

**BEFORE THE
MISSOURI ETHICS COMMISSION**

Missouri Ethics Commission
Filed
AUG 12 2013
Missouri Ethics
Commission

MISSOURI ETHICS COMMISSION,)	
Petitioner,)	
)	
v.)	
)	
DAVID BRENT GORDON,)	Case No. 13C012
)	
)	
and)	
)	
COMMITTEE TO ELECT DAVID)	
BRENT GORDON, ALDERMAN WARD)	
7,)	
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, David Brent Gordon and Committee To Elect David Brent Gordon, Alderman Ward 7, 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.

The undersigned Respondents together with their heirs, successors, and assigns, further agree to waive, release, acquit and forever discharge Michael B. Katz, individually and as Treasurer for the Committee To Elect David Brent Gordon, Alderman Ward 7 (“Committee”) and any individual volunteer of the Committee, 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 claims, counts, allegation or otherwise from this case.

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 Gordon was an unsuccessful candidate for the Saint Louis City Board of Aldermen in the April 2013 general election. He ran as an unopposed “Green Candidate” in the March 2013 primary election.

3. Respondent Committee to Elect David Brent Gordon Alderman Ward 7 was the candidate committee formed by Respondent Gordon to support his candidacy in the April 2013 general election.

4. For candidates for elective municipal offices in municipalities of more than one hundred thousand inhabitants, the appropriate filing officer for campaign finance statements and reports is the Missouri Ethics Commission and the election authority of the municipality.
§ 130.0126.2(3), RSMo.

5. The City of Saint Louis has more than one hundred thousand inhabitants.

6. Pursuant to Section 105.961, RSMo, the Commission's staff has investigated and reported the investigation's findings to the Commission. During the investigation, Respondents filed and amended reports.

COUNT I

Failure to timely file exemption statement for March 2013 primary election

7. Respondents filed an exemption statement for the March 2013 primary election on March 25, 2013, which was twenty-eight (28) days late.

8. Respondents filed a statement of limited activity in lieu of the "8 Days Before" report on March 25, 2013, which was twenty-eight (28) days late.

COUNT II

Failure to timely file campaign finance disclosure report

9. Respondents filed a "40 Days Before" report for the April 2013 general election with the Missouri Ethics Commission on March 21, 2013, which was twenty-eight (28) days late.

10. Because Respondents failed to timely file a "40 Days Before" report, they also failed to timely disclose \$800 in contributions received and \$1,159.27 in expenditures made and incurred.

JOINT PROPOSED CONCLUSIONS OF LAW

COUNT I

Failure to timely file exemption statement for March 2013 primary election

11. For purposes of Chapter 130, RSMo, “A primary election and the immediately succeeding general election are separate elections, and restrictions on contributions and expenditures set forth in [Section 130.016.2] shall apply to each election.” § 130.016.4, RSMo.

12. A candidate for municipal office in a city with a population over one hundred thousand may avoid filing a statement of committee organization and subsequent disclosure reports if “[t]he candidate files a sworn exemption statement with the appropriate officer that the candidate does not intend to either receive contributions or make expenditures in the aggregate of more than five hundred dollars or receive contributions from any single contributor, other than the candidate, that aggregate more than three hundred twenty-five dollars, and that the total of all contributions received or expenditures made by the candidate and all committees or any other person with the candidate's knowledge and consent in support of the candidacy will not exceed five hundred dollars.” § 130.016.1(1), RSMo.

13. This exemption statement must be filed no later than the date on which the candidate’s first campaign finance disclosure statement would have been due had they not filed the exemption statement. § 130.016.1(2), RSMo.

14. After filing the exemption statement, the candidate must continue to file statements of limited activity in lieu of full disclosure reports. § 130.016.1(2), RSMo.

15. Disclosure reports are due “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;

...
§ 130.046.1, RSMo.

16. For the March 2013 primary election immediately preceding the April 2013 general election, the “8 Days Before” report was due on or before February 25, 2013. Consequently, any exemption statement filed pursuant to Section 130.016, RSMo, was due on or before February 25, 2013.

17. There is probable cause to believe that Respondents violated Section 130.016.1, RSMo, by failing to timely file a statement of exemption for the March 2013 primary election and failed to timely file a statement of limited activity in lieu of the “8 Days Before” report for the March 2013 primary election.

COUNT II

Failure to timely file campaign finance disclosure report

18. 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.

...

(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;

(f) A listing of each loan received by name and address of the lender and date and amount of the loan. For each loan of more than

one hundred dollars, a separate statement shall be attached setting forth the name and address of the lender and each person liable directly, indirectly or contingently, and the date, amount and terms of the loan;

§ 130.041.1(3), RSMo.

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

(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.

20. Disclosure reports are due “at the following times and for the following periods:”

...

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.

21. The “40 Days Before” report for the April 2013 general election was due on or before March 21, 2013.

22. There is probable cause to believe that Respondents violated Sections 130.046.1 and 130.041.1, RSMo, by failing to timely file a campaign finance disclosure report, and thereby failed to timely disclose \$800 in contributions received and \$1,159.27 in expenditures made and incurred.

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 \$3,950, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$395 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 David Brent Gordon or Committee To Elect David Brent Gordon, Alderman Ward 7 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 David Brent Gordon and Committee To Elect David Brent Gordon, Alderman Ward 7 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. Respondents together with their heirs, successors, and assigns, further agree to waive, release, acquit and forever discharge Michael B. Katz, individually and as Treasurer for the Committee To Elect David Brent Gordon, Alderman Ward 7 (“Committee”) and any individual volunteer of the Committee, 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.

6. 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 DAVID BRENT GORDON

By:  _____ 7-23-13
David Brent Gordon Date

PETITIONER MISSOURI ETHICS

By:  _____ 8/15/2013
Stacey Heislen Date
Acting Executive Director

RESPONDENT COMMITTEE TO ELECT
DAVID BRENT GORDON, ALDERMAN
WARD 7

By:  _____ 7-23-13
David Brent Gordon Date

By:  _____ 8/12/2013
Curtis R. Stokes Date
Attorney for Petitioner

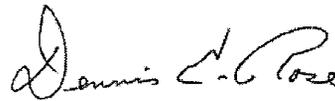
the date of the Order, the remainder of the fee will be stayed, subject to the provisions below. The fee will be paid by check or money order made payable to the Missouri Ethics Commission.

c. If either Respondent David Brent Gordon or Committee to Elect David Brent Gordon, Alderman Ward 7 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 David Brent Gordon and Committee to Elect David Brent Gordon, Alderman Ward 7 shall be jointly and severally liable for all fees imposed under this order.

SO ORDERED this 12th day of August,
2013

By:



Dennis Rose, Chair
Missouri Ethics Commission