



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

**Campaign Finance Audit of
Justice Gary Wade
Election Year 2014**



Audit Team:

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STATE OF TENNESSEE



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August 12, 2015

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 Justice Gary Wade's 2014 election campaign for Tennessee Supreme Court. 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
Justice Gary Wade
2014 Campaign Finance Audit

AUDIT OBJECTIVES

The objectives of the audit were to determine Justice Gary Wade'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 2014 First Quarter, 2014 Second Quarter, 2014 Pre-General, and 2014 Third Quarter Campaign Financial Disclosure Statements; and to recommend appropriate actions to correct any deficiencies.

FINDING(S)

- 1. Justice Wade violated T.C.A. § 2-10-105(a) by failing to originally report three in-kind campaign contributions.**
- 2. Justice Wade violated T.C.A. § 2-10-107(a)(2)(A)(i) by failing to accurately disclose the names of several contributors.**

TABLE OF CONTENTS

INTRODUCTION	<u>PAGE</u>
Audit Authority	1
Audit Purpose	1
Audit Scope	1
CAMPAIGN OVERVIEW	
Campaign Organization	2
Overview of Financial Activities	2
CHARTS	
2014 Election Campaign Contributions	3
2014 Election Contributions by Source	3
2014 Election Contributions by Reporting Period	4
2014 Election Expenses by Reporting Period	4
OBJECTIVES, METHODOLOGIES, CONCLUSIONS	
Contributions and Receipts	5
Findings	7
Disbursements and Obligations	8
Recommendation to Candidate	9
Recommendation to Registry	9
RESOLUTIONS	
Candidate's Corrective Actions	10
Candidate's Response	11
Registry of Election Finance Actions	12

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(a)(3), which requires the Registry to audit one candidate from the Supreme Court, Court of Appeals and Criminal Court of Appeals.

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 Justice Wade’s disclosures on his 2014 First Quarter, 2014 Second Quarter, 2014 Pre-General, and 2014 Third Quarter Campaign Financial Disclosure Statements.

CAMPAIGN OVERVIEW

CAMPAIGN ORGANIZATION

Justice Gary Wade was a candidate in the August 7, 2014 general election for Supreme Court. Justice Wade filed an Appointment of Political Treasurer Statement with the Registry on February 21, 2014, appointing Samuel J. Furrow as political treasurer.

The candidate's first financial disclosure for the 2014 campaign was the 2014 First Quarter report filed on April 10, 2014. As of March 1, 2015, Justice Wade's most recent financial disclosure was the 2014 Fourth Quarter report, which he filed on January 21, 2015. The Fourth Quarter report indicated \$1,031.20 cash on hand, no outstanding obligations, and no outstanding loans.

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: 2014 First Quarter, 2014 Second Quarter, 2014 Pre-General, and 2014 Third Quarter reports after amendments. The amounts displayed are for informational purposes only.

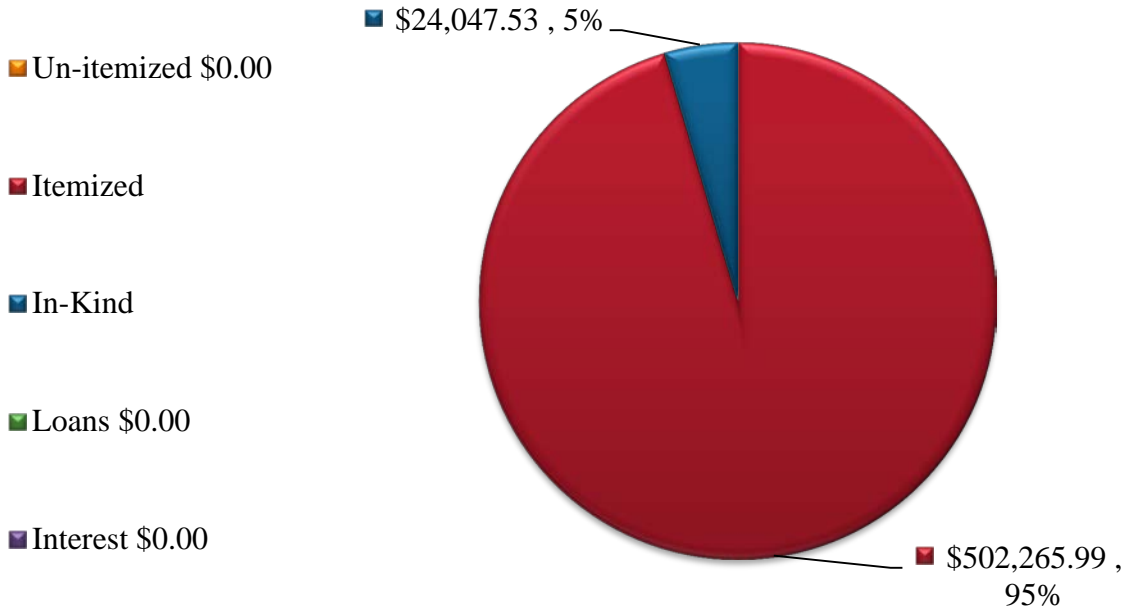
Summary of Financial Activity (Un-audited Amounts)

Cash on hand at January 16, 2014		\$0.00
Receipts		
Un-Itemized	\$0.00	
Itemized	502,265.99	
Loans receipted	0.00	
Interest	0.00	
Total receipts		<u>\$502,265.99</u>
Disbursements		
Un-Itemized	22.82	
Itemized	477,819.68	
Loans principal payments	0.00	
Obligation payments	0.00	
Total disbursements		<u>\$477,842.50</u>
Cash on hand at September 30, 2014		<u>\$24,423.49</u>
Loans outstanding at September 30, 2014		\$0.00
Obligations at September 30, 2014		\$0.00
Total in-kind contributions received		\$24,047.53

CHARTS

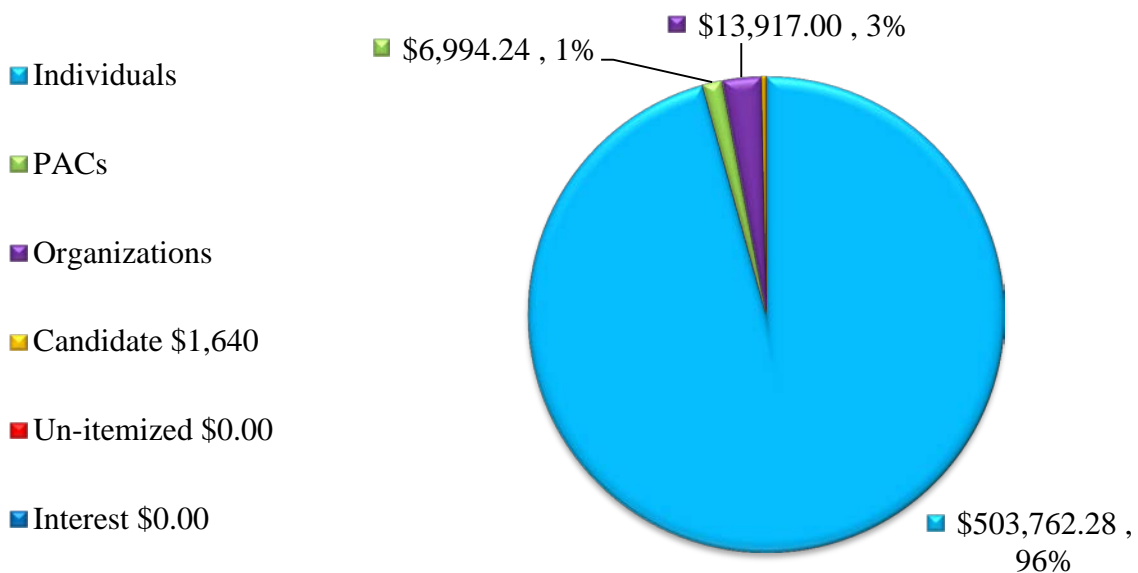
2014 ELECTION CAMPAIGN CONTRIBUTIONS

The following chart shows the contributions reported by the candidate for the 2014 election campaign through the 2014 Third Quarter disclosure report.



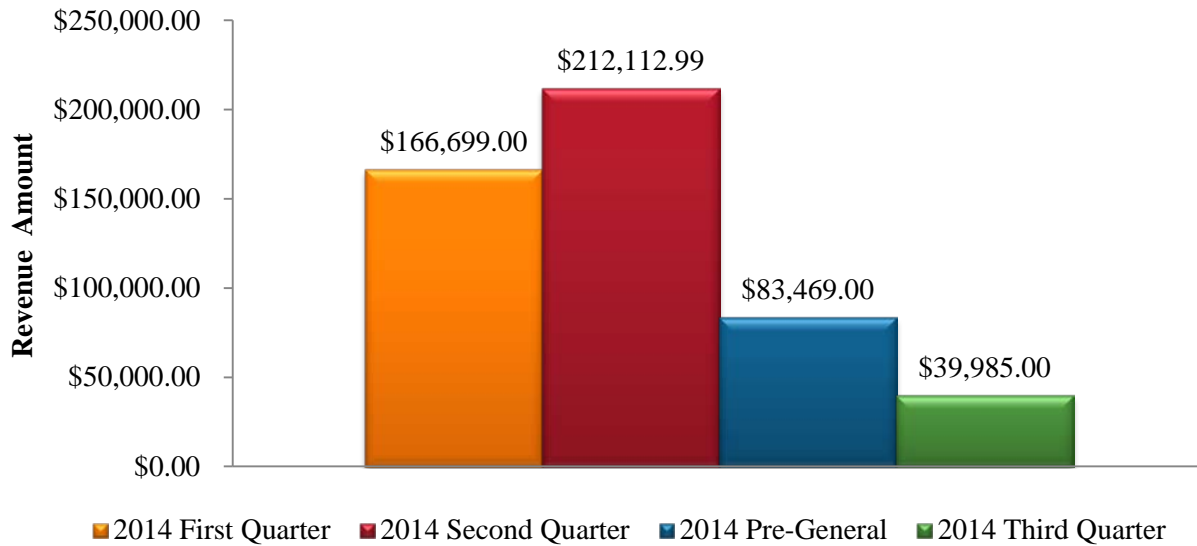
2014 ELECTION CONTRIBUTIONS BY SOURCE

The following chart shows the monetary contributions reported by the candidate for the 2014 election campaign through the 2014 Third Quarter disclosure report. Organizations in this chart represent non-profit organizations, individual's campaign organizations, or businesses.



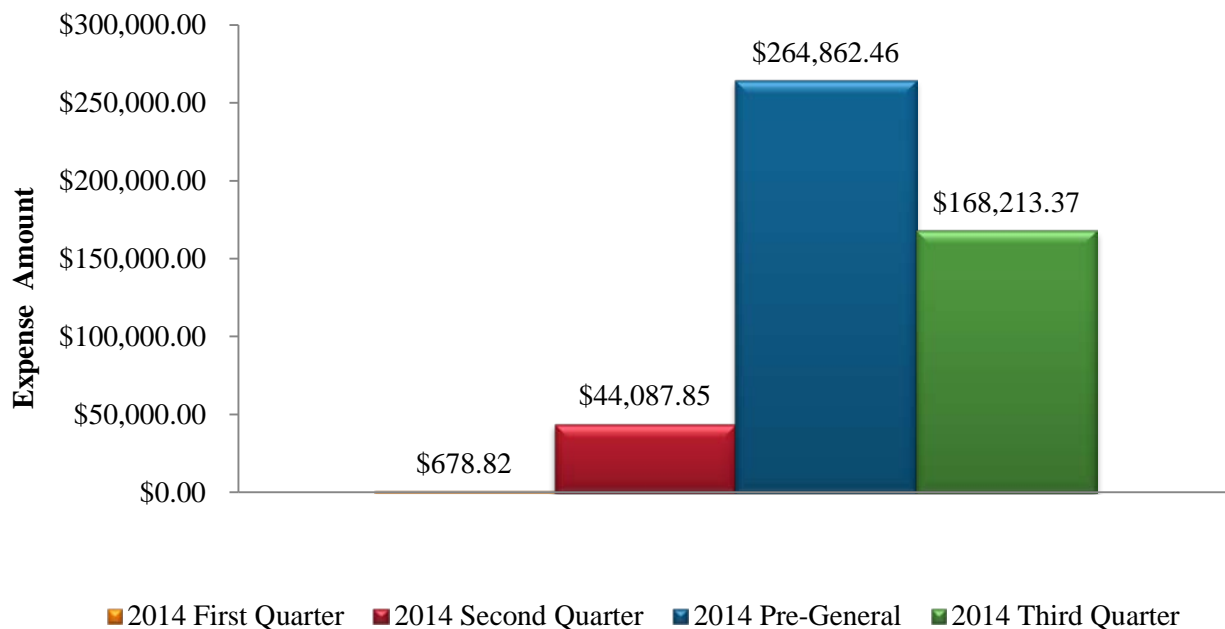
2014 ELECTION CONTRIBUTIONS BY REPORTING PERIOD

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 Justice Wade's 2014 Campaign Financial Disclosure Statements from January 16, 2014 to September 30, 2014. We requested Justice Wade provide his campaign records to support all contributions, loans, and interest that he received during his 2014 election campaign. Justice Wade's campaign records for contributions included bank statements, deposit slip copies, contributor check copies, donor cards, in-kind donor letters/memos and contributor lists. The following steps were performed on Justice Wade's campaign documentation:

- The documentation was reviewed to determine if the candidate's monetary contributions received from January 16, 2014 to September 30, 2014 totaled \$502,265.99. In addition, the documentation was reviewed to determine no loans or interest was received.

- The documentation was reviewed to determine if the candidate's in-kind contributions received from January 16, 2014 to September 30, 2014 totaled \$24,047.53.
- 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 finance disclosures.
- A sample of forty 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 were 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.

Audit Conclusion:

Justice Wade's 2014 Campaign Financial Disclosure Statements from January 16, 2014 to September 30, 2014 and the candidate campaign records indicated that he received and deposited monetary contributions totaling \$502,265.99. Justice Wade's disclosures showed the campaign elected to itemize all contributions. Justice Wade's campaign records indicated that he received in-kind contributions totaling \$27,664.20 instead of the \$24,047.53 reported. The \$3,616.67 difference was \$3,700 in unreported contributions from three contributors (Finding 1) and two contributions which were reported with incorrect contribution amounts net to \$83.33. The audit sample and testwork indicated, Justice Wade inaccurately reported the contributor for several contributions (Finding 2). Also, Justice Wade's records indicate he received two cash contributions that were both \$50 over the cash limit. No detail findings were provided for the cash over the limit or the incorrect contribution amounts as the errors represent less than 1% of the contributions reported by the candidate. In addition, the audit staff discussed the errors with Justice Wade and he returned the excess contributions and amended the applicable campaign finance reports to correct the errors noted. The campaign records and disclosures indicated that Justice Wade had no interest earnings or loans.

FINDINGS

1. Justice Wade violated T.C.A. § 2-10-105(a) by failing to originally report three in-kind campaign contributions.

Justice Wade's campaign records appear to indicate the candidate failed to originally report three in-kind campaign contributions totaling \$3,700. One contribution was from a business for advertising in the amount of \$3,500. The other two in-kind contributions were from individuals, for campaign event expenses, each in the amount of \$100.

2. Justice Wade violated T.C.A. § 2-10-107(a)(2)(A)(i) by failing to accurately disclose the names of several contributors.

Justice Wade's campaign records indicate that the campaign listed the incorrect contributor for several contributions from businesses, PACs and individuals as noted below:

- Seven contribution checks which appear to be from businesses, each listed a business in the header, were reported as contributions from the business owner or signer of the check.
- A \$1,000 check, with a business name in the header, indicated in the memo line that the contribution was from two individuals. The contribution was reported as being from one individual.
- A \$750 check from a registered PAC, per the check header, was reported as being contributed by the individual who signed the check.
- A \$1,070.09 in-kind contribution from a registered PAC, per the letter notifying the candidate of the contribution, was reported as an in-kind contribution from the individual signing the letter.

Based on the errors noted, and the properly reported contributions reviewed during the audit, it appears the candidate did not constantly apply a method for determining the campaign contributor. When a candidate receives a contribution and prepares the disclosure, the candidate should consistently apply a method for determining the contributor. This process should start with the header of the check as it will usually be the source of the funds. The candidate may use additional information provided by the contributors but should obtain and maintain the documentation in written format for reporting and audit purposes.

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 Justice Wade's 2014 Campaign Financial Disclosure Statements from January 16, 2014 to September 30, 2014. We requested Justice Wade provide campaign records to support all expenses during his 2014 election campaign. Justice Wade 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 January 16, 2014 to September 30, 2014 totaled \$477,842.50.
- 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 twenty-one 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:

Justice Wade's candidate campaign records indicated that he had expenses totaling \$477,881.91 which is \$39.41 more than the amount reported by the candidate. The difference was related to incorrectly reported fees related to online contribution collection. The candidate underreported the fees on the Second Quarter report by \$44.06 and overstated the fee by \$4.65 on the Third Quarter report. Also, the candidate late reported the fees associated with collections in the Pre-General reporting period on the Third Quarter report. The total of the late reported

fees was \$617.08. No detail finding was provided for the errors related to the fees as the error represents less than 1% of all expenses the candidate reported. No additional errors were noted in the audit of Justice Wade's disbursements. In addition, the audit staff discussed the errors with Justice Wade and he amended the applicable campaign finance reports to correct the errors noted.

RECOMMENDATION TO CANDIDATE

Justice Wade should amend his campaign financial disclosure reports to report all contributions received. Also, Justice Wade should amend his campaign financial disclosure reports to properly report the contributor for all campaign contributions. For future reporting periods, the candidate should develop and consistently apply a method for determining the contributor for each contribution. This process for monetary contributions should start with the header of the check. If a contributor besides the one listed on the check is disclosed additional documentation should be obtained and retained by the candidate. Finally, the candidate should reconcile the campaign bank account to the campaign disclosure statements to ensure that all campaign finance activities are properly recorded and reported each reporting period.

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 finding 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

On December 31, 2014, Justice Wade amended his disclosures to correct several of the errors noted in the report. The audit process had commenced prior to these reports being submitted, therefore the audit report is based on filings prior to the December reports. After discussing the findings with Justice Wade, he chose to take corrective action on his reports prior to the Registry's approval of the audit. Justice Wade amended his 2014 Second Quarter, 2014 Pre-General and 2014 Third Quarter Campaign Financial Disclosure Statements on March 25, 2015 and April 8, 2015. The corrections made on these reports and the December 31, 2014 reports are listed below.

Corrective Actions - Finding 1:

Justice Wade amended his 2014 Pre-General report adding \$3,700 in campaign contribution. He added one in-kind contribution from a business for advertising in the amount of \$3,500. He also added two contributions from individuals, for campaign event expenses, each contribution was \$100. The amended report properly disclosed the errors noted in Finding 1.

Corrective Actions - Finding 2:

Justice Wade amended his 2014 Second Quarter, 2014 Pre-General and 2014 Third Quarter by correcting the contributor name from seven individuals to the proper seven business names. Also, he amended his 2014 Second Quarter adding a new individual contribution for \$500, and reducing another individual contribution from \$1,000 to \$500.

He also amended the 2014 Pre-General report by correcting the contributor name from one individual to the proper PAC names. Finally, he amended the 2014 Second Quarter by correcting an in-kind contribution reported from an individual to be the PAC that made the contribution. The amended reports properly disclosed the errors noted in the finding.

CANDIDATE'S RESPONSE
Campaign Finance Audit of Justice Gary Wade
2014 Election

I am pleased with the courteous and professional manner in which the audit was conducted. The process has been a helpful learning experience. My explanation for the reporting errors appears below:

Finding 1.

Upon receiving additional information (after the reporting date) from the contributors about the in-kind donations, the disclosure reports were amended based on that new information.

The first contribution involved was the Herald Newspaper of Seymour, Tennessee, which offered to publish a statement of support. The definition of "contribution" under Tennessee Code Annotated section 2-10-102(4)(B) does not include newspaper commentary or editorials. After filing the disclosure report, I learned that the newspaper published two full-page "advertisements." Out of an abundance of caution, the disclosure reports were amended on December 31, 2014 to show this as an in-kind contribution.

The second and third involved two \$100 contributions from individuals that were originally reported as a portion of an in-kind contribution for campaign event expenses by Lauren Gass. Ms. Gass initially reported that her in-kind contribution for the event totaled \$646.33. After the reporting date, she provided information that Terry Grove and Angela Masini (husband and wife) had reimbursed her in the amount of \$200. This was reflected on the amended December 31, 2014 report.

Finding 2.

Seven contributions were inaccurately reported as being from individuals when they should have been from businesses; one was inaccurately reported as being from a business instead of from individuals; one was inaccurately reported as being from an individual instead of a registered PAC; and one was inaccurately reported as an in-kind contribution from an individual instead of a registered PAC. These inaccuracies were acknowledged during the auditing process and the reports were amended.

REGISTRY OF ELECTION FINANCE ACTIONS

The Members of the Registry of Election Finance reviewed the 2014 campaign finance audit of Justice Wade during the August 2015 regular monthly meeting. The report contained two findings along with the corrective actions of the candidate. The Registry voted to accept and approve the audit report with no further action.