

On September 10, 2010, Petitioner and Respondents entered into a Joint Stipulation of Facts and Law which is incorporated into to this Findings of Fact, Conclusions and Order. The Commission admitted into evidence Petitioner's Exhibits 1 through 10. 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 The New 5th Ward Democratic Organization was a continuing committee registered with Petitioner and was in existence at all relevant times.

3. Respondent Joy Camp was the Treasurer of Committee.

4. Pursuant to § 130.026, RSMo, the Missouri Ethics Commission is the appropriate officer designated to receive campaign finance reports under Chapter 130 for candidate committees.

5. Respondent Camp, as Treasurer, was 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 audited the files of the Committee and reported its findings to the Commission.

Campaign Finance Disclosure Reports

7. Respondents filed the following reports as follows: April 2007 Quarterly Report for the period of 12/3/2006 through 3/31/07, on April 30, 2007, July 2007 Quarterly Report for the period of 4/1/07 through 6/30/07, on July 25, 2007; October 2007 Quarterly Report for the period 7/1/07 through 9/30/07, on November 26, 2007; July 2008 Quarterly Report for the period

4/1/08 through 6/30/08, on August 26, 2008; the 30 Day After Primary Report on October 10, 2008, originally due on September 4, 2008; the April 2009 Quarterly Report for the period 1/1/09 through 3/31/09, on July 14, 2009; October 2009 Quarterly Report for the period 7/1/09 through 9/30/09, on October 26, 2009; and the January 2010 Quarterly Report for the period 10/1/10 through 12/31/10, on January 27, 2010.

8. The following contributions were received and the following expenditures were made from the official fund depository as follows:

Date	Item	Contributions and Expenditures	Amount	Correct Report
3/29/07	53288	Ameristar Casino KC Inc	\$300.00	July07Q
4/4/2007	3961	MO Health Care Assoc	\$300.00	July07Q
4/5/2007	2704	MO Pharmacy PAC	\$200.00	July07Q
		TOTAL CONTRIBUTIONS	\$800.00	
4/3/2007	Cash Transfer	Internet Transfer	\$100.00	July07Q
4/3/2007	220	Schnucks	\$70.53	July07Q
4/5/2007	219	Lou Fusz Nissan	\$25.94	July07Q
4/5/2007	221	Salama Market	\$300.00	July07Q
5/1/2007	Cash Transfer	Internet Transfer	\$100.00	July07Q
5/1/2007	223	Joy Camp	\$150.00	July07Q
5/18/2007	Electronic Withdrawal	Nextel	\$292.14	July07Q
5/31/2007	232	Carl Bruce	\$325.00	July07Q
6/3/2007	233	Joy Camp	\$70.00	July07Q
6/28/2007	224	Party City	\$34.21	July07Q
6/28/2007	225	Party City	\$26.32	July07Q
6/28/2007	226	Deals	\$14.01	July07Q
6/28/2007	227	Joy Camp	\$50.00	July07Q
6/29/2007	Cash Transfer	Internet Transfer	\$60.00	July07Q
		TOTAL EXPENDITURES	\$1,618.15	
7/14/2008	24507	Environmental Operations	\$1,000.00	30DAY After

				(Aug08)
7/21/2008	31603	Stone, Leyton & Gershman	\$2,500.00	30DAY After (Aug08)
7/31/2008	1081	Williams for Treasurer	\$400.00	30DAY After (Aug08)
8/4/2008	10849	McEagle Pool Account	\$7,500.00	30DAY After (Aug08)
8/4/2008	31675	Stone, Leyton, Gershman	\$2,500.00	30DAY After (Aug08)
		TOTAL CONTRIBUTIONS	\$13,900.00	
7/21/08	245	21 st Ward	\$2,300.00	30DAY After (Aug08)
7/23/08	Bank fee	Overdraft charge	\$35.00	30DAY After (Aug08)
7/29/2008	246	Sam's	\$116.88	30DAY After (Aug08)
7/30/2008	247	Creative Litho	\$1,000.00	30DAY After (Aug08)
8/5/2008	248	Joy Camp	\$9,507.00	30DAY After (Aug08)
8/14/2008	249	Catina Wilson	\$500.00	30DAY After (Aug08)
8/16/2008	250	Joy Camp	\$400.00	30DAY After (Aug08)
		TOTAL EXPENDITURES	\$13,858.88	
10/20/08	506	Missouri Votes	\$2,750.00	Jan09Q
		TOTAL CONTRIBUTIONS	\$2,750.00	
9/16/08	251	Hubbard for Senate	\$65.00	Jan09Q
10/22/08	Cash	Customer Withdrawal	\$36.00	Jan09Q
11/4/08	252	Rodney Hubbard	\$78.87	Jan09Q
11/4/08	253	Tammika Hubbard	\$270.60	Jan09Q

11/4/08	254	Cash	\$750.00	Jan09Q
11/4/08	255	Cash	\$1,650.00	Jan09Q
		TOTAL EXPENDITURES	\$2850.47	

9. Respondents filed a limited activity statement for July 2007, for the period of April 1, 2007 through June 20, 2007. During that period, there were \$2,418.15 in contributions and expenditures.

10. Respondents filed a limited activity statement for 30 Days After the August primary, for the period of July 1, 2008 through September 30, 2008. During that period, there were \$27,758.88 in contributions and expenditures.

11. Respondents filed a limited activity statement for January 2009, for the period of September 1, 2008 through December 31, 2008. During that period, there were \$5,600.47 in contributions and expenditures.

Failure to Accurately Report Contributions Received

12. Respondents failed to report the following contributions, including the name, address of the contributor which were deposited into the official fund depository:

Date	Check Number	Contributor	Amount
3/29/2007	53288	Ameristar Casino Kansas City	\$300.00
4/4/2007	3961	MO Health Care Assoc	\$300.00
4/5/2007	2704	MO Pharmacy PAC	\$200.00
1/9/2008	1045	80th Legislative Dec Comm	\$2,500.00
6/11/2008		CASH	\$100.00
7/22/2008	31603	Stone, Leyton, Gershman	\$2,500.00
7/28/2008	24507	Environmental Operations	\$1,000.00

7/31/080	1081	Williams for Treasurer	\$400.00
8/4/2008	10849	McEagle Pool Account	\$7,500.00
8/4/2008	31675	Stone, Leyton, Gershman	\$2,500.00
10/20/2008	506	Missouri Votes	\$2,750.00
		Total	\$20,050.00

Failure to Accurately Report Expenditures

13. Respondents failed to report the following expenditures as identified as being paid from the official fund depository, including the name and address of each to whom the expenditure was made or incurred from the official fund depository:

Check Number	Date	Expenditure	Amount
Transfer	4/3/2007	Internet Transfer	\$100.00
219	4/5/2007	Lou Fusz Nissan	\$25.94
220	4/3/2007	Schnucks	\$70.53
221	4/5/2007	Salama Market	\$300.00
Transfer	5/1/2007	Internet Transfer	\$100.00
223	5/1/2007	Joy Camp	\$150.00
Electronic Withdrawal	5/18/2007	Nextel	\$292.14
Transfer	6/29/2007	Internet Transfer	\$60.00
224	6/28/2007	Party City	\$34.21
225	6/28/2007	Party City	\$26.32
226	6/28/2007	Deals	\$14.01
227	6/28/2007	Joy Camp	\$50.00
229	1/13/2008	Arthur Drake	\$900.00
230	2/4/2008	Joy Camp	\$400.00
231	2/4/2008	Sam's	\$139.03
232	5/31/2007	Carl Bruce	\$325.00
233	6/3/2007	Joy Camp	\$70.00
235	3/10/2008	Gregorys' Creative C....	\$84.00
237	3/18/2008	State of MO	\$420.00
238	3/25/2008	Democratic City Central	\$100.00

		Comm	
239	3/25/2008	Democratic City Central Comm	\$100.00
240	5/8/2008	Sam's	\$66.29
241	5/8/2008	St. Margaret of Scotland	\$55.00
244	5/31/2008	A Call to Oneness	\$500.00
Bank Charge	6/11/2008	Overdraft	\$19.00
Bank Charge	7/23/2008	Overdraft	\$35.00
245	7/23/2008	21st Ward	\$2,300.00
246	7/29/2008	Sam's	\$116.88
247	7/30/2008	Creative Litho	\$1,000.00
248	8/5/2008	Joy Camp	\$9,507.00
249	8/14/2008	Catina Wilson	\$500.00
250	8/16/2008	Joy Camp	\$400.00
251	9/16/2008	Hubbard for Senate	\$65.00
Withdrawal	10/22/2008	CASH	\$36.00
252	11/4/2008	Rodney Hubbard	\$78.87
253	11/4/2008	Tammika Hubbard	\$270.60
254	11/4/2008	CASH	\$750.00
255	11/4/2008	CASH	\$1,650.00
		Total	\$21,110.82

14. Three expenditures totaling \$260.00 were transferred through Internet transfers to another Account Number at the same bank as the official fund depository, but were not reported as expenditures in this manner.

Cash Expenditures

15. Respondents made the following withdrawals in excess of \$50.00 from the official fund depository totaling \$13,013.00 as follows:

Check Number	Date	Payee	Amount	Notes
223	5/1/2007	Joy Camp	\$150.00	endorsed by Joy Camp
233	6/3/2007	Joy Camp	\$70.00	endorsed by Joy Camp
		Total Withdrawals 2007	\$230.00	

230	2/4/2008	Joy Camp	\$400.00	endorsed by Joy Camp
248	8/5/2008	Joy Camp	\$9,507.00	"campaign" endorsed by Joy Camp
250	8/16/2008	Joy Camp	\$400.00	endorsed by Joy Camp
ATM Transaction	10/22/2008	Cash Withdrawal at ATM	\$36.00	
254	11/4/2008	CASH	\$750.00	"Poll workers"; endorsed by Joy Camp
255	11/4/2008	CASH	\$1,650.00	"Campaign workers"; endorsed by Joy Camp
		Total Withdrawals 2008	\$12,743.00	
			\$13,013.00	

16. Cash in the amount of \$36.00 was withdrawn one time from the committee's official fund depository through Automatic Transaction Machines (ATM) transactions from the depository as detailed in paragraph 15.

17. Cash in excess of \$50.00 was withdrawn from the committee's official fund depository through checks written to Cash two times for a total of \$2,400.00, and five checks were written to Respondent Joy Camp and endorsed by Joy Camp in excess of \$50.00 for a total of \$10,537.00 as detailed in paragraph 15.

18. In 2008, the aggregate of all expenditures from a petty cash fund during a calendar year exceeded the lesser of five thousand dollars or ten percent of all expenditures made by the committee during each calendar year.

Consulting Services

19. The following expenditures were made to A.D. French & Associates and Arthur Drake. The expenditure to Arthur Drake included the words "consultant" and was not included on any campaign finance report.

Check Number	Date	Expenditure	Amount
228	1/13/2008	AD French & Assoc	\$1,500.00
229	1/13/2008	Arthur Drake	\$900.00
		TOTAL	\$2,400.00

Failure to Maintain Accurate and Complete Records

20. On October 25, 2009, Respondent Joy Camp was duly served with a subpoena *duces tecum* for all records and documents relating to Respondent Committee in the possession of the Respondent.

21. On December 10, 2009, Petitioner received committee records and documents which were subject to the subpoena *duces tecum* served on Respondents.

22. The documents provided which were subject to the subpoena *duces tecum* were not accurate records and accounts containing all 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 Chapter 130.

CONCLUSIONS OF LAW

Campaign Finance Disclosure Reports

1. §130.046. 1, RSMo provides:

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; 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...

2. §130.046. 5(2), RSMo provides when a statement of limited activity can be filed by a committee as follows:

Notwithstanding any other provisions of this chapter to the contrary:

(2) No disclosure report needs to be filed for any reporting period if during that reporting period the committee has neither received contributions aggregating more than five hundred dollars nor made expenditure aggregating more than five hundred dollars and has not received contributions aggregating more than three hundred dollars from any single contributor and if the committee's treasurer files a statement with the appropriate officer that the committee has not exceeded the identified thresholds in the reporting period.

3. There is probable cause that Respondents have violated §130.046.1, RSMo and §130.046. 5(2), RSMo by failing to file timely 8 quarterly disclosure reports including the April 2007, July 2007 Quarterly Report; October 2007 Quarterly Report; July 2008 Quarterly Report; the 30 Day After Primary Report; the April 2009 Quarterly Report; October 2009 Quarterly Report; and the January 2010 Quarterly Report; and that Respondents filed limited activity statement for the reporting periods of July 2007, 30 Day After the Primary Election, and January 2009 when there was activity totaling \$2,418.15, \$27,758.88 and \$5,600.47, respectively, and that Respondents did so knowingly.

Failure to Accurately Report Contributions Received

4. 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...

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), RSMo by failing to report contributions totaling \$20,050.00 including the name and address of the contributor which were deposited into the official fund depository, and that Respondents did so knowingly.

Failure to Accurately Report Expenditures

7. §130.041.1(4)(d), RSMo provides:

§130.041. 1. 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 by failing to report \$21,110.82 in expenditures, including the name and address of each to whom the expenditure was made or incurred from the official fund depository, and that Respondents did so knowingly.

Cash Expenditures

9. According to § 130.031.2, RSMo:

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. A single expenditure from a petty cash fund shall not exceed fifty dollars, and the aggregate of all expenditures from a petty cash fund during a calendar year shall not exceed the lesser of five thousand dollars or ten percent of all expenditures made by the committee during that calendar year. A check made payable to "cash" shall not be made except to replenish a petty cash fund.

10. There is probable cause to believe that Respondents §130.031.2, RSMo by issuing 2 checks to cash, totaling \$2,400.00 from the official fund depository, which exceeded \$50 for single transactions, and by issuing five checks to Respondent Joy Camp and endorsed by Joy Camp in excess of \$50.00 for a total of \$10,537.00, and the aggregate which exceeded 10% of all expenditures made by the committee during that calendar year, and that Respondents did so knowingly.

Consulting Services

11 According to §130.041.4, RSMo:

The words “consulting or consulting services, fees or expenses”, or similar words, shall not be used to described the purpose of a payment as required in this section. The reporting of any payment to such an independent contractor shall be on a form supplied by the appropriate officer, established by the ethics commission and shall include identification of the specific service or services provided including, but not limited to, public opinion polling, research on issues or opposition background, print or broadcast media production, print or broadcast media purchase, computer programming or data entry, direct mail production, postage, rent, utilities, phone solicitation, or fund raising, and the dollar amount prorated for each service.

12. There is probable cause the Respondents violated §130.041.4, RSMo by failing to report \$900.00, and improperly reporting \$2,400.00 expenditures to an independent contractor as “campaign consultant,” and by failing to include identification of the specific service or services provided and that Respondents did so knowingly.

Failure to Maintain Accurate and Complete Records

13. Section 130.034, RSMo provides as follows concerning the use of contributions by a committee established under Chapter 130 as follows:

1. Contributions as defined in section 130.011, received by any committee shall not be converted to any personal use.

2. Contributions may be used for any purpose allowed by law including, but not limited to:

- (1) Any ordinary expenses incurred relating to a campaign;
- (2) Any ordinary and necessary expenses incurred in connection with the duties of a holder of elective office;
- (3) Any expenses associated with the duties of candidacy or of elective office pertaining to the entertaining of or providing social courtesies to constituents, professional associations, or other holders of elective office;
- (4) The return of any contribution to the person who made the contribution to the *candidate or holder of elective office*;
- (5) To contribute to a political organization or candidate committee as allowed by law;
- (6) To establish a new committee as defined by this chapter;
- (7) To make an unconditional gift which is fully vested to any charitable, fraternal or civic organizations or other associations formed to provide for some good in *the order of benevolence*, if such candidate, former candidate or holder of elective office or such person's immediate family gain no direct financial benefit from the unconditional gift;
- (8) Except when such candidate, former candidate or holder of elective office dies while the committee remains in existence, the committee may make an unconditional gift to a fund established for the benefit of the spouse and children of the candidate, former candidate or holder of elective office. The provisions of this subdivision shall expire October 1, 1997.

14. §130.036.1., RSMo, requires a treasurer or deputy treasurer to maintain accurate and records of accounts and records of a committee to prepare and substantiate a campaign finance report filed by the Committee as follows:

The candidate, treasurer or deputy treasurer 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...

15. According to §130.036.8, RSMo, in pertinent part:

All records and accounts of receipts and expenditures shall be preserved for at least three years after the date of the election to which the records pertain.

Records and accounts regarding supplemental disclosure reports or reports not required pursuant to an election shall be preserved for at least three years after the date of the report to which the records pertain. Such records shall be available for inspection by the campaign finance review board and its duly authorized representatives.

16. There is probable cause the Respondents violated §130.036.1, RSMo by failing to maintain accurate records and accounts for Respondent Committee, including 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, and that Respondents did so knowingly.

ORDER

The Commission finds probable cause that Respondents Joy Camp and The New 5th Ward Democratic Organization knowingly violated, and has knowingly violated §130.046.1, RSMo, §130.046.5(2), RSMo, §130.041.1(3)(a), RSMo, §130.041.1(4)(d), RSMo, §130.031.2, RSMo, 130.041.4, RSMo and §130.036.1, RSMo.

It is the order of the Missouri Ethics Commission that a fee is imposed against the Respondents Joy Camp and The New 5th Ward Democratic Organization in the amount of \$16,000 pursuant to §105.961.4(6) RSMo. However, if either Respondent pays \$1,600 of that fee within ninety (90) days after the date of the Order and all required campaign finance disclosure reports are filed within 45 days of the date of the order, the remainder of the fee will be stayed for two years, subject to the provisions below.

If Respondents Joy Camp or The New 5th Ward Democratic Organization 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 Respondent Joy Camp or The New 5th Ward Democratic Organization Committee is found to have violated the campaign finance laws pursuant to Chapter 130, RSMo 2000, during this two year stay, Respondents Joy Camp and The New 5th Ward Democratic Organization 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: 12/13/10



Jim Wright, Chairman
MISSOURI ETHICS COMMISSION