

Filed
SEP 25 2012
Missouri Ethics
Commission

**BEFORE THE
MISSOURI ETHICS COMMISSION**

MISSOURI ETHICS COMMISSION,)
)
) Petitioner,)
) Case No. 12E106
v.)
)
) CONSERVATIVE COALITION OF)
) JEFFERSON COUNTY,)
) Continuing Committee)
)
) and)
)
) BRIAN SMITH,)
) Treasurer)
)
) Respondents.)

**JOINT STIPULATION OF FACTS, WAIVER OF HEARING
BEFORE THE MISSOURI ETHICS COMMISSION, AND
CONSENT ORDER WITH JOINT PROPOSED
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The undersigned parties jointly stipulation to the facts and consent to the action set forth below.

The undersigned Respondents, CONSERVATIVE COALITION OF JEFFERSON COUNTY and BRIAN SMITH, acknowledge that they have received and reviewed a copy of the Complaint filed by the Petitioner in this case, and the parties submit to the jurisdiction of the Missouri Ethics Commission.

The undersigned Respondents further acknowledge that they are aware of the various rights and privileges afforded by law, including but not limited to: the right appear and be represented by counsel; the right to have all charges against Respondents be proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against Respondents; the right to present evidence on Respondents'

behalf at the hearing; and the right to a decision upon the record of the hearing. Being aware of these rights provided to Respondents by operation of law, the undersigned Respondents knowingly and voluntarily waive each and every one of these rights and freely enter into this Joint Stipulation of Facts, Waiver of Hearing before the Missouri Ethics Commission, and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law, and agree to abide by the terms of this document.

I.

Based upon the foregoing, the Petitioner and the undersigned Respondents jointly stipulate to the following and request that the Missouri Ethics Commission adopt as its own the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law, as follows:

JOINT PROPOSED FINDINGS OF FACT

1. The Missouri Ethics Commission (“the Commission”) is an agency of the State of Missouri established pursuant to Section 105.955, RSMo, in part for the purpose of enforcing the provisions of Chapter 130, RSMo.
2. Respondent Conservative Coalition of Jefferson County is a continuing committee formed by Respondent Smith on or about October 23, 2010.
3. Respondent Smith is the treasurer for Respondent Conservative Coalition of Jefferson County, and has been at all times relevant to this Complaint.
4. Pursuant to Section 105.957, RSMo, the Commission’s staff has investigated a complaint filed with the Commission and reported the investigation’s findings to the Commission.

5. Based on the report of the Commission's staff, the Commission determined that there are reasonable grounds to believe that violations of law occurred, and it therefore authorized a hearing in this matter pursuant to Section 105.961.3, RSMo.

COUNT I

Failure to timely form committee and file statement of committee organization

6. The deadline for forming a continuing committee to participate as a continuing committee in the November 2, 2010, general election was September 3, 2010.

7. For committees formed on September 3, 2010, the statement of committee organization would have been due September 23, 2010.

8. Respondents Smith and Conservative Coalition of Jefferson County participated in the general election of November 2, 2010, by issuing mailers regarding candidates in the November 2, 2010, general election.

9. Respondent Smith filed a statement of committee organization for Respondent Conservative Coalition of Jefferson County with the Missouri Ethics Commission on November 1, 2010.

COUNT II

Failure to timely file 24 hour report

10. On November 1, 2010, Respondents made an expenditure of \$2,771.39 to MPA for a mailer supporting and opposing certain candidates in the November 2, 2010, general election.

11. Respondents did not, within twenty-four hours of November 1, 2010, file a twenty-four hour report disclosing the \$2,771.39 expenditure.

12. Respondents filed a 24-hour report disclosing the \$2,771.39 expenditure on June 17, 2012.

JOINT PROPOSED CONCLUSIONS OF LAW

COUNT I

Failure to timely form committee and file statement of committee organization

13. A continuing committee “shall be formed no later than sixty days prior to the election for which the committee receives contributions or makes expenditures.” § 130.011, RSMo.

14. The treasurer of a committee “shall file a statement of committee organization with the appropriate officer within twenty days after the person or organization becomes a committee but no later than the date for filing the first report required pursuant to the provisions of section 130.046.” § 130.021.5, RSMo.

15. For continuing committees, the appropriate officer is the Missouri Ethics Commission and the election authority for the county in which the committee is domiciled. § 130.026.5, RSMo.

16. There is probable cause to believe that Respondents Smith and Conservative Coalition of Jefferson County violated Sections 130.011, 130.021.5, and 130.026.5, RSMo, by participating in the general election of November 2, 2010, without forming a committee at least sixty days prior to that election, and failing to file a statement of committee organization with the Missouri Ethics Commission at least forty days prior to that election, and that Respondents Smith and Conservative Coalition of Jefferson County did so knowingly.

COUNT II

Failure to timely file 24 hour report

17. A continuing committee must submit reports “if it makes aggregate expenditures, other than contributions to a committee, of five hundred dollars or more, within the reporting period at the following times for the following periods: ... (2) No later than twenty-four hours after aggregate expenditures of two hundred fifty dollars or more are made after the twelfth day before the election.” § 130.046.3, RSMo.

18. There is probable cause to believe that Respondents Smith and Conservative Coalition of Jefferson County violated Section 130.046.3, RSMo, by making an expenditure of \$1,771.39 on November 1, 2010, supporting and opposing certain candidates in the November 2, 2010, general election and thereafter failing to file a report disclosing that contribution within twenty-four hours, and that Respondents Smith and Conservative Coalition of Jefferson County did so knowingly.

II.

Based on the foregoing, the parties hereto mutually agree and stipulate that the following shall constitute the order entered by the Missouri Ethics Commission in this matter. This order will be effective immediately upon the issuance of the Consent Order of the Missouri Ethics Commission without further action by any party:

1. The parties to this Joint Stipulation understand that the Petitioner will maintain this Joint Stipulation as an open and public record of the Missouri Ethics Commission.
2. The Commission shall issue its Consent Order in the form attached hereto as Exhibit A.
 - a. Respondents shall comply with all relevant sections of Chapter 130, RSMo.
 - b. It is the Order of the Missouri Ethics Commission that a fee is imposed against Respondents in the amount of \$2,000, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$200 of that fee within forty-five days after the date of the Order, the remainder of the fee will be stayed for two years, subject to the provisions below. The fee will be paid by check or money order made payable to the Missouri Ethics Commission.
 - c. If either Respondent CONSERVATIVE COALITION OF JEFFERSON COUNTY commit any further violation or violations of the campaign finance laws under Chapter 130, RSMo, during the two year stay, then both Respondents will be required to pay the remainder of the fee. The fee will be due immediately upon final adjudication finding that either Respondent has committed such a violation.

d. Respondents CONSERVATIVE COALITION OF JEFFERSON COUNTY and BRIAN SMITH shall be jointly and severally liable for all fees imposed under this order.

3. The parties consent to the entry of record and approval of this Joint Stipulation and to the termination of any further proceedings before the Commission based upon the Complaint filed by the Petitioner in the above action.

4. Respondents, together with their heirs, successors, and assigns, do hereby waive, release, acquit and forever discharge the Missouri Ethics Commission and its attorneys of or from any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to, a claim for attorney's fees whatsoever which Respondents or Respondents' attorney may now have or which they may hereafter have, which are based upon or arise out of the above cases.

5. This joint stipulation does not settle, release, waive, or otherwise relieve Respondents from any late filing fees due to the appropriate filing authority, including Petitioner Missouri Ethics Commission. Respondents understand that late filing fees accrue automatically under Section 105.963, RSMo.

RESPONDENT CONSERVATIVE
COALITION OF JEFFERSON
COUNTY CONSERVATIVE COALITION
OF JEFFERSON COUNTY

By: Brian Smith 9/14/2012
Brian Smith Date

RESPONDENT CONSERVATIVE
COALITION OF JEFFERSON COUNTY

By: Brian Smith 9/14/2012
Brian Smith, Treasurer Date

Petitioner

By: Julie A. Allen 9/25/12
Julie A. Allen Date
Executive Director

By: Curtis R. Stokes 9/25/12
Curtis R. Stokes Date
Attorney for Petitioner

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) Respondents.)

CONSENT ORDER

The parties having filed a Joint Stipulation of Facts, Waiver of Hearing before the Missouri Ethics Commission, and Consent Order with Proposed Findings of Fact and Conclusions of Law (“Joint Stipulation”) with the Missouri Ethics Commission in this matter, the Missouri Ethics Commission hereby accepts as true the facts stipulated and finds that Conservative Coalition of Jefferson County and Brian Smith violated Sections 130.011, 130.021.5, 130.026.5, and 130.046.3, RSMo, as stated in the Joint Stipulation.

The Commission directs that all terms and orders of the Joint Stipulation be adopted herein and implemented.

1. Respondents agree that they will comply with all relevant sections of Chapter 130, RSMo.
2. It is the Order of the Missouri Ethics Commission that a fee is imposed against Respondents in the amount of \$2,000, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$200 of that fee within forty-five days after the date of

the Order, the remainder of the fee will be stayed for two years, subject to the provisions below. The fee will be paid by check or money order made payable to the Missouri Ethics Commission.

3. If either Respondent Conservative Coalition of Jefferson County and Brian Smith commits any further violation or violations of the campaign finance laws under Chapter 130, RSMo, during the two year stay, then both Respondents will be required to pay the remainder of the fee. The fee will be due immediately upon final adjudication finding that either Respondent has committed such a violation.
4. Respondents Conservative Coalition of Jefferson County and Brian Smith shall be jointly and severally liable for all fees imposed under this order

SO ORDERED this 24th day of September, 2012

By: 
Dennis Rose