	Docket # 38.01-132673J
v.)	
)	
Williamson Strong, Jennifer Smith,)	
Jim Cheney, Sarah Bernard,)	
Susan Drury, and Kim Henke,)	
)	
Respondents.)	

INITIAL ORDER

This contested case hearing was heard on November 3rd and 4th, 2016, in Nashville, Tennessee, before Administrative Law Judge Michael Begley. Attorney John B. Allyn represents Petitioner in this matter, and attorneys Anthoni A. Orlandi and J. Gerard Stranch, IV represent the Respondents.¹ Proposed findings of fact and conclusions of law were filed by the Petitioner and the Respondents on December 23, 2016 and December 28, 2016, respectively.

The subject of this proceeding is the Tennessee Registry of Election Finance’s (“Registry”) contention that the Respondents constituted an unregistered political campaign committee with respect to the 2014 election cycle, for which the Registry contends that the Respondents should be liable for civil penalties under the Tennessee Campaign Finance Disclosure Act (“TCFDA”).² This matter comes before the undersigned Administrative Judge

¹ Williamson County Schools intervened in this proceeding for the limited purpose of protecting any confidential student information that might be subject to disclosure through discovery.
² Tenn. Code Ann. § 2-10-101 *et seq.*

on a *de novo* appeal from previous action by the Registry against the Respondents. As such, the undersigned Administrative Judge’s ruling is without reference to the legal conclusions or assumptions made by the Registry.

After consideration of the entire record in this matter, it is determined that the Respondents did not constitute a political campaign committee with respect to the 2014 election. It is therefore **ORDERED** that the Registry’s charges against the Respondents are **DISMISSED WITH PREJUDICE**. This determination is based upon the following Findings of Fact and Conclusions of Law.

PROCEDURAL BACKGROUND

1. In its Amended Complaint, the Registry alleges that Respondents Williamson Strong and five alleged principals of Williamson Strong – Sarah Barnard, Jim Cheney, Susan Drury, Kim Henke, and Jennifer Smith – constituted a “political campaign committee” (“PAC”) under Tenn. Code Ann. § 2-10-102(12)(A) (the “12(A) PAC Definition”) with respect to the 2014 election cycle.³ The Registry alleges that the Respondents constituted a PAC under the 12(A) PAC Definition because they made expenditures to support or oppose a candidate in the 2014 election cycle for the Williamson County School Board.

2. In advance of the contested case hearing, the Registry provided a list of

³ The Registry has previously acknowledged that the Respondents did not make contributions or expenditures in excess of \$250 in the aggregate in a calendar quarter during the relevant time frame, and therefore did not constitute a PAC under Tenn. Code Ann. § 2-10-102-12(C). The parties therefore stipulated to the dismissal of the Registry’s claim related to that PAC definition. The Registry also previously dismissed without prejudice its charge that Williamson Strong should be assessed Class 2 civil penalties for failing to file a disclosure statement under Tenn. Code § 2-10-105(c)(1). The undersigned Administrative Judge has also granted the Respondents’ Motion for Partial Summary Judgment and dismissed with prejudice the Registry’s charges related to the purchase of a voter list and phone banking activity by Williamson Strong.

statements that the Registry might argue constitute statements to “support or oppose” a candidate within the meaning of the 12(A) PAC Definition. The parties also filed competing pre-hearing briefs outlining their respective positions.

3. At the November 3 and 4, 2016 hearing, the Administrative Judge did not hear, and was not asked to rule upon, any facial or as-applied federal constitutional challenges to the 12(A) PAC Definition and any federal due process challenges, which the parties by stipulation have expressly reserved for adjudication in a federal forum.

4. At the contested case hearing, the following individuals testified: (1) Guy Barnard, (2) Sarah Barnard, (3) Jim Cheney, (4) Susan Drury, (5) Kim Henke, (6) Jennifer Smith, and (7) Drew Rawlins, the Executive Director of the Bureau of Ethics and Campaign Finance. Having witnessed the live testimony, and taking into consideration the other testimony in the record, the undersigned Administrative Judge finds all seven witnesses to be credible.

5. The undersigned Administrative Judge also accepted thirty-two exhibits into evidence.

FINDINGS OF FACT

I. The Formation of Williamson Strong, the Website, and the Facebook Page

1. In May and June 2014, Ms. Barnard, Ms. Drury, Ms. Smith, and Mr. Cheney worked together to create and maintain a website (www.williamsonstrong.org) and a Facebook group under the name “Williamson Strong.”

2. Their stated intent was to work together to provide accurate information to county residents with respect to the 2014 election cycle, to encourage voter turnout, and to provide a forum for discussing the function and role of government with respect to public education.

3. In late May or early June 2014, Ms. Barnard asked her husband, Mr. Barnard, to help her develop a website to be used for communicating with others regarding education-related topics. In June 2014, Ms. Barnard spent \$13.37 to purchase a domain registration and a security certificate for the domain name www.williamsonstrong.org (hereinafter, the “Website”).

4. For several years prior to May 2014, the Barnards had been paying “hosting fees” to a company called “Digital Ocean” to host a variety of family websites and blogs. The hosting fees were associated with a number of activities, including: sending out family birthday party invitations, maintaining Ms. Barnard’s cooking and dressmaking blogs, and operating a luggage tag tracking system that Mr. Barnard had created. The fees were aggregated based on the number of servers and time required to host content on particular sites, and they were charged periodically and automatically.

5. The Barnards estimate that between the date on which the Barnard family registered the Website and the August 7, 2014 election, Digital Ocean charged the family \$38.86 in the aggregate for hosting all of the family websites, blogs, and the website. Had the Website not been part of the web hosting portfolio, the family would have spent about \$35 during that same time frame.

6. For approximately three years prior to May 2014, the Barnards paid a \$39 per year subscription fee for website themes. The subscription charge for these themes auto-renewed annually without any action by the Barnards. Thus, the Barnards would have incurred that charge regardless of the existence of the Website. In developing the Website, Mr. Barnard used one of the 87 themes that he had previously purchased from this auto-renewed subscription. No one other than Ms. Barnard spent any money with respect to the Website.

7. Williamson Strong also created a free publicly accessible “Williamson Strong”

Facebook Page (the “Facebook Page”) in May or June 2014.

8. On June 23, 2014, Sarah Barnard spent \$25.39 to promote the Facebook page. This was the only expense by Ms. Barnard associated with the Facebook page during the relevant time frame.

9. With respect to Williamson Strong’s principals, no one other than Sarah Barnard spent any money with respect to the Website or Facebook Page.

II. Williamson Strong’s Activities During the Relevant Time Frame

10. During the relevant time frame, Williamson Strong used its Website to provide periodic news reports, commentary, and information with regard to the Williamson County Schools, issues related to public education, and candidates for public office.

11. Williamson Strong reported a variety of factually accurate information on its Website and Facebook Page, including the following examples:

- a. issuing a survey to every candidate for the Williamson County School Board in 2014 and publishing the responses verbatim from every candidate who responded;
- b. posting articles about the Williamson County School system, including re-posts of articles by local press; and
- c. posting news updates concerning a shortage of bus drivers, the performance of Williamson County students on standardized tests, and other matters related to public education in Williamson County.

12. Ms. Henke was not involved in any fashion with “Williamson Strong” prior to the afternoon of July 14, 2014, and played essentially no role for “Williamson Strong” from that date through August 7, 2014.

13. Between July 14, 2014 and August 7, 2014, Ms. Henke was out of the country for most of that time frame, did not draft any Website or Facebook Page content, and did not have

administrative privileges on the Website or Facebook Page.

III. The Registry's Application of the PAC Definition

14. Drew Rawlins has served as the Executive Director of the Bureau of Ethics and Campaign Finance since 2009, served as the Executive Director of the Registry from 2000 to 2009, and worked for the Registry in other capacities from 1990 to 2000.

15. Mr. Rawlins' duties have included, but are not limited to, advising the public regarding the application of the TCFDA, attending public hearings held by the Registry, and other advisory roles regarding the Registry's application of the TCFDA and its PAC definitions to candidates and committees. He does not vote. He has served the Registry in some capacity for approximately 27 years.

16. Mr. Rawlins testified that the Registry's position has been that the PAC Definitions in the TCFDA only apply to expenditures related to statements that expressly advocate for the election or defeat of a clearly identified candidate, citing the Registry's Campaign Finance Guide and its own rules. Mr. Rawlins has consistently offered the aforementioned information when asked by members of the public. At the Registry's March 11, 2013 Show Cause hearing concerning Williamson Strong, the Registry asked Mr. Rawlins what types of statements fall within the PAC definitions in Tenn. Code Ann. § 2-10-102(12), and Mr. Rawlins explained that the express advocacy standard was the determining test.

17. In Mr. Rawlins' 27 years of experience, the Registry has never found that a group supported or opposed a candidate without an express statement advocating for the election or defeat of a candidate.

IV. Statements Relied Upon by the Registry

18. At the contested hearing, the Registry introduced into evidence statements it had identified in its pre-hearing disclosure as statements to support or oppose a candidate. Therefore, the analysis will be limited to these statements.

19. Undated Statement of Purpose (Exhibit 1): This is a statement of purpose that appeared on the Website before the August 7, 2014 election.

- a. The website stated that the organization's purpose was "to support those political and civic leaders who believe in Williamson County Schools. Williamson Strong is committed to building awareness among Williamson County voters about factual information as it relates to the future of education in our community."
- b. The statement does state that the organization sought to support those leaders who believe in Williamson County Schools, but it does not identify any candidates by name, picture, or by unambiguous reference.
- c. This statement of purpose does not itself advocate for the election or defeat of any identifiable candidate for public office.

20. May 30, 2014 email from Jennifer Smith to Dr. Mike Looney, copying Rick Wimberly (Exhibit 14):

- a. The e-mail included a list of all persons running in the August 7, 2014 general election for Williamson County School Board together with Ms. Smith's recommendations as to whether certain candidates should be elected or re-elected. She asked Looney and Wimberly for their comments and feedback.
- b. Ms. Smith did not draft the list of candidates. Rather, the list was created by a Williamson County parent named Beckie Mostello, who compiled the list based on her own research. Ms. Smith copied the list verbatim in the email.
- c. Rick Wimberly was Ms. Smith's School Board member and not up for re-election at the time.
- d. The email is a personal, private email from Ms. Smith.
- e. The email does not reference Williamson Strong, it was not sent on behalf

of Williamson Strong, and Dr. Looney did not respond to the email.

- f. In the email, Ms. Smith does not advocate for the election or defeat of a candidate for public office on behalf of Williamson Strong.

21. A June 16, 2014 email from Jennifer Smith (Exhibit 2): On June 16, 2014, Ms. Smith emailed four candidates for the Williamson County School Board, specifically Eric Welch, Melody Morris, Pat Anderson, and Vicki Vogt.

- a. These were the same candidates whom Smith, Looney, and Wimberly had “approved” in the May 30, 2014 e-mail exchange. Drury, Cheney, and Barnard were copied.
- b. In this e-mail Smith advised that Williamson Strong supported the election or re-election of Welch, Morris, Anderson, and Vogt. She advised that she and Drury were available on June 18 and that “it would be wonderful to have us meet as one group and get a good understanding of everyone’s biggest issues and message.”
- c. Ms. Smith and Ms. Drury met with Ms. Morris, Ms. Anderson, and Ms. Vogt on a single occasion on or about June 18, 2014.
- d. Williamson Strong did not in fact provide campaign services, cash contributions, or endorsements to Ms. Morris, Ms. Anderson, Ms. Vogt, or Mr. Welch at this meeting or at any other point during the 2014 election cycle. Thus, this action amounts only to meeting with candidates.

22. An Open Letter to Williamson County, dated June 24, 2014 (Exhibit 10):

- a. On July 22, 2104 Williamson Strong, using its avatar, posted an “Open Letter to Williamson County Teachers” on its website. Referencing the August 7, 2014 election Williamson Strong stated, “In this election, there are several candidates who are running on a platform that openly suggests that Williamson County Schools are not being operated in the best interest of our children’s education. We adamantly disagree with this position, but more importantly believe that the issues in contention — such as Common Core Standards — do not reflect decision making at a local level, and thereby constitute a political agenda.”
- b. In this open letter, Williamson Strong did not identify any candidates.
- c. The post does not advocate for the election or defeat of a candidate for public office. It also does not contain a statement to support or oppose a candidate. It does state the Respondent’s position that several candidates

are attempting to use Common Core Standards as a political agenda, and it states that the Respondent's believe Williamson County Schools are operating in the best interests of children's education.

23. An Open Letter to Williamson County Teachers, dated July 22, 2014 (Exhibit 11):

- a. In the letter, Respondent's state, "We believe Williamson County Schools are an extremely strong asset in this community. We think our schools are on the right path, and we want to support and strengthen public education in our county. Not surprisingly, we want to make sure that the priorities of local elected officials reflect these values as well."
- b. The letter does not identify any candidates for public office explicitly or by unambiguous reference. It does not advocate for the election or defeat of any identifiable candidate for public office. Rather, it presents as a general statement of support for strong public schools and elected officials who would seek to strengthen public education.

24. August 4, 2014 Website Post re 9/12 Project (Exhibit 3): This post reports information regarding the relationship between a group called the 912 Project and certain candidates in the 2014 Williamson County School Board election.

- a. The author of the article condemned the 912 Project and noted that School Board candidates Dan Cash, Paul Bartholomew, Jay Galbreath, Candy Emerson, Beth Burgos, and Susan Curlee were supported by the 912 Project.
- b. Ms. Drury performed the research related to this post and endeavored to publish factually accurate information related to that research concerning the 912 Project, including the beliefs professed by the 912 Project and the candidates that the 912 Project had endorsed in the 2014 election for the Williamson County School Board.
- c. The post accurately reported the candidates endorsed by the 912 Project. It did not contain an official position by the Respondent's regarding the information contained in the post. The post instead directs the reader to read more about the 912 Project and make their own decisions about whether to support candidates whom the 912 Project had endorsed.
- d. Lee Douglas, the President of the 912 Project, stated in an email that the Williamson Strong post reflected a "reasonably correct degree of accuracy in their portrayal of 912," and that 912 members should "feel pride" about the representations about the 912 Project in Williamson Strong's post.

- e. The post does not contain any statement by Williamson Strong advocating for the election or defeat of a candidate for public office.

25. An August 5, 2014 Post About Americans for Prosperity (Exhibit 9):

- a. Ms. Barnard made a post using the Williamson Strong avatar on the organization's Facebook page related to School Board candidate Susan Curlee's connections to Americans for Prosperity, multi-candidate national political campaign committee.
- b. This post reported factually accurate news information (also reported on National Public Radio) regarding flyers distributed by a group called "Americans for Prosperity" a few days before the August 7, 2014 election.
- c. While the post does mention Ms. Curlee by name, it does not contain any statement by Williamson Strong advocating for the election or defeat of a candidate. It presents as a factual report regarding a relationship between a candidate and an organization.

CONCLUSIONS OF LAW

1. The Registry bears the burden of proof to show, by a preponderance of the evidence, that Williamson Strong meets the § 12(A) PAC Definition. For the foregoing reasons, the Registry has not met its burden in this case. The Respondents would qualify as a combination of 2 or more individuals who incurred expenses. However, the Registry has not shown by a preponderance of the evidence that the Respondents made expenditures to support or oppose a candidate for public office.

2. Application of the § 12(A) PAC Definition is governed by the language of the statute and interpretations of that statute by the Tennessee Supreme Court.

3. Tenn. Code Ann. § 2-10-102(12)(A) defines a PAC as follows:

“A combination of two (2) or more individuals, including any political party governing body, whether state or local, making expenditures, to support or oppose any candidate for public office or measure, but does not include a voter registration program;

4. Rules of the Registry of Election Finance 0530-1-3-.07 state the following:

- (1) “Independent expenditure” as “an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request of, or suggestion of, a candidate or any agent or authorized committee of such candidate.
- (2) “Expressly advocating” means any communication containing a message advocating election or defeat, including but not limited to the name of the candidate, or expressions such as “vote for”, “elect”, “support”, “cast your ballot for”, or “vote against”, “defeat” or “reject”.

5. Tenn. Code Ann. § 2-10-102(6)(A) states “‘Expenditure’ means a purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing a measure or the nomination for election or election of any person to public office;”

6. The Respondents incurred expenses in setting up the Website, the hosting fees and themes used, and promoting the Facebook page, however, the undersigned Administrative Judge finds that no “expenditures” were made in this case as defined by statute or rule.

The express advocacy standard

7. The Tennessee Supreme Court construed the § 12(A) PAC Definition in *Bemis Pentecostal Church v. State*.⁴ The Tennessee Supreme Court has never revisited *Bemis*.

8. The § 12(A) PAC definition does not cover “generalized discussion” of public issues and candidates, but instead only applies “when a group is financing election-outcome specific advocacy in a particular campaign.”⁵

⁴ *Bemis v. Pentecostal Church v. State*, 731 S.W.2d 897 (Tenn. 1987). At the time, this PAC definition provision was located in § 10(A) of the TCFDA. It was later renumbered as § 12(A). It is undisputed that the relevant language of the PAC definition remained the same.

⁵ *Bemis*, 731 S.W.2d at 905 (citing *Buckley v. Valeo*, 424 U.S. 1, 44 n.1 (1976)).

9. The § 12(A) PAC Definition applies only to expenditures that meet the “express advocacy” standard set forth by the U.S. Supreme Court in *Buckley v. Valeo*.⁶

10. As explained in *Buckley v. Valeo*, the express advocacy standard covers “expenditures for communications that in express terms advocate for the election or defeat of a clearly identified candidate” for public office, using specific language such as “vote for,” “elect,” “support,” “cast your ballot for,” “Smith for Congress,” “vote against,” “defeat,” or “reject.”⁷

11. While the specific use of the aforementioned so-called “magic words” may not be required to satisfy the express advocacy standard, the purported statements must contain explicit language advocating the election or defeat of a candidate who is clearly identified.

12. Under the “express advocacy” standard, Williamson Strong did not constitute a PAC because it did not publicly advocate for the election or defeat of a candidate for public office in the 2014 election cycle. At no point in any of their communications to the public as “Williamson Strong” did the Respondents expressly advocate for the election or defeat (support or oppose) of a candidate. The majority of the statements at issue do not identify a candidate by name at all, and those that do identify a candidate by name are not expressing any language explicitly advocating for an election or defeat of that candidate.

13. The undersigned Administrative Judge’s interpretation is further supported by that of Mr. Rawlins, who offered testimony that none of the statements introduced into evidence constitute statements to “support or oppose” candidates within the meaning of the 12(A) PAC Definition.

14. Mr. Rawlins further testified that the Registry has adopted and applied the express

⁶ *Bemis*, 731 S.W.2d at 905.

⁷ *Buckley*, 424 U.S. at 44 n.1 (outlining words and phrases constituting “express advocacy”). The Registry’s own Rules also incorporate the express advocacy standard. *See* Rules of the Registry of Election Finance 0530-1-3-.07(1)-(3).

advocacy standard for at least the last 27 years, and has represented to the public that groups that do not expressly advocate for the election or defeat of a candidate do not need to register as a PAC under the TCFDA. Thus, the Registry's decision against the Respondents contradicts the manner in which it has applied the TCFDA for the last 27 years. Thus, the express advocacy standard was not met.

The functional equivalent test

15. As an initial matter, *Bemis* remains in effect in Tennessee. This matter arises from Tennessee State law, as well as the State Registry's rules, all of which reference the express advocacy standard. There are no Federal election laws or rules at issue before the undersigned Administrative Judge.

16. Regardless, the Registry cites the U.S. Supreme Court's holding in *Citizens United v. Federal Election Commission*, 558 U.S. 310130 S.Ct. 876175 L.Ed.2d 753 (2010) for the proposition that the "functional equivalent" of express advocacy would satisfy the PAC requirement in this case. The Registry argues the Court has removed the distinction between express advocacy and issue advocacy, and has adopted the functional equivalent test, outlining such a test as follows:

As explained by the Chief Justice's controlling opinion in *WRTL*, the functional-equivalent test is objective: "a court should find that [a communication] is the functional equivalent of express advocacy only if [it] is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate." *Id.*, at 469–470, 127 S.Ct. 2652.

17. The Registry then claims that the *Bemis* test requiring "pointed attempts to influence the outcome of particular elections by financial participation in the campaign" anticipated the United States Supreme Court's requirement of functional equivalence.

18. Even under the functional equivalent test, the Registry has not met its burden in this

case because the Respondents' statements during the relevant time frame could be susceptible of a reasonable interpretation other than as an appeal to vote for or against a particular candidate.

19. There is no element of intent under either the express advocacy standard or the functional equivalent standard. Thus, the inquiry is not what actions (if any) the Respondents intended for others to take upon reading the Respondents' statements. Rather, the question to be determined is whether, upon reading the Respondents' statements, a reasonable person would have thought the Respondents were advocating for the election or defeat of a particular candidate in the school board election.

20. As such, Registry's reliance on private emails and private meetings is misplaced. The only relevant activity would be the group's actual statements to potential voters. The Respondent's statements by way of their open letters and statements of purpose do outline a position of sorts, but it is a very general position of support for public schools in Williamson County and those officials who would do the same. The Respondents also outline their disagreement with anyone who would use the issue of Common Core for political purposes. The only time individual candidates are listed is when the Respondents re-posted articles or publications from other sources or via a personal or "visitor post" to the Facebook page.

21. The Registry has failed to show that the statements made by or on behalf of the Respondents could be interpreted reasonably as something equivalent to an appeal to vote for or against a particular candidate. Therefore, the functional equivalent test is not satisfied.

The Media Exception

22. Finally, the Respondents effectively acted as a media organization with respect to the 2014 election cycle. Respondent published news stories, commentaries or editorials periodically.

23. Tenn. Code Ann. § 2-10-102(4)(B) states that the definition of campaign contribution does not include: “[a]ny news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication[.]”

24. Although § 102(4)(B) was enacted before the advent of the internet, many news organizations, magazines, and other periodical publications exist partly or entirely online.

25. Williamson Strong falls within the § 102(4)(B) exception because it published news and commentary periodically on its Facebook Page and Website during the relevant time frame. The Respondents posted factually accurate information and commentary regarding issues related to public education, Williamson County Schools, and candidates for the Williamson County School Board during the 2014 election cycle.

26. The media exception does fall under the definition of “campaign contribution” rather than “expenditure”. However, there is no material policy distinction between a contribution and an expenditure. The Registry provided insufficient evidence to rebut Williamson Strong’s contention that it fell within the media exception.⁸

CONCLUSION


For the aforementioned reasons, Williamson Strong did not constitute a PAC with respect to the 2014 election cycle and the remaining allegations in the Registry’s Amended Complaint are hereby **DISMISSED WITH PREJUDICE**.

⁸ The Registry recently dismissed a complaint against the Sumner Sentinel where, *inter alia*, the relator contended that the Sumner Sentinel constituted a PAC under the § 12(A) PAC Definition.

The undersigned Administrative Judge has previously determined that any issues of fees would be held until after the case is decided on the merits. As such, the Respondents shall have **30 days** from the date this Initial Order becomes a Final Order to submit a request for fees addressing the following 2 issues: 1) The legal grounds for whether fees are appropriate in this Administrative forum, and 2) If fees are found to be appropriate, the amount requested, including the legal grounds and factors involved in calculating any amount. If the Respondents choose to submit a request for fees in the aforementioned manner, the Registry shall have **15 days** from the date of the Respondents filing to file a response.

For the reasons set forth herein, the Registry's Amended Complaint against the Respondents is hereby **DISMISSED WITH PREJUDICE**.

This Initial Order entered and effective this 28th day of March 2017.



Michael Begley
Administrative Law Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 28th day of March 2017.



J. Richard Collier, Director
Administrative Procedures Division

**APPENDIX A TO INITIAL ORDER
NOTICE OF REVIEW PROCEDURES**

Review of the Initial Order

This Initial Order shall become a Final Order (reviewable as set forth below) fifteen (15) days after the entry date of this Initial Order, unless the following action is taken:

A party files a petition for reconsideration of this Initial Order within fifteen (15) days after the entry date of the Initial Order, stating the specific reasons why the Initial Order was in error. A petition for reconsideration must be filed within the proper time period with the Administrative Procedures Division of the Office of the Secretary of State, 8th Floor, William R. Snodgrass Tower, 312 Rosa L. Parks Avenue, Nashville, Tennessee, 37243. See Tenn. Code Ann. § 4-5-315.

A party may petition for a stay of the Initial Order within seven (7) days after the entry date of the order. See Tenn. Code Ann. § 4-5-316.

A petition for reconsideration is deemed denied if no action is taken on the petition within twenty (20) days of its filing.

THERE WILL BE NO FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER

Within fifteen (15) days after the Initial Order becomes a Final Order, a party may file a petition for reconsideration of the Final Order, in which the party shall state the specific reasons why the Initial Order was in error. If no action is taken within twenty (20) days of the filing of the petition, it is deemed denied. See Tenn. Code Ann. § 4-5-317.

A person who is aggrieved by a final decision in a contested case may seek judicial review of the Final Order by filing a petition for review in a Chancery Court having jurisdiction (generally, Davidson County Chancery Court) within sixty (60) days after the date the Initial Order becomes a Final Order or, if a petition for reconsideration is granted, within sixty (60) days of the entry date of the Final Order disposing of the petition. (Please note: The filing of a petition for reconsideration does not itself act to extend the sixty day period, if the petition is not granted.) A reviewing court also may order a stay of the Final Order upon appropriate terms. See Tenn. Code Ann. § 4-5-317 and § 4-5-322.