Filed
JUN 19 2013
Missouri Ethics Commission

BEFORE THE
MISSOURI ETHICS COMMISSION

MISSOURI ETHICS COMMISSION, 3411-A Knipp Drive Jefferson City, MO 65109 Petitioner, v. JIM STOUFER, Chairman, Board of Trustees CINDY SMALL, Village Clerk and MATT COONCE, Chief of Police Respondents.	)	Case Nos. 12E043, 12E044, 12E049

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, Stoufer, Small, and Coonce, 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, and Section 115.646, RSMo.

2. Respondent Jim Stoufer was at all relevant times the Chairman of the Board of Trustees for the Village of Claycomo, Missouri.

3. Respondent Cindy Small was at all relevant times the Village Clerk for the Village of Claycomo, Missouri.

4. Respondent Matt Coonce was at all relevant times the Chief of Police for the Village of Claycomo, Missouri.

5. Pursuant to Section 105.961, RSMo, the Commission's staff has investigated a complaint filed with the Commission and reported the investigation's findings to the Commission.

6. 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 include a "paid for by" disclosure statement on printed material

7. The Village of Claycomo, acting through Respondent Stoufer, paid for approximately 600 fliers identical to the flier attached hereto as Exhibit A, which is incorporated by reference.

8. The fliers, such as those at Exhibit A, did not include a statement "Paid for by the Village of Claycomo, Jim Stoufer, Chairman, Board of Trustees, 115 NE Hwy 69, Claycomo, MO 64119." Instead, the flier stated at the bottom of the second page, "Village of Claycomo Board of Trustees."

9. The fliers related to a ballot measure pending before voters of Claycomo during the November 8, 2011, ballot.

10. Respondent Stoufer designed the fliers.

11. Respondent Stoufer showed the fliers to Respondent Small prior to distribution.

12. Respondent Small called Respondent Coonce to inform him that Respondent Stoufer had written a letter and wanted it passed out the same day, November 7, 2011.

13. Respondent Coonce distributed the fliers in the north end of Claycomo.

COUNT II

Use of public funds to support or advocate for a ballot measure

14. The fliers attached hereto as Exhibit A, support the ballot measure pending on the November 8, 2011, election. By way of example and not limitation, the fliers state the following:

a. "Your Board of Trustees does not want to add any taxes but we have no choice if we are going to maintain our current services."

b. "The Board of Trustees discussed the shortfall of tax revenue and has unanimously agreed that this is a much needed tax and that it needs to be placed on the November 8th election to increase the tax levy ceiling."

c. "**The choice is yours but please remember YOUR Board of Trustees is 100% supporting this small tax increase. We know just how important it is to be able to maintain our services to all of us. We all will be voting yes and we believe it is really needed to Support our Village, our police, our fire, our ambulance and parks."** [emphasis original]

15. Respondents Stoufer and Small utilized the Village of Claycomo's copying machine for a total cost of approximately $3.00 to publish the fliers

16. Respondents utilized six Claycomo police officers, four Claycomo police vehicles for approximately two hours to distribute the fliers.

17. Two Claycomo medics and one Claycomo vehicle were utilized for approximately one hour and twenty minutes to distribute the fliers.

18. Claycomo's public works director and one Claycomo vehicle were utilized to distribute the fliers.

JOINT PROPOSED CONCLUSIONS OF LAW

COUNT I

Failure to include a "paid for by" disclosure statement on printed material

19. "Any person publishing, circulating, or distributing any printed matter relative to any ... ballot measure shall on the face of the printed matter identify in a clear and conspicuous manner the person who paid for the printed matter with the words 'Paid for by' followed by the proper identification of the sponsor pursuant to this section." § 130.031.8, RSMo.

20. "In regard to any printed matter paid for by ... any other organization not defined to be a committee by subdivision (9) of section 130.011 and not organized especially for influencing one or more elections, it shall be sufficient identification to print the name of the entity, the name of the principal officer of the entity, by whatever title known, and the mailing address of the entity, or if the entity has no mailing address, the mailing address of the principal officer." § 130.031.8(3), RSMo.

21. There is probable cause to believe that Respondents violated Section 130.031.8, RSMo, by publishing, circulating, and distributing fliers relating to a ballot measure without including a full "paid for by" disclosure, and that Respondents did so knowingly.

COUNT II

Use of public funds to support or advocate for a ballot measure

22. "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 or a political subdivision from making public appearances or from issuing press releases concerning any such ballot measure." § 115.646, RSMo.

23. There is probable cause to believe that Respondents violated Section 115.646, RSMo, by using public funds to support a ballot measure pending on the November 2011 election, 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 1.

   a. Respondents shall comply with Sections 130.031.8 and 115.646, RSMo.

   b. It is the Order of the Missouri Ethics Commission that a fee is imposed against Respondents in the amount of $1,100, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay $200 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 any Respondent commits any further violation or violations of the laws under Sections 130.031.8 or 115.646, RSMo, within the two year period from the date of this order, then that Respondent 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 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.

RESPONDENT JIM STOUFER

By: _____ 6-11-13
Jim Stoufer Date

By: _____
George E. Kapke Date
Attorney for Respondent Stoufer

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 CINDY SMALL

By: _____ 6-4-13
Cindy Small Date

By: _____
George E. Kapke Date
Attorney for Respondent Small

RESPONDENT MATT COONCE

By: _____ 6-4-13
Matt Coonce Date

By: _____
George E. Kapke Date
Attorney for Respondent Coonce

Filed
JUN 19 2013
Missouri Ethics Commission

BEFORE THE
MISSOURI ETHICS COMMISSION

MISSOURI ETHICS COMMISSION,	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	
JIM STOUFER,	)	Case No. 12E043, 12E044, 12E049
	)	
CINDY SMALL,	)	
	)	
and	)	
	)	
MATT COONCE,	)	
	)	
Respondents.	)	

CONSENT ORDER

The parties having filed a Joint Stipulation of Facts, Waiver of Hearing before the Missouri Ethics Commission, and Consent Order with Proposed Findings of Fact and Conclusions of Law ("Joint Stipulation") with the Missouri Ethics Commission in this matter, the Missouri Ethics Commission hereby accepts as true the facts stipulated and finds that Respondents Stoufer, Small and Coonce violated Sections 130.031.8 and 115.646, RSMo, as stated in the Joint Stipulation.

The Commission directs that all terms and orders of the Joint Stipulation be adopted herein and implemented.

a. Respondents shall comply with Sections 130.031.8 and 115.646, RSMo.

b. It is the Order of the Missouri Ethics Commission that a fee is imposed against Respondents in the amount of $1,100, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay $200 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 any Respondent commits any further violation or violations of the laws under Sections 130.031.8 or 115.646, RSMo, within the two year period from the date of this order, then that Respondent 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 shall be jointly and severally liable for all fees imposed under this order.

SO ORDERED this 19th day of June, 2013

By: Dennis L. Rose

Dennis Rose, Chair
Missouri Ethics Commission