
STATE OF TENNESSEE

SPECIAL REPORT ON THE MARION COUNTY ELECTION OFFICE

FOR THE PERIOD JULY 1, 2003
THROUGH MARCH 31, 2010



Division of County Audit



**SPECIAL REPORT ON THE
MARION COUNTY ELECTION OFFICE
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**STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
DEPARTMENT OF AUDIT
DIVISION OF COUNTY AUDIT
SUITE 1500
JAMES K. POLK STATE OFFICE BUILDING
NASHVILLE, TENNESSEE 37243-1402
PHONE (615) 401-7841**

August 25, 2010

To the Marion County Mayor, Administrator
of Elections, Marion County Election Commission,
and Board of County Commissioners
Marion County, Tennessee

On February 22, 2010, the district attorney general for the Twelfth Judicial District requested we assist the Tennessee Bureau of Investigation (TBI) in conducting an investigation into the fiscal management of the Marion County Election Office (MCEO). The district attorney general had concerns about the possible misuse of funds and improper practices in the operation of the MCEO. Based on the investigation conducted by our office and the TBI, it was determined that a cash shortage of \$27,170.93 existed in the MCEO on March 31, 2010. The cash shortage resulted from 107 warrants issued to 34 individuals for work that was not performed for the MCEO. Our investigation also disclosed other procedural deficiencies in the operation of the MCEO.

The State of Tennessee, Department of State, Division of Elections, conducted a separate investigation of the MCEO. The Appendix Section in the report contains copies of a Notice of Charges and Hearing and an Amended Notice of Charges and Hearing obtained from the Division of Elections.

We reviewed the findings resulting from this special investigation with the county mayor, the current administrator of elections, the election commission, and the district attorney general. We mailed a copy of these findings and recommendations to the former administrator of elections. These findings, together with our recommendations, are presented in this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Arnette". The signature is written in a cursive style with a large initial "J".

Jim Arnette, Director
Division of County Audit

cc: Honorable J. Michael Taylor, District Attorney General
Mark Goins, State Coordinator of Elections
Carl Lowe, Mid-East Tennessee Audit Manager
Social Security Administration

SPECIAL REPORT ON THE MARION COUNTY ELECTION OFFICE

For the Period July 1, 2003 through March 31, 2010

On February 22, 2010, the district attorney general for the Twelfth Judicial District requested that we assist the Tennessee Bureau of Investigation (TBI) in conducting an investigation into the fiscal management of the Marion County Election Office (MCEO). The district attorney general had concerns about the possible misuse of funds and improper practices in the operation of the MCEO. Findings and recommendations, as a result of our special investigation, are presented below. We reviewed these findings and recommendations with the current administrator of elections, county mayor, the election commission, and the district attorney general. We mailed a copy of these findings and recommendations to the former administrator of elections. The written responses of the Marion County Election Commission are included in this report.

BACKGROUND SECTION

County elections in Tennessee are regulated by a five member County Election Commission appointed by the State Election Commission. Each County Election Commission employs an administrator of elections who is the chief administrative officer of the election commission and is responsible for the daily operation of the MCEO as provided in Section 2-12-201, Tennessee Code Annotated (TCA). Ms. Holly Henegar has been the administrator of elections in Marion County since 1987.

The scope of our special investigation was to determine if there has been a misuse of funds and/or improper practices by the Marion County Election Commission and/or the administrator of elections. We reviewed all invoices submitted to the Office of County Mayor by the MCEO for payment from the county's General Fund for the period July 1, 2003 through March 31, 2010, examined bank records, and conducted interviews. On a few selected individuals we reviewed payments back to July 1, 1999.

It should be noted that on February 16, 2010, the State Election Commission voted to hold a hearing regarding the decertification of Ms. Henegar as administrator of elections in Marion County. The hearing was set for May 18, 2010; however, on April 8, 2010, Ms. Henegar submitted her resignation, which was effective immediately; therefore, the hearing did not proceed. The Appendix Section in this report contains copies of a Notice of Charges and Hearing and an Amended Notice of Charges and Hearing obtained from the State of Tennessee Division of Elections.

**FINDING 10.01 A CASH SHORTAGE OF \$27,170.93 EXISTED IN THE MARION COUNTY ELECTION OFFICE AS OF MARCH 31, 2010
(Internal Control – Material Weakness Under Government Auditing Standards)**

A cash shortage of \$27,170.93 existed in the Marion County Election Office (MCEO) as of March 31, 2010. This cash shortage resulted from 107 warrants being improperly issued to 34 individuals for work that was not performed for the MCEO.

On February 5, 2010, Ms. Holly Henegar advised us that she never paid anyone from her office that did not work, and although her husband helped during elections, he was often not paid for his help. Ms. Henegar stated that her husband, Billy Joe Henegar, went on disability in 1991. On March 23, 2010, during a second interview with Ms. Henegar, she admitted adding names to payroll certification lists for individuals who did not work, and that her husband was paid with county funds using names of relatives and friends. She stated that an election commissioner had suggested she use a grandchild's name to pay her husband for the work he did for the MCEO. However, of the election commissioners we interviewed, none corroborated this statement. This method of payment was used apparently to pay her husband without disrupting his disability status and appears to be a method of increasing his compensation without having to report this income to the Social Security Administration or the Internal Revenue Service.

Based on sworn statements taken by the TBI and our interviews with various individuals who were listed as the payees on the county election warrants, we concluded the following:

- A. Several of the 34 individuals had no knowledge that county warrants had been issued in their name or in the name of a member of their family. Several of these individuals advised us that:
1. They had been approached by Ms. Henegar and/or her husband and asked if their name and/or their children's names could be used on payroll warrants as a means of compensating Mr. Henegar since he was limited on the amount he could earn because of his disability status. Many of the warrants payable to these individuals had the second endorsement of Mr. Henegar. Also, one individual stated that Ms. Henegar told them that an election commissioner advised her (Ms. Henegar) to pay Mr. Henegar this way.
 2. They had been told by Ms. Henegar and/or her husband on what to say if questions were asked them about this scheme.
 3. They firmly refused to participate in this scheme and were surprised that their name and/or their children's names had been used in spite of their refusal.
 4. Neither they nor their family members ever performed any work for the MCEO.

5. The endorsement on the back of the warrants was not theirs or their family member's signature.
-
- B. Nine of the 34 individuals were under the age of 14 at the time 20 warrants were issued in their name. Based on sworn statements taken by the TBI and our interviews with the parents of these children, work was not performed by the children, and many of the parents had no knowledge that warrants were being issued in their child's name. Section 50-5-103, TCA, provides that a minor under 14 years of age may not be employed in any gainful occupation, except in a few instances. None of these exceptions applied in this case.
 - C. In some instances, individuals knowingly participated in the pay scheme and allowed the use of their name and/or a family member's name on invoices submitted for payment by the administrator of elections when these individuals did not perform any work. Some of these individuals advised us that they would endorse the warrant, cash the warrant, and give the cash to the administrator of elections or her husband.
 - D. In some instances, the administrator of elections wrote the names of individuals and the dollar amounts to be paid to the individual on generic pieces of paper and submitted these documents to the Office of County Mayor for payment. Many of these documents did not contain the reason for the payment or the dates and hours worked. The administrator of elections picked up these warrants from the Office of County Mayor and distributed the warrants.
 - E. Two warrants (warrant #23760 and #27833) issued to different individuals and included in the cash shortage were deposited into the bank account of the Hometown Volunteer Fire Department (HVFD). Ms. Henegar's husband was the treasurer for the HVFD. We noted three other election warrants that were deposited into the HVFD's bank account; however, these warrants are not included in the cash shortage because we could not confirm with the payees whether these checks were misappropriated or were properly endorsed by the payee and donated to the fire department. As a result of our questions about the deposits to the HVFD and a request by the Twelfth Judicial District Attorney General, a special investigation is presently being conducted on the HVFD, and a separate report will be subsequently issued.

The following table lists the 107 warrants to 34 individuals that comprise the \$27,107.93 cash shortage. Payee names have not been included in this table due to the number of minor children involved:

Warrant Date	Warrant Number	Amount	Warrant Date	Warrant Number	Amount
11-15-00	22289	\$ 496.00	11-4-04	34421	\$ 165.20
5-15-02	23813	106.16	8-26-05	38698	592.00
8-16-04	33847	70.00	5-17-06	40365	80.00
2-20-04	30903	70.00	8-21-06	41143	90.00
7-26-04	33530	352.00	6-28-05	36150	575.00
11-15-04	34604	70.00	8-21-06	41182	80.00
7-19-02	25609	592.00	7-29-02	25691	472.00
2-19-04	30806	70.00	11-20-02	27967	560.00
11-13-02	27833	76.00	9-11-02	26081	472.00
2-19-04	30810	70.00	8-15-03	29660	408.00
8-16-04	33870	70.00	7-15-04	33519	592.00
11-15-04	34578	85.60	1-12-04	30506	416.00
8-16-04	33873	70.00	11-13-02	27856	70.00
11-15-04	34581	70.00	8-22-03	29672	264.00
7-26-04	33531	352.00	2-19-04	30826	94.00
8-12-04	33705	368.00	6-4-04	33149	464.00
9-16-04	34096	304.00	6-30-04	33378	304.00
7-24-00	21350	544.00	7-15-04	33518	344.00
4-23-02	23640	576.00	7-26-04	33529	304.00
6-24-02	25408	304.00	8-16-04	33895	119.80
10-5-04	34149	456.00	8-31-04	33963	32.00
11-10-04	34448	288.00	10-19-04	34284	72.00
6-25-04	33354	488.00	10-29-04	34398	192.00
11-10-04	34447	104.00	11-10-04	34451	640.00
7-22-05	38451	208.00	11-15-04	34600	45.00
11-10-04	34450	592.00	6-16-05	36050	500.00
8-26-05	38699	544.00	9-24-04	34128	312.00
5-8-02	23769	592.00	10-19-04	34285	336.00
9-10-03	29762	416.00	10-19-04	34283	320.00
8-12-04	33698	368.00	8-16-04	33781	336.00
6-30-04	33375	104.00	11-15-04	34529	290.00
5-3-02	23760	344.00	5-14-04	33019	352.00
5-8-02	23770	212.00	5-17-06	40367	60.00
7-28-03	29424	368.00	8-21-06	41150	90.00
12-15-03	30368	272.00	5-23-02	24046	70.00

Warrant Date	Warrant Number	Amount	Warrant Date	Warrant Number	Amount
8-23-02	25984	\$ 82.00	7-7-99	18524	\$ 210.00
11-13-02	27805	70.00	8-17-99	18825	40.00
1-26-04	30542	592.00	9-14-99	19007	125.00
2-19-04	30782	70.00	7-28-03	29423	128.00
8-16-04	33832	75.76	2-11-04	30638	520.00
11-15-04	34669	75.12	11-4-02	27634	416.00
5-17-06	40350	80.00	6-25-03	29281	376.00
5-23-02	24042	70.00	6-28-05	36147	575.00
8-23-02	25979	70.00	8-9-05	38495	512.00
11-13-02	27800	70.00			
2-20-04	30885	70.00	Total Cash Shortage		<u>\$ 27,170.93</u>
8-16-04	33824	80.00			
11-15-04	34667	70.00			
5-15-02	23808	130.48			
8-23-02	26022	70.00			
11-8-02	27659	184.96			
2-12-04	30968	133.04			
8-16-04	33903	70.00			
11-15-04	34681	82.20			
5-15-06	40281	192.56			
8-10-06	41048	174.00			
2-5-04	30576	384.00			
8-26-05	38700	272.00			
10-18-00	22130	304.00			
8-1-04	(1)	95.25			
11-15-04	34598	78.80			
12-15-04	34880	368.00			
11-15-00	22479	70.00			

(1) information not available

The following internal control weaknesses contributed to the cash shortage: 1) the administrator of elections, as senior management, over-rode the county's disbursement system for payments to election workers by not properly documenting invoices, 2) several individuals knowingly allowed the administrator of elections to falsely use their name to obtain a payment from the county when in fact the individual knew they had not earned any income, and 3) the Office of County Mayor did not adequately review the documentation submitted by the administrator of elections to ensure its accuracy.

RECOMMENDATION

The Election Commission should ensure that the cash shortage of \$27,170.93 is liquidated. The Election Commission and Office of County Mayor should strengthen their internal controls over payroll by requiring individuals that are working for the MCEO to file the proper paperwork. Documentation submitted to the Office of County Mayor for payments to election workers should contain the reason for the payment, specific days/place worked, hours worked, and certification by the polling precinct supervisor and administrator of elections. Payments should not be made in the name of one person for the benefit of another to avoid disability income requirements, social security, and/or income taxes.

FINDING 10.02 **SEVERAL DEFICIENCIES WERE NOTED IN THE OPERATION OF THE MARION COUNTY ELECTION OFFICE (Noncompliance Under Government Auditing Standards)**

The following deficiencies were noted during our investigation of the MCEO:

- A. Individuals who did not work at the MCEO or at the various polling precincts were added to the payroll certification lists by the administrator of elections. Section 2-19-109, TCA, states "A person who knowingly makes or consents to any false entry on any permanent registration, poll list, election tally sheet or any other official registration or election document commits a Class D felony."
- B. Payroll certification lists were not always signed by the officer of elections, as required by Section 2-7-135(a) TCA, which states "The officer of elections shall prepare and certify to the county election commission a list of all election officials who served at the polling place and their official positions. The list shall be signed by each official." For the period July 1, 2003, through March 31, 2010, 54 payroll certification lists were not signed by the officer of election, and we could not determine whether 74 other payroll certification lists were signed by the officer of elections because only a portion of the payroll certification lists were submitted to the Office of County Mayor for payment. The auditor requested original payroll certification lists from the MCEO but none were provided. Also, 27 payroll certification lists did not contain the oath of office.
- C. The administrator of elections, rather than the election commission, appointed election officials in violation of Section 2-4-102(a)(1), TCA, which states "...the county election commission shall appoint the following minimum number of election officials to hold elections at each polling place."
- D. The administrator of elections appointed county and city employees as election officials in violation of Section 2-1-112 (a)(1), TCA, which states "Neither an elected official nor an employee of a state, county, municipal or

federal governmental body or agency or of an elected official may serve as a member of a county election commission or as a member of a county primary board or as an election official.”

- E. No documentation was found to support payments to individuals noted on the payroll certification lists that exceeded the approved daily rate of pay. For the 12 elections held during the period July 1, 2003, through November 2008, there were 486 instances of unsupported payments made to individuals, which exceeded the authorized rate of pay. The county’s policy provided an additional \$10 for individuals who attended a school of instruction before election day, and payments for mileage for the precinct election officials. The administrator of elections could not provide documentation of individuals who attended the school of instruction nor miles paid to precinct election officials.
- F. Prior to August 2008, county election commissioners were paid for meetings even though they had not attended the meetings.
- G. The administrator of elections often completed travel claims for election commissioners and submitted claims for payment without the commissioner’s signatures.

RECOMMENDATION

In accordance with state statute, only the individuals who actually work on election day should be included on the payroll certification lists. Individuals who work at various polling precincts should be listed on the precinct’s poll certification sheet, which should be certified by the precinct supervisor and subsequently by the administrator of elections. These lists should be forwarded to and reviewed by the Office of County Mayor where warrants are generated. The election commission, not the administrator of elections, should appoint election officials at each polling place. County and city employees should not be appointed as election officials. Documentation should be on file to support payments to individuals noted on the payroll certification lists that exceed the approved daily rate and for mileage paid to individuals. Election commissioners should be paid only for the meetings they actually attend and should fill out and sign their own travel claims.

MANAGEMENT’S RESPONSE – MARION COUNTY ELECTION OFFICE

Responses to the recommendations in this report were made by the Marion County Election Commission. These responses are presented on pages 12-13.

MARION COUNTY ELECTION COMMISSION
109 Academy Avenue
Jasper TN 37347
423-942-2108 Fax: 423-942-1082

August 23, 2010

Mr. Kevin Huffman, CPA, CGFM
Coordinator of Investigations
1500 James K. Polk Building
Nashville, TN 37243-1402

Re; Audit Findings and Recommendations
Marion County Election Office

Dear Mr. Huffman:

I am the newly-appointed Administrator of Elections for Marion County, Tennessee, and I have been instructed by the Marion County Election Commission to respond to those recommendations contained in that Special Report on the Marion County Election Office for the period from July 1, 2003 through March 31, 2010.

As to those recommendations set forth on Page 11 of the Report in reference to Finding 10.01, the Election Commission and Office respond as follows:

1. We will work with the County Commission in conjunction with the County Attorney to determine the appropriate course of action to take to liquidate the \$27,170.93 cash shortage.
2. We have initiated stronger internal controls over payroll by requiring all individuals who work for the Election Office to file proper paperwork as evidence of each employee's identity, hours or days worked, and requests for mileage reimbursement. All payroll requests now require employee names and addresses, must be signed by employees and their precinct officer, and such requests are accompanied by a cover sheet that is signed by the Administrator of Elections, before they are submitted to the County Mayor's Office for review, approval, and payment. Such requests include the reason for payment, specific days and places worked, hours worked (if applicable), and are certified by the precinct officer and Administrator as set forth above.
3. No payments shall be made in the name of one person for the benefit of another to avoid disability income, social security, and/or income tax requirements and/or regulations.

As to those recommendations set forth on Page 13 of the Report in reference to Finding 10.02, the Election Commission and Office respond as follows:

1. Only individuals who actually work on Election Day will be included on payroll certification lists.

2. Precinct poll certification sheets shall list the names of individuals who work at the various precincts, and these sheets shall be certified by each precinct supervisor and then by the Administrator of Elections. Once properly completed and signed, these lists shall then be forwarded to the County Mayor's Office for review and payment as appropriate.

3. All election officials at each polling place shall be appointed by the Election Commission, and no County or City employees shall be appointed as such election officials.

4. The payroll certification lists do contain information necessary to document any payments in excess of the approved daily rate and for mileage paid to individuals.

5. Election Commissioners will only be paid for meetings that they actually attend, and they now sign attendance sheets at each meeting. They shall also complete and sign their own travel claims.

The Marion County Election Commission and I hope that these responses accurately and adequately address the concerns and recommendations contained in the subject Report. We have made many changes to bring the Election Office into compliance and will continue to do our best to maintain full documentation and complete compliance with all applicable laws and regulations, so please advise if additional steps or courses of action are needed.

Sincerely yours,

MARION COUNTY ELECTION OFFICE

By: Mary Reames AOE
Gary Reames, Administrator of Elections

cc: Members, Marion County Election Commission
Honorable Howell Moss, County Mayor
William L. Gouger, Jr., County Attorney

RECEIVED
2010 FEB 22 PM 3:45
SECRETARY OF STATE



**STATE OF TENNESSEE
DIVISION OF ELECTIONS**

IN THE MATTER OF:)	BEFORE THE STATE
)	ELECTION COMMISSION
HOLLY HENEGAR,)	
ADMINISTRATOR OF ELECTIONS)	DOCKET NO. 20.04-106513J
)	
RESPONDENT.)	

NOTICE OF CHARGES AND HEARING

Comes now the Division of Elections, on behalf of the State Election Commission, by and through the Coordinator of Elections for Tennessee, Mark Goins, and for cause of action against Holly Henegar, Marion County Administrator of Elections (hereinafter "Respondent") would respectfully show as follows:

I. JURISDICTION AND NOTICE OF RIGHTS

1. The State Election Commission has the authority to revoke the certification or otherwise discipline an administrator who fails to substantially perform the duties of the office. Tennessee Code Annotated §2-11-202(18)(C)
2. Tennessee Code Annotated §2-11-202 gives the authority to the Coordinator of Elections to investigate the administration of election laws.
3. The Respondent is the Administrator of Elections for Marion County, office located at 109 Academy Avenue, Jasper, Tennessee 37347.

4. A Respondent in a disciplinary action is entitled to be represented by legal counsel, to personally appear before the State Election Commission, to present witnesses, to have subpoenas issued and to receive thirty (30) days notice of the charges before being required to appear for a hearing.
 5. Although not required by TCA § 2-11-202, but to provide the highest level of due process available, these proceedings will be conducted in accordance with the Tennessee Uniform Administrative Procedures Act (UAPA), Title 4, Chapter 5, of the Tennessee Code.
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II. ALLEGATIONS OF FACT

1. Respondent has been at all times pertinent hereto a certified administrator of elections in Marion County. Respondent became a certified administrator of elections in 1987.
2. Respondent is responsible for the daily operations of the office and the execution of all elections pursuant to Tennessee Code Annotated §2-12-201.
3. Respondent took an Oath of Office pursuant to Tennessee Code Annotated §2-1-111 affirming that she will support the Constitution and laws of the United States and the Constitution and laws of the State of Tennessee, and she will faithfully and impartially discharge the duties of the office.
4. In the February 2008 Presidential Preference Primary election, Respondent admitted the ballots contained the wrong names of delegate candidates for the 4th Congressional District. This error was discovered by an election commissioner after early voting had begun for this election.
5. Respondent admitted closing three (3) precincts in the eastern time zone early during the February 2008 election. Respondent further admitted that closing the polls early had been a standard practice for many years.
6. Respondent admitted to mailing the military and overseas absentee ballots on June 24, 2008, after the June 23, 2008, deadline. The former Coordinator of Elections, Brook Thompson, had contacted Respondent on the date of the deadline to remind Respondent that the deadline had to be met.
7. The State Election Commission and the current Coordinator of Elections, Mark Goins, received a complaint from Dean Reames, dated February 1, 2010, requesting an

investigation of her complaint. See Exhibit A for pertinent language in complaint and allegations described therein.

8. From 2000 to present, Respondent admitted that she, not the county election commissioners as required by statute, appointed all election officials and inspectors for the polling locations for each election held during that period of time. In appointing the election officials and inspectors for the polling locations, Respondent failed to comply with Tennessee Code Annotated §§2-4-104 and 2-4-105(a), in that both political parties were not represented as required by law.
9. The election document utilized under the direction of Respondent, i.e., the payroll certification list signed by the election officials that worked the polling locations on election day, does not contain the correct oath. Furthermore, many of the payroll certification lists were not certified by the officer of elections as required by TCA § 2-7-135.
10. Respondent admitted that the lists signed by election officials who serve on election day were not presented to the county election commission.
11. Respondent admitted to altering and falsifying election documents by adding names of individuals to such documents, including but not limited to, the payroll certification list for election officials who worked at each polling location on election day. Respondent admitted individuals added to the lists by the Respondent did not work on election day nor did the individuals work at the polling location listed on the document.
12. Names falsified by Respondent received payment for hours that no work was performed on the day certified as worked.
13. Respondent admitted to Division of Election employees Mark Goins, Cara Harr, Wayne Pruet, and Randy Stamps that her husband, Billy Henegar, also known as B.J. Henegar, was paid on more than one occasion by falsifying the election document by adding a relative or family friend's name to the election document. The check was then cashed by someone and then part of the money was given to Billy Henegar. Respondent claimed this was done because Mr. Henegar was on disability benefits at the time.
14. Respondent admitted that Peggy McVey performed election work but that Peggy McVey's husband, Herman McVey, was listed on the election document as the person who did the work. Herman McVey was paid even though he personally did not do any election work.
15. After making the false entries on the election documents, Respondent never submitted the list of election officials to the county election commission. Respondent instead

submitted altered election documents to the bookkeeper in the county. Checks were issued to the individuals who did not work on election day but were added by the Respondent.

16. Respondent admitted that on more than one occasion, Respondent wrote names of individuals, often individuals under the age of 14, on a piece of paper with a dollar amount and submitted that document directly to the bookkeeper in the county. Some of the documents did not contain the reason for payment.
17. Respondent admitted she allowed individuals that were under the age of fourteen (14) to work for the election office on numerous occasions.
18. On more than one occasion after receiving the payroll checks from the county bookkeeper, Respondent endorsed checks not paid to the order of her name and cashed said checks.
19. Respondent admitted to employing her spouse and children as part-time clerical assistants.
20. On at least one occasion, an individual was paid for the school of instruction who did not work on election day.
21. Respondent admitted that unauthorized persons were allowed into the election office and were allowed to use an office computer located next to confidential voter information.
22. Respondent lost the filed nominating petition for Howell Moss in 2002.
23. Respondent knowingly allowed Robert McVey's name to be placed on the ballot for sheriff without Peace Officer Standards and Training certification. This happened in 1998.
24. Respondent did not supply election officials with name badges for each official to wear at the polling places.
25. Respondent allowed county election commissioners to be paid even though they had not attended the meeting they were paid for.
26. Respondent allowed Tammy Rogers to perform work in the election office; however, the payment to Ms. Rogers was paid by the county by issuing checks using the name of other individuals who had not worked.

III. CAUSE OF ACTION AND APPLICABLE LAW

Petitioner repeats and realleges each and every assertion and allegation contained in numbered paragraphs 1 through 26 above with the same force and effect as if set forth at length herein. The facts as alleged in Section II of this Notice of Charges are sufficient to establish by a preponderance of the evidence violations by the Respondent of the following statutes for which disciplinary actions before the State Election Commission is authorized:

1. Respondent is responsible for the daily operations of the office and the execution of all elections pursuant to Tennessee Code Annotated §2-12-201.
2. Respondent takes an Oath of Office pursuant to Tennessee Code Annotated §2-1-111 affirming that she will support the Constitution and laws of the United States and the Constitution and laws of the State of Tennessee, and she will faithfully and impartially discharge the duties of the office.
3. Tennessee Code Annotated §2-12-201 (12) requires the Respondent to have knowledge of all current laws pertaining to the election process and any changes mandated by the general assembly and apprising the election commission, office staff, candidates, the press, and the public in general of this information.
4. Tennessee Code Annotated §2-6-503 requires absentee military and overseas ballots to be mailed no later than forty-five (45) days before an election.
5. Tennessee Code Annotated §§2-4-102 and 2-4-106 requires the county election commission to appoint the election officials, including precinct and assistant precinct registrars.
6. Tennessee Code Annotated §§2-4-104 and 2-4-105(a) requires judges, election officials and inspectors at the polling locations to be from different political parties as required by the code.
7. Tennessee Code Annotated §2-7-135 requires each official who serves at a polling place on election day to sign a prepared list which is to be presented to the county election commission.

8. Tennessee Code Annotated §2-19-109 makes it a Class D felony for any person to knowingly make or consent to make any false entry on any election document.
9. Tennessee Code Annotated §2-19-104 makes it a Class C misdemeanor to mislead a person in the performance of such person's official duties by making any written or oral false statement that the person does not believe is true or purposely create a false impression in a written application required by this title by omitting information necessary to prevent statements therein from being misleading or submits or invites reliance on a writing which such person knows to be forged, altered or otherwise lacking in authenticity.
10. Respondent has committed forgery as defined in Tennessee Code Annotated §39-14-114 by altering Election Day payroll sheets. See also *Brenner v. State*, 217 Tenn. 427, 398 S. W.2d 252, 1965 Tenn. LEXIS 651 (1965) attached herein as Exhibit B.
11. Tennessee Code Annotated §2-12-201, including but not limited to subsections (a)(1), (5), (7), and (8) state that the Respondent employs all office personnel and that the Respondent is to prepare and maintain all fiscal records necessary for the daily operation of the election commission office and all elections. Furthermore, Respondent is prohibited from hiring spouse, parents, siblings or children as full-time or part-time clerical assistants.
12. Tennessee Code Annotated §2-4-108(c) states that officials who attend the instructional meeting shall be paid only if the person serves in the election.
13. Tennessee Code Annotated §2-3-201(a) requires all polling places in the eastern time zone to close at eight o'clock p.m. (8:00 p.m.) prevailing time.
14. Tennessee Code Annotated §2-5-202 states that only the names of candidates who have qualified and who are to be voted on at the polling place in which the ballot is used may be printed on the ballot.
15. Tennessee Code Annotated §2-12-116(a) (1) and (15) states that the commission must maintain the security of the election commission office and that the commission is to appoint an administrator of elections who is responsible for the daily operations of the commission office.
16. Tennessee Code Annotated §2-7-111(c) requires each official to wear a badge with that official's name and official title.
17. Tennessee Code Annotated §2-19-113 states that any election official or member of a board or commission holding office under this title who willfully or fraudulently violated

any of the provisions of this title made for the protection of elections commits a Class A misdemeanor.

18. Tennessee Code Annotated §50-5-103 prohibits the employment of a minor under fourteen (14) years of age.

19. 29 U.S.C.A. § 203 and 29 C.F.R. § 570.2 prohibit the employment of a minor under fourteen (14) years of age.

IV. PENALTY

Petitioner repeats and re-alleges the facts and applicable law contained in Section II and III and asserts that the above facts and applicable law are sufficient to establish by a preponderance of the evidence violations by the Respondent that would authorize the State Election Commission to revoke the certification of such administrator or otherwise discipline the administrator.

V. NOTICE AND PETITION FOR RELIEF

WHEREFORE, premises considered, the Division of Elections, by and through counsel, hereby:

1. Issues to the Respondent a copy of this Notice of Charges and Petition for Relief.
2. Gives notice to the Respondent of the following:
 - a. This matter will be presented as a contested case convening before the State Election Commission on March 23, 2010, in the Cheatham Room, 312 Rosa L. Parks Avenue, 3rd Floor, Nashville, Tennessee 37243 at 11:00 a.m. C.S.T..
 - b. If the Respondent does not enter an appearance and defend, a default judgment may be entered.
 - c. That at the hearing of this matter, the State Election Commission shall determine whether the Respondent failed to substantially perform the duties of her office as hereby charged and the State Election Commission shall further determine whether the Commission should revoke the Respondent's certification or otherwise discipline the Respondent.

- d. The parties are entitled to the issuance of subpoenas to compel witnesses to attend the hearing. The parties will have the opportunity to be heard orally, to present evidence, to examine and cross-examine witnesses, and to submit argument.
- e. Any individual with disabilities who wishes to participate in any proceedings before the State Election Commission should contact the Department to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact should be made no less than ten (10) days prior to the scheduled hearing date to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department's ADA Coordinator, Maggie Bahou, 312 Rosa L. Parks Avenue, 7th Floor, WST, Nashville, Tennessee 37243, or at 615-741-7411.

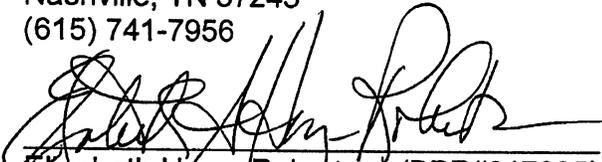
Respectfully submitted,



Mark Goins (BPR#18870)
Coordinator of Elections
312 Rosa L. Parks Ave.
9th Floor Snodgrass Tower
Nashville, TN 37243
(615) 741-7956



Cara Harr (BPR#018774)
312 Rosa L. Parks Ave.
9th Floor Snodgrass Tower
Nashville, TN 37243
(615) 741-7956

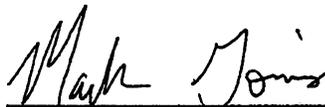


Elizabeth Henry-Robertson (BPR#017085)
312 Rosa L. Parks Ave.
9th Floor Snodgrass Tower
Nashville, TN 37243
(615) 741-7956

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing "Notice of Charges and Hearing" with attachments was served by certified mail, return receipt requested, on this 22nd day of February, 2010, to the following:

John Ray Clemmons
Blackburn & McCune, PLLC
101 Lea Avenue
Nashville, TN 37210
(615) 254-7770



Mark Goins (BPR#18870)
Coordinator of Elections

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SECRETARY OF STATE



**STATE OF TENNESSEE
DIVISION OF ELECTIONS**

IN THE MATTER OF:)	BEFORE THE STATE
)	ELECTION COMMISSION
HOLLY HENEGAR,)	
ADMINISTRATOR OF ELECTIONS)	DOCKET NO. 20.04-106513J
)	
RESPONDENT.)	

AMENDED NOTICE OF CHARGES AND HEARING

Comes now the Division of Elections, on behalf of the State Election Commission, by and through the Coordinator of Elections for Tennessee, Mark Goins, and for cause of action against Holly Henegar, Marion County Administrator of Elections (hereinafter "Respondent") would respectfully show as follows:

II. AMENDED ALLEGATIONS OF FACT

27. Respondent lost the filed nominating petition for Howell Moss in 1998.
28. Respondent authorized payments to individuals who had not performed work for the election commission office.
29. Respondent allowed underage individuals to work as election officials either during early voting or on election day.
30. Respondent allowed government employees to serve as election officials.

31. Respondent failed to adequately train election officials for their duties as election officials.
 32. Respondent failed to provide an accurate municipal voter registration list for purchase as provided by Tennessee Code Annotated §2-2-138.
 33. Respondent failed to produce an accurate voter signature list for the 2010 Monteagle municipal election.
-

III. AMENDED CAUSE OF ACTION AND APPLICABLE LAW

Petitioner repeats and realleges each and every assertion and allegation contained in numbered paragraphs 1 through 33 in the original notice and above with the same force and effect as if set forth at length herein. The facts as alleged in Section II of the original Notice of Charges and this Notice of Charges are sufficient to establish by a preponderance of the evidence violations by the Respondent of the following statutes for which disciplinary actions before the State Election Commission is authorized:

20. Tennessee Code Annotated §2-4-103 requires election officials to have reached the age of seventeen (17) in order to work during early voting or on election day.
21. Tennessee Code Annotated §2-1-112 prohibits elected officials, employees of a state, county, municipal or federal government body or agency from serving as an election official.
22. Tennessee Code Annotated §2-4-108 requires officials for each polling place to attend the instructional meeting unless the individual is experienced or has been otherwise trained.
23. Tennessee Code Annotated §2-12-201(a)(5) requires the administrator of elections to maintain voter registration files. Tennessee Code Annotated §2-2-138 requires the county election commission to prepare or cause to be prepared each month a listing of all persons registered to vote in each precinct and make that list available for purchase to any person who certifies that the list is for political purposes.
24. Tennessee Code Annotated §2-7-112 requires the county election commission to produce a voter signature list for each election that contains the voter's name, current address and other required information.

IV. PENALTY

Petitioner repeats and re-alleges the facts and applicable law contained in Sections II and III and asserts that the above facts and applicable law are sufficient to establish by a preponderance of the evidence violations by the Respondent that would authorize the State Election Commission to revoke the certification of such administrator or otherwise discipline the administrator.

V. NOTICE AND PETITION FOR RELIEF

WHEREFORE, premises considered, the Division of Elections, by and through counsel, hereby:

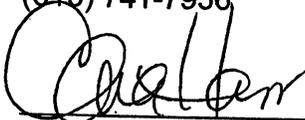
1. Issues to the Respondent a copy of this Amended Notice of Charges and Petition for Relief.
2. Gives notice to the Respondent of the following:
 - a. This matter will be presented as a contested case convening before the State Election Commission on May 18, 2010, in the Montgomery Room, 312 Rosa L. Parks Avenue, 3rd Floor, William Snodgrass Tower (WST), Nashville, Tennessee 37243 at 9:00 a.m. C.D.T..
 - b. If the Respondent does not enter an appearance and defend, a default judgment may be entered.
 - c. That at the hearing of this matter, the State Election Commission shall determine whether the Respondent failed to substantially perform the duties of her office as hereby charged and the State Election Commission shall further determine whether the Commission should revoke the Respondent's certification or otherwise discipline the Respondent.
 - d. The parties are entitled to the issuance of subpoenas to compel witnesses to attend the hearing. The parties will have the opportunity to be heard orally, to present evidence, to examine and cross-examine witnesses, and to submit argument.
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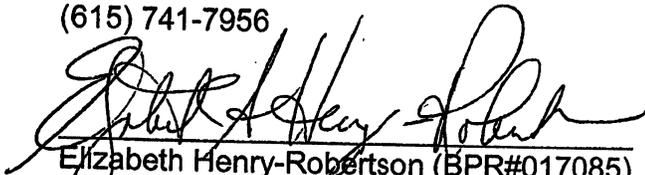
Respectfully submitted,



Mark Goins (BPR#022810)
Coordinator of Elections
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing "Amended Notice of Charges and Hearing" with attachments was served by certified mail, return receipt requested, on this 22nd day of March, 2010, to the following:

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Nashville, TN 37210
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Mark Goins (BPR#022810)
Coordinator of Elections