

Filed
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Missouri Ethics
Commission

BEFORE THE
MISSOURI ETHICS COMMISSION

MISSOURI ETHICS COMMISSION)
)
 Petitioner,)
)
 v.)
)
 TRAVIS REEMS, Candidate) No. 09A271
)
 and)
)
 25th WARD TO ELECT TRAVIS REEMS)
 FOR ALDERMAN, Committee)
)
 Respondents.)

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

This is the Final Decision and Order of the Missouri Ethics Commission following a hearing on a Complaint filed by Petitioner, by and through Counsel, pursuant to §105.961, RSMo, and Chapter 536, RSMo. The hearing was conducted before the following members of the Missouri Ethics Commission: Jim Wright, James Tweedy, Jeff Davison, Vernon Dowdy, Louis J. Leonatti and Dennis Rose.

The closed hearing took place on November 12, 2010 at the offices of the Missouri Ethics Commission at 3411 A Knipp Drive, Jefferson City, Missouri 65109. The Commission was represented by Elizabeth L. Ziegler, Legal Counsel. The Respondent, having been duly notified of the Complaint and the hearing did not appear.

The Commission admitted into evidence Petitioner's Exhibits 1 through 9. Having considered all the competent and substantial evidence upon the whole record, the Commission finds as follows:

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. Respondent Travis Reems was an unsuccessful candidate for Alderman in the City of St. Louis, 25th Ward, in the March 3, 2009 Municipal Election.

3. Respondent, 25th Ward to Elect Travis Reems for Alderman is a Candidate Committee in support of Respondent Reems registered with Petitioner and was in existence at all relevant times.

4. Pursuant to §130.026, RSMo, the Missouri Ethics Commission and the Local Election Authority are the appropriate officers designated to receive campaign finance reports under Chapter 130 for candidate committees.

5. Respondent Reems, as Candidate, was ultimately responsible for filing campaign finance reports for Respondent Committee, pursuant to §130.041.1 and §130.058, RSMo.

6. Pursuant to §105.959, RSMo, the Commission’s staff has audited the files of the Commission and reported its findings to the Commission.

Campaign Finance Disclosure Reports

7. On November 18, 2009, Respondents filed a “termination” report.

8. Respondents failed to file a Thirty Day After Election Report for the period February 20, 2009 through March 28, 2009, reporting expenditures in support of Travis Reems in the March 3, 2009 election.

9. Respondents, having failed to terminate Respondent Committee until November 18, 2009, failed to file the following Quarterly Disclosure Reports: April, July and October 2009.

Failure to Accurately Report Contributions Received

10. Respondents reported the following contribution which was not deposited as reported into the official fund depository:

Date	Contributor	Amount	Rpted
1/18/2009	Running Mate LLC	\$40.00	8 Day Before

Failure to Accurately and Timely Report Expenditures

11. Respondents failed to report timely and accurately the following expenditures paid from the official fund depository, including the name and address of each person to whom the expenditure was actually made or incurred from the official fund depository:

Date	Item	Expenditure	Amount	Correct Report
2/20/2009	E-banking	Transfer to 0104450965	\$558.99	30 Day After
2/23/2009	E-banking	Transfer to 0104450965	\$871.00	30 Day After
2/24/2009	E-banking	Transfer to 0104450965	\$871.00	30 Day After
2/27/2009	E-banking	Transfer to 0104450965	\$129.88	30 Day After
2/27/2009	E-banking	Transfer to 0104450965	\$105.00	30 Day After
2/27/2009	E-banking	Transfer to 0104450965	\$59.58	30 Day After
3/2/2009	Temp Check	O.R Pechman	\$616.97	30 Day After
		Sub-Total	\$3,212.42	
3/31/2009	Bank Charge	Monthly Fee	\$5.00	April 09
4/30/2009	Bank Charge	Monthly Fee	\$5.00	July 09
5/29/2009	Bank Charge	Monthly Fee	\$5.00	July 09
6/30/2009	Bank Charge	Monthly Fee	\$5.00	July 09
7/31/2009	Bank Charge	Monthly Fee	\$5.00	October 09
8/31/2009	Bank Charge	Monthly Fee	\$5.00	October 09
9/30/2009	Bank Charge	Monthly Fee	\$5.00	October 09
10/30/2009	Bank Charge	Monthly Fee	\$5.00	Termination
		Sub-Total	\$40.00	
		Total	\$3,252.42	

12. The expenditures were required to be reported on the reports listed in paragraphs 11 and 12.

13. On the 8 Day Before Election Report, Respondents reported the following expenditures which were paid from the official fund depository through electronic fund transfers, as expenditures paid to Respondent Reems, with the purpose of "Reimbursement."

Date	Expenditure	Amount
1/21/2009	Transfer to 0104450965	\$333.37
1/21/2009	Transfer to 0087817497	\$267.90
1/26/2009	Transfer to 0104450965	\$442.00
1/26/2009	Transfer to 0104450965	\$165.00
2/4/2009	Transfer to 0087817497	\$871.00
2/5/2009	Transfer to 0104450965	\$99.00
2/6/2009	Transfer to 0104450965	\$880.39
2/6/2009	Transfer to 0104450965	\$655.00
2/6/2009	Transfer to 0104450965	\$70.00
2/11/2009	Transfer to 0104450965	\$835.04
2/17/2009	Transfer to 0104450965	\$594.32
2/17/2009	Transfer to 0104450965	\$590.12
2/18/2009	Transfer to 0104450965	\$590.12
2/19/2009	Transfer to 0104450965	\$590.12
2/19/2009	Transfer to 0104450965	\$508.99
	Total	\$7,492.37

14. Respondents failed to report timely the actual name and address of each person to whom the expenditure was made or incurred in paragraph 13.

Failure to Make Expenditures from Committee's Account

15. On the 8 Day Before election report, Respondents reported \$7,492.37 in expenditures to the Respondent Reems and listed as Reimbursement as detailed in paragraph 13.

16. The actual expenditures listed in paragraph 13 were on-line banking transfers to other bank accounts.

17. There were additional on- line banking transfers totaling \$2,595.45 in expenditures from the official fund depository as detailed in paragraph 11.

Committee Termination

18. On the 8 Day Before Election Report filed on February 23, 2009, Respondents reported \$3,262.49 money on hand, and \$9,500.00 in total indebtedness.
19. On the Termination Statement filed November 18, 2009, Respondents reported that there were no surplus funds remaining on termination, and reported the disposal of \$9,500.00 in committee debt.
20. Respondents failed to report the dissolution of committee surplus funds on any campaign finance disclosure report or on the termination statement.

CONCLUSIONS OF LAW

Campaign Finance Disclosure Reports

1. §130.046. 1, RSMo provides, in pertinent part:

The disclosure reports required by section 130.041 for all committees shall be filed at the following times and for the following periods:

...

(2) Not later than the thirtieth day after an election for a period closing on the twenty-fifth day after the election, if the committee has made any contribution or expenditure either in support of or opposition to any candidate or ballot measure...

(3) Not later than the fifteenth day following the close of each calendar quarter

2. There is probable cause that Respondents have violated §130.046.1, RSMo by failing to file the Thirty Day After Primary Election Report and the April, July and October 2009; and that Respondents did so knowingly.

Failure to Accurately Report Contributions Received

3. According to §130.041.1(3)(a), RSMo:

Except as provided in subsection 5 of section 130.016, the candidate, if applicable, treasurer or deputy treasurer of every committee which is required to file a statement of organization, shall file a legibly printed or typed disclosure report of receipts and expenditures. The reports shall be filed with the appropriate officer designated in section 130.026 at the times and for the periods prescribed in section 130.046. Except as provided in sections 130.049 and 130.050, each report shall set forth:

- (3) Receipts for the period, including:

(a) Total amount of all monetary contributions received which can be identified in the committee's records by name and address of each contributor;

4. According to §130.021.2, RSMo:

Every candidate for offices listed in subsection 1 of section 130.016 who has not filed a statement of exemption pursuant to that subsection and every candidate for offices listed in subsection 6 of section 130.016 who is not excluded from filing a statement of organization and disclosure reports pursuant to subsection 6 of section 130.016 shall form a candidate committee and appoint a treasurer. Thereafter, all contributions on hand and all further contributions received by such candidate and any of the candidate's own funds to be used in support of the person's candidacy shall be deposited in a candidate committee depository account established pursuant to the provisions of subsection 4 of this section, and all expenditures shall be made through the candidate, treasurer or deputy treasurer of the person's candidate committee.

5. According to §130.021.4.(1), RSMo:

Every committee shall have a single official fund depository within this state which shall be a federally or state-chartered bank, a federally or state-chartered savings and loan association, or a federally or state-chartered credit union in which the committee shall open and thereafter maintain at least one official depository account in its own name... All contributions which the committee receives in money, checks and other negotiable instruments shall be deposited in a committee's official depository account. Contributions shall not be accepted and expenditures shall not be made by a committee except by or through an official depository account and the committee treasurer, deputy treasurer or candidate. ...

6. There is probable cause that Respondents have violated §130.041.1(3)(a) and §130.021, RSMo by reporting \$40.00 in contributions which were not deposited as reported in the official fund depository, and that Respondents did so knowingly.

Failure to Accurately and Timely Report Expenditures

7. §130.041. 1(4)(d), RSMo provides:

Except as provided in subsection 5 of section 130.016, the candidate, if applicable, treasurer or deputy treasurer of every committee which is required to file a statement of organization, shall file a legibly printed or typed disclosure report of receipts and expenditures. The reports shall be filed with the appropriate officer designated in section 130.026 at the times and for the periods prescribed in section 130.046. Except as provided in sections 130.049 and 130.050, each report shall set forth:

(4) Expenditures for the period, including:

...

(d) The full name and mailing address of each person to whom an expenditure of money or any other thing of value in the amount of more than one hundred dollars has been made, contracted for or incurred, together with the date, amount and purpose of each expenditure.

8. There is probable cause to believe that Respondents violated §130.041.1(4)(d), RSMo and §130.046.1, RSMo by failing to report \$3,252.42 in expenditures, including the name and address of each to whom the expenditure was made or incurred from the official fund depository, and by reporting \$7,492.37 in expenditures on the 8 Day Before Election Report without reporting the actual name and address of each person to whom the expenditure was made, and that Respondents did so knowingly.

Failure to Make Expenditures from Committee's Account

9. §130.021.2, RSMo requires that any of the candidate's own funds to be used in support of the person's candidacy shall be deposited in a candidate committee depository account

established pursuant to the provisions of subsection 4 of this section, and all expenditures shall be made through the candidate, treasurer or deputy treasurer of the person's candidate committee.

10. §130.031.2, RSMo provides:

Except for expenditures from a petty cash fund which is established and maintained by withdrawals of funds from the committee's depository account and with records maintained pursuant to the record-keeping requirements of section 130.036 to account for expenditures made from petty cash, each expenditure of more than fifty dollars, except an in-kind expenditure, shall be made by check drawn on the committee's depository and signed by the committee treasurer, deputy treasurer or candidate...

11. There is probable cause to believe that Respondents violated §130.021.4(1), RSMo, §130.021.2, RSMo and §130.031.2, RSMo by making \$10,087.82 in expenditures which were not made through Respondent Committee's official depository account, and that they knowingly did so.

Committee Termination

12. §130.011(9), RSMo defines a candidate committee and requires termination of a candidate committee of an unsuccessful candidate as follows:

a committee which shall be formed by a candidate to receive contributions or make expenditures in behalf of the person's candidacy and which shall continue in existence for use by an elected candidate or which shall terminate the later of either thirty days after the general election for a candidate who was not elected or upon the satisfaction of all committee debt after the election...

13. §130.021.8, RSMo provides as follows:

Upon termination of a committee, a termination statement indicating dissolution shall be filed not later than ten days after the date of dissolution with the appropriate officer or officers with whom the committee's statement of organization was filed. The termination statement shall include: the distribution made of any remaining surplus funds and the disposition of any deficits; and the name, mailing address and telephone number of the individual responsible for preserving the committee's records and accounts as required in section 130.036.

14. §130.046.7, RSMo provides:

In the case of a committee which disbands and is required to file a termination statement pursuant to the provisions of section 130.021 with the appropriate officer not later than the tenth day after the committee was dissolved, the candidate, committee treasurer or deputy treasurer shall attach to the termination statement a complete disclosure report for the period closing on the date of dissolution. A committee shall not utilize the provisions of subsection 8 of section 130.021 or the provisions of this subsection to circumvent or otherwise avoid the reporting requirements of subsection 6 or 7 of this section.

15. There is probable cause to believe that Respondents violated §130.011(9), RSMo, §130.021.8, RSMo, and §130.046.7, RSMo by failing to report the dissolution of committee surplus funds upon termination of Respondent Committee, and that Respondents did so knowingly.

ORDER

It is the order of the Missouri Ethics Commission that a fee is imposed against the Respondents Travis Reems and 25th Ward to Elect Travis Reems for Alderman in the amount of \$46,745.22 pursuant to § 105.961.4(6) RSMo. It is the further order of the further order of the Commission that Respondents Travis Reems and 25th Ward to Elect Travis Reems for Alderman file accurately all necessary campaign finance reports and statements. However, if either Respondent pays \$4,674.52 of that fee within forty-five (45) days after the date of the Order and files all required campaign finance disclosure reports, the remainder of the fee will be stayed for two years, subject to the provisions below.

If Respondents Travis Reems and 25th Ward to Elect Travis Reems for Alderman have not committed any further violations of the campaign finance disclosure laws pursuant to Chapter 130, RSMo 2000, during the two year stay then Respondents will not be required to pay the balance of this fee.

If, however, either Respondents Travis Reems and 25th Ward to Elect Travis Reems for Alderman is found to have violated the campaign finance laws pursuant to Chapter 130, RSMo 2000, during this two year stay, Respondents Travis Reems and 25th Ward to Elect Travis Reems for Alderman will be required to pay the balance of the fee as originally imposed by the Commission. The amount of the balance will be due immediately upon final adjudication finding probable cause of such a violation.

Date: 11/16/10



Jim Wright, Chairman
MISSOURI ETHICS COMMISSION