

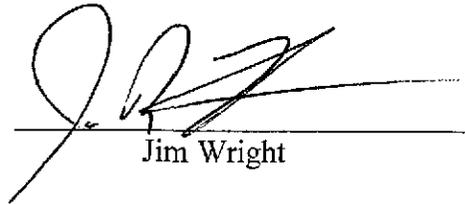
subject to the provisions below. The fee will be paid by check or money order made payable to the Missouri Ethics Commission and sent to the Missouri Ethics Commission.

If Respondent John Motley has not committed any further violations of the campaign finance disclosure laws pursuant to Chapter 130, RSMo, during the two year stay then Respondent will not be required to pay the remainder of this fee.

If, however, Respondent is found to have violated the campaign finance laws pursuant to Chapter 130, RSMo, during this two year stay, Respondent will be required to pay the remainder of the fee as originally imposed by the Commission. The fee will be due immediately upon final adjudication finding probable cause of such a violation.

SO ORDERED this 16th day of November, 2010.

By:



Jim Wright

BEFORE THE
MISSOURI ETHICS COMMISSION

MISSOURI ETHICS COMMISSION)

Petitioner,)

v.)

JOHN MOTLEY)

Respondent)

No: 10E090

Filed
NOV 12 2010
Missouri Ethics
Commission

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

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

The undersigned Respondent John Motley, acknowledges that he has 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 Respondent further acknowledge that he is aware of the various rights and privileges afforded by law, including but not limited to: the right to appear and be represented by counsel; the right to have all charges against Respondent proven upon the record by competent and substantial evidence; the right to cross-examine any witness appearing at the hearing against Respondent; the right to present evidence on Respondents' own behalf at the hearing; and the right to a decision upon the record of the hearing. Being aware of these rights provided to the Respondent by operation of law, the undersigned Respondent knowingly and voluntarily waive each and every one of these rights and freely enter into this Joint Stipulation of

Facts, Waiver of Hearings 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 Respondent 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 FINDINGS OF FACT

1. The Missouri Ethics Commission (“the Commission”) is an agency of the State of Missouri established pursuant to §105.955, RSMo, in part for the purpose of enforcing the provisions of Chapter 130, RSMo.
2. Pursuant to §105.957.1(6), RSMo, the Missouri Ethics Commission may receive complaints and investigate violations of the provisions of any state law, order, ordinance, or resolution of any political subdivision of the State of Missouri relating to the conduct of officials or employees of the political subdivision.
3. The Robinwood West Community Improvement District is a political subdivision of the State of Missouri pursuant to §105.450(8), RSMo and §67.1411, RSMo.
4. In June 2010, Respondent John Motley was the President of the Robinwood Community Improvement District.
5. Respondent Motley was an elected officer of the District, pursuant to §67.1451, RSMo and Article V of the Bylaws of the Robinwood Community Improvement District.
6. According to ARTICLE VIII, The Board Duties & Powers, of the Bylaws of the Robinwood Community Improvement District, in pertinent part: .:

The Board of Directors, as provided in the Act, shall govern the RWCID and administer the affairs of the RWCID between its business meetings, make recommendations to the RWCID, interface with the Robinwood West Board of Trustees and perform such other duties as are specified in these Bylaws. The Board shall be subject to the orders of the RWCID, and none of its acts shall conflict with action taken by the RWCID. Specific authority of the Board shall include the powers and duties contained in the Act, including, but not be limited to, the following:

...
C. Approve and submit an Annual Financial Report and Annual Budget
...

F. Approve all expenses, issue checks and payments on behalf of the RWCID

7. On June 15, 2010, a Proposition for Capital Expenditure appeared on the ballot for voters of the Robinwood Community Improvement District.

8. The "Round Robin" is a monthly publication of the Robinwood Community Improvement District which is paid for with public funds.

9. In the June 2010 issue of the "Round Robin" Respondent Motley wrote a section entitled, "From the President."

10. Respondent Motley stated: "Please vote YES for the proposition to renovate our community center restrooms to meet ADA requirements. We as a community should meet the needs of our residents."

11. §115.646, RSMo relates to the conduct of officials and employees of all Missouri political subdivisions.

12. The costs of publishing the "Round Robin" in June 2010 constituted an *expenditure of public funds in support of a ballot measure.*

13. Respondent Motley caused the above-described expenditure of funds to occur,

as a member of the Board of Directors by directing the expenditure of funds for the June 2010 "Round Robin."

14. Respondent Motley caused the above-described expenditure of funds to occur by directly advocating for support of the proposition on the June 15, 2010 election in a newsletter published and funded by the Robinwood Community Improvement District.

15. On June 16, 2010, the Commission received a complaint against Respondent pursuant to §105.957, RSMo.

16. Pursuant to §105.961.1, RSMo, following the receipt of the complaint, a special investigator has conducted an investigation and reported findings to the Commission.

JOINT CONCLUSIONS OF LAW

1. §115.646, RSMo provides as follows:

No contribution or expenditure of public funds shall be made directly by any officer, employee or agent of any political subdivision to advocate, support, or oppose any ballot measure or candidate for public office. This section shall not be construed to prohibit any public official of a political subdivision from making public appearances or from issuing press releases concerning any such ballot measure.

2. There is probable cause to determine that Respondent John Motley, an officer of the Robinwood Community Improvement District, violated §115.646, RSMo by making or causing to be made directly an expenditure or expenditures of its public funds which advocated or supported the passage of a ballot measure in the June 15, 2010 election.

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. Respondent agrees that he will 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 the Respondent John Motley in the amount of \$1,000.00 pursuant to §105.961.4(6) RSMo. However, if Respondent pays \$100.00 of that fee within 45 days of the entry of the consent 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 and sent to the Missouri Ethics Commission.

If Respondent John Motley has not committed any further violations of the campaign finance disclosure laws pursuant to Chapter 130, RSMo, during the two year stay then Respondent will not be required to pay the remainder of this fee.

If, however, Respondent is found to have violated the campaign finance laws pursuant to Chapter 130, RSMo, during this two year stay, Respondent will be required to pay the remainder of the fee as originally imposed by the Commission. The fee will be due immediately upon final adjudication finding probable cause of such a violation.

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. Respondent, together with his heirs, successors and assigns, do hereby waive, release, acquit and forever discharge the Missouri Ethics Commission and its attorney 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 Respondent and their attorney now have or which they may hereafter have, which is based upon or arises out of the above case.

RESPONDENT

PETITIONER

By: John Motley 11/11/10
John Motley Date
Respondent

By: Julie A. Allen 11/12/10
Julie A. Allen Date
Executive Director

By: Thomas W. McCarthy-III 11/5/10
Thomas W. McCarthy-III Date
Attorney for Respondent

By: Elizabeth L. Ziegler 11/12/10
Elizabeth L. Ziegler Date
General Counsel

Missouri Bar No. 24163

Missouri Bar No. 35493

McCarthy, Leonard & Kaemmerer, L.C.
Attorneys at Law
400 South Woods Mill Road, Suite 250
Chesterfield, MO 63017
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Missouri Ethics Commission
3411-A Knipp Drive
P.O. Box 1370
Jefferson City, MO 65102
Telephone: (573) 751-2020
Attorney for Petitioner

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RESPONDENT

By: _____
John Motley Date
Respondent
By: Thomas W. McCarthy III 11/5/10
Thomas W. McCarthy III Date
Attorney for Respondent

Missouri Bar No. 24163

McCarthy, Leonard & Kaemmerer, L.C.
Attorneys at Law
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Chesterfield, MO 63017
Telephone: (314) 392-5200

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By: Julie A. Allen 11/12/10
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By: Elizabeth L. Ziegler 11/12/10
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