

Filed
MAR 18 2013
Missouri Ethics
Commission

**BEFORE THE
MISSOURI ETHICS COMMISSION**

MISSOURI ETHICS COMMISSION,)
)
3411-A Knipp Drive)
Jefferson City, MO 65109)
)
Petitioner,)
) Case No. 11A157
)
v.)
)
DIONNE FLOWERS,)
Candidate)
)
and)
)
CITIZENS FOR DIONNE FLOWERS,)
Candidate Committee)
)
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 stipulate to the facts and consent to the action set forth below.

The undersigned Respondents, Flowers and Citizens for Dionne Flowers, 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 Flowers was a successful candidate in the April 5, 2011, general election for the position of Alderman in Ward 2 of the City of Saint Louis.

3. Respondent Citizens for Dionne Flowers is the candidate committee formed by Respondent Flowers to support her candidacy.

4. Pursuant to Section 105.959, RSMo, the Commission’s staff has investigated the reports and statements 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 maintain official depository account and failure to timely file amended statement of committee organization for changes to official depository account

6. Respondents' first official depository account at Bank of America was closed on March 31, 2008.

7. Respondents did not open a replacement official depository account until November 22, 2010, when they opened an account at Regions Bank.

8. Respondents were required to file an amended statement of committee organization disclosing the Regions Bank account on or before Monday, December 13, 2010, but did not file an amended statement of committee organization disclosing the Regions Bank account until March 29, 2011.

COUNT II

Failure to timely file reports and incorrectly reporting money on hand

9. On or before February 28, 2011, Respondents were required to file an "8 Day Before" report for the March 2011 special election, but they filed that report thirty-two days late on April 1, 2011.

10. On or before July 15, 2011, Respondents were required to file a "July quarterly" report, but they filed that report fourteen days late on July 29, 2011.

11. On or before January 16, 2012, Respondents were required to file a "January quarterly" report, but they filed that report two days late on January 18, 2012.

12. Respondents' "8 Day Before" report for the March 2011 special election should have covered the dates January 23, 2011, through February 24, 2011, but Respondents' "8 Day Before" report for the March 2011 special election covered only January 27, 2011, through February 24, 2011, thereby skipping four days in their reporting.

13. Respondents' "8 Day Before" report for the April 2011 general election should have covered the dates February 25, 2011, through March 24, 2011, but Respondents' "8 Day Before" report for the April 2011 general election covered only March 1, 2011, through March 31, 2011, thereby skipping four days in their reporting.

14. Respondents' January 2012 quarterly report should have covered the dates October 1, 2011, through December 31, 2011, but Respondents' January 2012 quarterly report covered only October 18, 2011, through December 31, 2011, thereby skipping seventeen days in their reporting.

15. Respondents incorrectly reported the money on hand on the "8 Day Before" report for the March 2011 special election, the "8 Day Before" report for the April 2011 general election, the "30 Day After" April 2011 general election, and the July 2011 quarterly reports.

COUNT III

Failure to timely and accurately report contributions

16. Respondents failed to report \$650 in contributions, and specifically:

- a. A contribution from AGC of St. Louis PAC for \$100;
- b. A contribution from DCAL Services for \$300; and
- c. A contribution from Anheuser Busch for \$250.

17. Respondents incorrectly reported a \$250 contribution from the St. Louis Association of Realtors PAC as a contribution of \$150.

COUNT IV

Failure to timely and accurately report expenditures

18. Respondents failed to report \$2,257.24 in expenditures, as set forth more specifically in paragraphs 19 through 23 below.

19. Respondents failed to report a \$1,582 check made to "Cash." According to Respondents' filed reports and Respondents' statements to Petitioner's auditor, \$768 of this went to a poll worker, Dorothy Henderson, \$359.98 went to pay a late fee with the Missouri Ethics Commission, \$75 went for a donation for Christmas toys for a class at Imagine Academy, \$275 was re-deposited into Respondents' official depository account, and \$104.02 went for miscellaneous campaign expenditures. While Respondents did report a \$768 payment to Ms. Henderson, a \$359.98 late fee, and a \$75 donation for a Christmas toy donation, Respondents' reports did not disclose that these were cash expenditures.

20. Respondents failed to report a payment to EECF for \$1,310.95 on March 30, 2011.

21. Respondents failed to report a payment to Harland Clarke for \$30.10 on December 3, 2010.

22. Respondents failed to report a payment to AT&T for \$147.60 on December 10, 2010.

23. Respondents made expenditures of \$443.13 and \$325.46 at Best Buy and Creative Minds, respectively. Respondents did not report this as an expenditure. Rather, Respondents made these purchases for three TVs and a laptop computer, and then donated the goods for a raffle for a Family Conference-community event held in May 2011. According to Respondents, the Family Conference-Community partially reimbursed the committee \$383 for these goods.

Respondents reported the difference between their expenditure and their partial reimbursement, \$385.59, as a “miscellaneous disbursement” on their addendum statement.

24. Respondents failed to include the address, date, and/or explanation for four expenditures.

COUNT V

Making cash expenditures greater than \$50

25. On or about November 24, 2010, Respondent Flowers endorsed a check made to “cash” for \$1,582.

26. According to Respondents’ filed reports and Respondents’ statements to Petitioner’s auditor, \$768 of this went to a poll worker, Dorothy Henderson, \$359.98 went to pay a late fee with the Missouri Ethics Commission, \$75 went for a donation for Christmas toys for a class at Imagine Academy, \$275 was re-deposited into Respondents’ official depository account, and \$104.02 went for miscellaneous campaign expenditures.

27. In the course of the Commission’s investigation, the Commission did note the receipt of a late fee from Respondent, and did note a \$275 deposit into Respondent’s official depository account. Respondent did not produce additional documentation supporting the payment of \$768 to a poll worker, \$75 for a donation, or \$104.02 for miscellaneous campaign expenditures.

JOINT PROPOSED CONCLUSIONS OF LAW

COUNT I

Failure to maintain official depository account and failure to timely file amended statement of committee organization for changes to official depository account

28. Every committee “shall have a single official fund depository ... and thereafter maintain at least one official depository account in its own name.” § 130.021.4(1), RSMo.

29. Any changes to this official depository account must be reported within twenty days on an amended statement of committee organization. § 130.021.7, RSMo.

30. There is probable cause to believe that Respondents Flowers and Citizens for Dionne Flowers violated Sections 130.021.4(1) and 130.021.7, RSMo, by failing to maintain an official depository account between March 31, 2008, through November 22, 2010, and by failing to disclose the Regions Bank account on an amended statement of committee organization within twenty days of opening that account.

COUNT II

Failure to timely file reports and incorrectly reporting money on hand

31. Respondents were required to file campaign finance disclosure reports at the following times and for the following periods:

(1) Not later than the eighth day before an election for the period closing on the twelfth day before the election if the committee has made any contribution or expenditure either in support or opposition to any candidate or ballot measure;

(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; except that, a successful candidate who takes office prior to the twenty-fifth day after the election shall have complied with the report requirement of this subdivision if a disclosure report is filed by such candidate and any candidate committee under the candidate's control before such candidate takes office, and such report shall be for the period closing on the day before taking office; and

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

Notwithstanding the provisions of this subsection, if any committee accepts contributions or makes expenditures in support of or in opposition to a ballot measure or a candidate, and the report required by this subsection for the most recent calendar quarter is filed prior to the fortieth day before the election on the measure or candidate, the committee shall file an additional disclosure report not later than the fortieth day before the election for the period closing on the forty-fifth day before the election.

§ 130.046.1, RSMo.

32. Each campaign finance disclosure report must include the “total amount of cash on hand as of the closing date of the reporting period covered, including amounts in depository accounts and in petty cash fund.” § 130.041.1(5), RSMo.

33. There is probable cause to believe that Respondents Flowers and Citizens for Flowers violated Sections 130.046.1 and 130.041.1(5), RSMo, by filing three late reports, failing to include the proper reporting periods on three reports, and inaccurately reporting the committee's money on hand on four reports, and that Respondents did so knowingly.

COUNT III

Failure to timely and accurately report contributions

34. Respondents were required to file campaign finance disclosure reports that set forth receipts for the period, including the:

- (a) Total amount of all monetary contributions received which can be identified in the committee's records by name and address of each contributor. In addition, the candidate committee shall make a reasonable effort to obtain and report the employer, or occupation if self-employed or notation of retirement, of each person from whom the committee received one or more contributions which in the aggregate total in excess of one hundred dollars and shall make a reasonable effort to obtain and report a description of any contractual relationship over five hundred dollars between the contributor and the state if the candidate is seeking election to a state office or between the contributor and any political subdivision of the state if the candidate is seeking election to another political subdivision of the state;
- (b) Total amount of all anonymous contributions accepted;

- (c) Total amount of all monetary contributions received through fund-raising events or activities from participants whose names and addresses were not obtained with such contributions, with an attached statement or copy of the statement describing each fund-raising event as required in subsection 6 of section 130.031;
- (d) Total dollar value of all in-kind contributions received;
- (e) A separate listing by name and address and employer, or occupation if self-employed or notation of retirement, of each person from whom the committee received contributions, in money or any other thing of value, aggregating more than one hundred dollars, together with the date and amount of each such contribution;

§ 130.041.1(3), RSMo.

35. There is probable cause to believe that Respondents Flowers and Citizens for Dionne Flowers violated Section 130.041.1(3), RSMo, by failing to report \$650 in contributions and under-reporting another contribution.

COUNT IV

Failure to timely and accurately report expenditures

36. Respondents were required to file campaign finance disclosure reports that set forth expenditures for the period, including the:

- (a) The total dollar amount of expenditures made by check drawn on the committee's depository;
- (b) The total dollar amount of expenditures made in cash;

- (c) The total dollar value of all in-kind expenditures made;
- (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. Expenditures of one hundred dollars or less may be grouped and listed by categories of expenditure showing the total dollar amount of expenditures in each category, except that the report shall contain an itemized listing of each payment made to campaign workers by name, address, date, amount and purpose of each payment and the aggregate amount paid to each such worker;
- (e) A list of each loan made, by name and mailing address of the person receiving the loan, together with the amount, terms and date;

§ 130.041.1(4), RSMo.

37. There is probable cause to believe that Respondents Flowers and Citizens for Dionne Flowers violated Section 130.041.1(4), RSMo, by failing to report \$2,257.24 in expenditures and failing to include the address, date, and/or explanation for four expenditures.

COUNT V

Making cash expenditures greater than \$50

38. “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 recordkeeping requirements of section 130.036 to account for

expenditures made from petty cash, each expenditure of more than fifty dollars, except an in-kind expenditures, shall be made by check drawn on the committee's depository and signed by the committee treasurer, deputy treasurer or candidate." § 130.031.2, RSMo.

39. A single expenditure from a petty cash fund shall not exceed fifty dollars. § 130.031.2, RSMo.

40. The candidate of a committee "shall maintain accurate records and accounts on a current basis. The records and accounts shall be maintained in accordance with accepted normal bookkeeping procedures and shall contain the bills, receipts, deposit records, canceled checks and other detailed information necessary to prepare and substantiate any statement or report required to be filed pursuant to this chapter." § 130.036, RSMo.

41. A check made payable to "cash" shall not be made except to replenish a petty cash fund. § 130.031.2, RSMo.

42. There is probable cause to believe that Respondents Flowers and Citizens for Dionne Flowers violated Sections 130.031.2, 130.036, and 130.034, RSMo, by endorsing a check for \$1,582 made payable to "Cash," failing to maintain the bills, receipts, or invoices necessary to substantiate some of Respondents' claimed uses of this cash, and that Respondents 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 \$6,490, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$649 of that fee within forty-five days after the date of the Order, the remainder of the fee will be stayed, subject to the provisions below. The fee will be paid by check or money order made payable to the Missouri Ethics Commission.

c. Respondents have amended their reports to correct the reporting inaccuracies identified in the joint proposed findings of fact above.

d. If either Respondent Flowers or Citizens for Dionne Flowers commits any new violation of the campaign finance laws under Chapter 130, RSMo, within the two year period after the date of fee payment noted in (b) above, then both Respondents will be required to pay the remainder of the fee. The fee will be due

immediately upon final adjudication finding that Respondent has committed such a violation.

e. Respondents Flowers and Citizens for Dionne Flowers 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 DIONNE FLOWERS

By: Dionne Flowers 3-6-13
Dionne Flowers Date

By: [Signature] 3/9/13
Brad Ketcher Date
Attorney for Respondent

PETITIONER

By: [Signature] 3/18/2013
~~Julie A. Allen~~ Stacey Heisler Date
~~Executive Director~~ Acting Executive Director

By: [Signature] 3/18/13
Curtis R. Stokes Date
Attorney for Petitioner

RESPONDENT CITIZENS FOR DIONNE FLOWERS

By: Dionne Flowers 3-6-13
Dionne Flowers Date
Candidate

By: [Signature] 3/9/13
Brad Ketcher Date
Attorney for Respondent

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

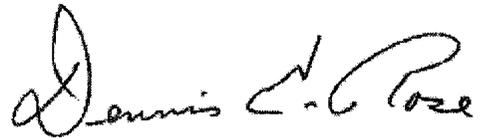
c. Respondents have amended their reports to correct the reporting inaccuracies identified in the joint proposed findings of fact above.

d. If either Respondent Flowers or Citizens for Dionne Flowers commits any new violation of the campaign finance laws under Chapter 130, RSMo, within the two year period after the date of fee payment noted in (b) above, then both Respondents will be required to pay the remainder of the fee. The fee will be due immediately upon final adjudication finding that Respondent has committed such a violation.

e. Respondents Flowers and Citizens for Dionne Flowers shall be jointly and severally liable for all fees imposed under this order.

SO ORDERED this 18th day of March, 2013

By:

A handwritten signature in black ink, appearing to read "Dennis C. Rose". The signature is written in a cursive style with a large initial "D".

Dennis Rose, Chair
Missouri Ethics Commission