

Filed
JUN 19 2013
Missouri Ethics
Commission

**BEFORE THE
MISSOURI ETHICS COMMISSION**

MISSOURI ETHICS COMMISSION,)
)
) Case No. 12A118
)
v.)
)
SAINT CHARLES LINCOLN COUNTY)
FIRE PAC,)
Continuing Committee,)
)
and)
)
JUSTIN DARNELL,)
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 stipulate to the facts and consent to the action set forth below.

The undersigned Respondents, Saint Charles Lincoln County Fire PAC and Darnell, 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 Saint Charles Lincoln County Fire PAC (hereinafter “Fire PAC”) was a continuing committee that was registered with the Missouri Ethics Commission at all relevant times. At all times relevant hereto, Fire Pac was terminated on September 11, 2012.

3. Respondent Darnell was the named treasurer of Respondent Fire PAC at all relevant times.

4. Pursuant to Section 105.961, 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 timely and accurately file campaign finance reports and statements

Failure to timely file statement of committee organization

6. Respondents opened an official depository account in the name "St Charles Lincoln County Fire PAC" on October 28, 2009, with a deposit of \$5,630.

7. Twenty days later, Respondents had not filed a statement of committee organization with the Missouri Ethics Commission.

8. Respondents filed a statement of committee organization for Respondent Fire PAC with the Missouri Ethics Commission on January 19, 2010, which is eighty-three (83) days after the date Respondents opened their bank account.

Failure to file January 2010 quarterly report

9. Respondents failed to file the report due on January 15, 2010.

Failing to timely report activity on "8 Day Before" and "30 Day After" reports

10. Respondents were required to report \$800 in contributions made on an "8 Day Before" report for the August 2010 election, but reported that activity late, on the October 2010 quarterly report instead.

11. Respondents were required to report \$400 in contributions made on a "30 Day After" report for the August 2010 election, but reported that activity late, on the October 2010 quarterly report instead.

12. Respondents were required to report a \$400 contribution made on a “30 Day After” report for the April 2012 election, but reported that activity late, on the July 2012 quarterly report instead.

Failure to timely file nine (9) campaign finance disclosure reports

13. Respondents failed to timely file the following campaign finance disclosure reports:

Report	Due	Filed	Days late
8 Day Before March 2010 General	3/29/2010	12/22/2010	269
April 2010 quarterly	4/15/2010	12/22/2010	251
July 2010 quarterly	7/15/2010	12/22/2010	160
October 2010 quarterly	10/15/2010	12/22/2010	68
January 2011 quarterly	1/15/2011	4/14/2011	89
July 2011 quarterly	7/15/2011	8/9/2011	25
October 2011 quarterly	10/15/2011	12/1/2011	47
January 2012 quarterly	1/15/2012	3/27/2012	71
8 Day Before April 2011 General	3/26/2012	3/27/12	1
April 2012 quarterly	4/15/2012	6/6/2012	52

Failure to accurately report cash on hand

14. Respondents failed to accurately report the amount of money, including cash on hand, at the beginning of the following reporting periods:

- a. January 2011 quarterly;
- b. April 2011 quarterly;
- c. January 2012 quarterly;
- d. July 2012 quarterly;
- e. Termination.

COUNT II

Failure to timely and accurately report contributions received

Cash contribution of \$5,550

15. Respondents accepted a cash contribution of \$5,550 in October 2009 and failed to report it.

Failure to timely report contributions greater than \$100

16. Respondents failed to timely report the following four (4) contributions aggregating \$6,450:

Contributor	Amount	Check Date	Reported on amended reports after investigation?
Cash	\$5,550.00	N/A	No
Lincoln County Professional EMS	\$300.00	10/29/2011	Yes
Wentzville Professional Firefighters	\$300.00	11/29/2011	Yes
St Charles County Paramedic	\$300.00	10/29/2011	Yes
TOTAL	\$6,450.00		

Failure to timely report contributions \$100 and less

17. Respondents failed to timely report five (5) contributions aggregating \$205. Respondents failed to report two (2) of these contributions, aggregating \$105, even after Respondents amended their reports after the Missouri Ethics Commission conducted its investigation.

Failure to accurately report non-itemized contributions

18. Between September 2010 and December 2010, Respondents deposited \$2,231 in cash into their official depository account, but for that reporting period, Respondents reported total anonymous contributions of less than \$25 and total non-itemized contributions of \$2,326, which is \$95 more than reported by Respondents.

19. Between January 2012 and March 2012, Respondents reported \$50 in total monetary contributions received from persons giving \$100 or less, but during that reporting period, Respondents actually deposited \$165 in cash into their official depository account, which is \$115 more than reported by Respondents.

Failure to timely report address information for contributors giving aggregate contributions in excess of \$100

20. Respondents failed to timely report the address of twelve contributors, with aggregate contributions of \$8,092. Since the Ethics Commission’s investigation, Respondents have amended their reports to include these addresses.

COUNT III

Failure to timely and accurately report expenditures and contributions made

Failure to timely report expenditures greater than \$100

21. Respondents failed to timely report the following three (3) expenditures aggregating \$2,087.80:

Recipient	Amount	Date	Reported on amended reports after investigation?
Safeguard check supply	\$118.80	1/13/2010	No
Regional Growth Consultants	\$969.00	9/13/2010	Yes
Promotional Partners	\$1,000.00	5/16/2012	Yes
TOTAL	\$2,087.80		

Failure to timely report expenditures \$100 and less

22. Respondents failed to timely report two (2) expenditures aggregating \$59.

Failure to timely report contributions made to other committees

23. Respondents failed to timely report the following two contributions made to other committees:

- a. Gatschenberger 4 Rep: \$600 contribution dated 9/11/2011;
- b. Committee to Elect Fred Friedman: \$500 dated 3/14/12.

JOINT PROPOSED CONCLUSIONS OF LAW

COUNT I

Failure to timely and accurately file campaign finance reports and statements

24. The treasurer acting on behalf of any person, organization, or group of persons that is a committee pursuant to Section 130.011, RSMo, “shall file a statement of organization ... 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 Section 130.046, RSMo. §130.021.5, RSMo.

25. Pursuant to Section 130.011, RSMo, a committee is a person or any combination of persons, who accepts contributions or makes expenditures for the primary or incidental purpose of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates or the qualification, passage or defeat of any ballot measure or for the purpose of paying a previously incurred campaign debt or obligation of a candidate or the debts or obligations of a committee or for the purpose of contributing funds to another committee.

26. Pursuant to Section 130.011, RSMo, a “continuing committee” is a committee of continuing existence which is not formed, controlled or directed by a candidate, and is a committee other than a candidate committee or campaign committee, whose primary or incidental purpose is to receive contributions or make expenditures to influence or attempt to influence the action of voters whether or not a particular candidate or candidates or a particular ballot measure or measures to be supported or opposed has been determined at the time the committee is required to file any statement or report pursuant to the provisions of this chapter. "Continuing committee" includes, but is not limited to, any committee organized or sponsored by a ... a labor organization, a professional association, a trade or business association, a club or other organization and whose primary purpose is to solicit, accept and use contributions from the members, employees or stockholders of such entity and any individual or group of individuals who accept and use contributions to influence or attempt to influence the action of voters.

27. Committees must file campaign finance reports at the times prescribed by Section 130.046, RSMo, which includes quarterly reports and reports due 8 days before and 30 days after any election for which the committee accepted contributions or made expenditures. § 130.046.1, RSMo.

28. These campaign finance disclosure reports must include, among other things, the “amount of money, including cash on hand at the beginning of the reporting period,” § 130.041.1(2), RSMo, and the “total amount of cash on hand as of the closing date of the reporting period.” § 130.041.1(5), RSMo.

29. There is probable cause to believe that Respondents violated Sections 130.021.5, 130.046.1, 130.041.1(2), and 130.041.1(5), RSMo, by failing to timely file a statement of committee organization, failing to timely and accurately file campaign finance reports, reporting contributions and expenditures on quarterly reports in lieu of filing “8 Day Before” and “30 Day After” reports, and by failing to accurately disclose cash on hand on campaign finance reports, and that Respondents did so knowingly.

COUNT II

Failure to timely and accurately report contributions received

30. Respondents were required to report 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. 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;

...

(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.

31. “No contribution in cash in an amount in excess of one hundred dollars shall be made or accepted from any single contributor for any election.” §130.110(1), RSMo.

32. “[N]o anonymous contribution in excess of twenty-five dollars shall be accepted by any ... committee. If any anonymous contribution in excess of twenty-five dollars is received, it shall be returned immediately to the contributor if his or her identity can be ascertained, and if the contributor’s identity cannot be ascertained, the candidate or the committee treasurer shall immediately transmit that portion of the contribution which exceeds twenty-five dollars to the state treasurer and it shall escheat to the state.” § 130.0110(3), RSMo.

33. All contributions received by a committee “in money, checks, and other negotiable instruments shall be deposited in a committee’s official depository account,” and

“[c]ontributions shall not be accepted ... by a committee except by or through an official depository account.” § 130.021.4(1), RSMo.

34. There is probable cause to believe that Respondents violated Sections 130.041.1(3), 130.110(1), 130.110(3), and 130.021.4(1), RSMo, by accepting and not reporting a cash contribution of \$5,550, failing to timely report four itemized contributions aggregating \$6,450, failing to report five non-itemized contributions aggregating \$205, failing to accurately report non-itemized contributions under \$100 or failing to deposit non-itemized contributions in the committee’s official depository account, and failing to timely disclose address information for contributors with aggregate contributions greater than \$100, and that Respondents did so knowingly.

COUNT III

Failure to timely and accurately report expenditures and contributions made

35. Respondents were required to report all expenditures, including:
- (a) The total dollar amount of expenditures made by check drawn on the committee's depository;
 - ...
 - (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;

§ 130.041.1(4), RSMo.

36. Respondents were also required to report separately “by full name and address of any committee ... for which a transfer of funds or a contribution in any amount has been made during the reporting period, together with the date and amount of each such transfer or contribution.” § 130.041.1(8), RSMo.

37. There is probable cause to believe that Respondents violated Sections 130.041.1(4) and 130.041.1(8), RSMo, by failing to timely report three (3) itemized expenditures aggregating \$2,087.80, failing to timely report two non-itemized expenditures aggregating \$59, and failing to timely report two contributions made aggregating \$1,100, 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 \$22,100, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$2,210 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. If either Respondent commits any further violation or violations of the campaign finance laws under Chapter 130, RSMo, within the two year period from the date of this order, 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.

d. Respondents Saint Charles Lincoln County Fire PAC and Darnell shall be jointly and severally liable for all fees imposed under this order.

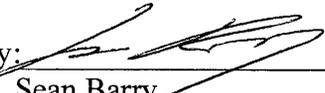
3. The parties consent to the entry of record and approval of this Joint Stipulation and to the termination of any further proceedings before the Commission based upon the Complaint filed by the Petitioner in the above action.

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 SAINT CHARLES
LINCOLN COUNTY FIRE PAC

By:  5/31/2013
Justin Darnell, Treasurer Date

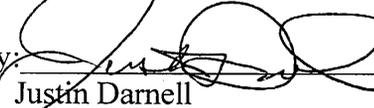
By:  5-31-2013
Sean Barry, Date
Attorney for
Respondent Saint
Charles Lincoln County
Fire PAC

PETITIONER MISSOURI ETHICS
COMMISSION

By:  6/19/13
Stacey Heislen Date
Acting Executive Director

By:  6/19/13
Curtis R. Stokes, Date
Attorney for Petitioner

RESPONDENT JUSTIN DARNELL

By:  5/31/2013
Justin Darnell Date

By:  5-31-2013
Sean Barry, Date
Attorney for
Respondent Darnell

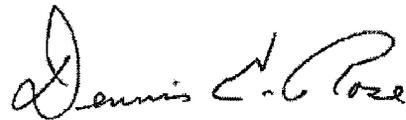
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d. Respondents Saint Charles Lincoln County Fire PAC and Darnell shall be jointly and severally liable for all fees imposed under this order.

SO ORDERED this 19th day of June, 2013

By:



Dennis Rose, Chair
Missouri Ethics Commission