

Filed
AUG 28 2013
Missouri Ethics
Commission

**BEFORE THE
MISSOURI ETHICS COMMISSION**

MISSOURI ETHICS COMMISSION,)
)
 Petitioner,)
)
v.)
)
CHERYL HIBBELER,) Case No. 11E206, 11E207
)
and)
)
COMMITTEE TO ELECT CHERYL)
HIBBELER,)
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, Hibbeler and Committee to Elect Cheryl Hibbeler, 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.

For good consideration herein acknowledged, Respondents further agree that the statements in the affidavit signed and executed by Respondent Hibbeler, incorporated by reference herein as Attachment 1, are true and correct, and that Respondent Hibbeler will provide true and correct testimony when called upon as a witness in any proceeding relating to, regarding, or touching upon any topic in the affidavit.

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 Hibbeler was an unsuccessful candidate for the position of Saint Charles County Council, District 1, in the November 2010 general election.

3. Respondent Committee to Elect Cheryl Hibbeler was the candidate committee formed by Respondent Hibbeler to support her candidacy in the November 2010 general election.

4. 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.

5. Respondents hired Regional Growth Consultants as campaign consultants for the 2010 election.

6. Respondents reported a payment of \$1,300 to Regional Growth Consultants on November 3, 2010, with the purpose of "campaign consulting" on the "30 Days After" report, without filing an "independent contractor" supplemental report specifying the service or services provided.

7. Respondents amended this report on January 30, 2012, to include the "independent contractor" supplement report, specifying the purpose as "Research on issues and opposition background, assistance on fund raising, strategizing of campaign plan and assistance with volunteer recruitment and scheduling."

JOINT PROPOSED CONCLUSIONS OF LAW

8. The words "consulting or consulting services, fees, or expenses", or similar words, shall not be used to describe the purpose of a payment. § 130.041.4, RSMo.

9. "Any payment to such an independent contractor shall be on a form ... 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.” § 130.041.4, RSMo.

10. Reports required by Section 130.041.4, RSMo, are due at the times prescribed in Section 130.046, RSMo.

11. There is probable cause to believe that Respondents violated Section 130.041.4, RSMo, by reporting a \$1,300 expenditure with the purpose of “campaign consulting,” and not timely filing an “independent contractor” supplemental report, 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 \$1,000, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$100 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 CHERYL HIBBELER or COMMITTEE TO ELECT CHERYL HIBBELER 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 CHERYL HIBBELER and COMMITTEE TO ELECT CHERYL HIBBELER 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 CHERYL HIBBELER
HIBBELER CHERYL HIBBELER

By: Cheryl Hibbeler 8/27/13
Cheryl Hibbeler Date

PETITIONER MISSOURI ETHICS COMMISSION

By: Stacey Heislen 8/28/2013
Stacey Heislen Date
Acting Executive Director

RESPONDENT COMMITTEE TO ELECT CHERYL HIBBELER
CHERYL HIBBELER

By: Cheryl Hibbeler 8/27/13

By: Curtis R. Stokes 8/28/13
Curtis R. Stokes Date
Attorney for Petitioner

STATE OF MISSOURI)
)
COUNTY OF)

Affidavit of Cheryl Hibbeler

Before me, the undersigned authority, personally appeared Cheryl Hibbeler who being by me duly sworn, deposed as follows:

My name is Cheryl Hibbeler (affiant). I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

1. I was a candidate for office of Saint Charles County Council, District 1, in the November 2010 General Election.
2. To support my candidacy I formed the Committee to Elect Cheryl Hibbeler.
3. For the November 2010 election I hired Regional Growth Consultants, LLC and Danny Powell to work on my campaign.
4. In the course of that work, Tommy Roberts of Regional Growth Consultant, LLC, contacted me for opposition research on my opponent in the election, Joe Cronin.
5. I told Mr. Roberts about a lawsuit filed by Mr. Cronin and that after this lawsuit, Mr. Cronin had been referred to as "Sour Grapes Joe."
6. After this conversation with Mr. Roberts, the mailer attached hereto and incorporated by reference as Exhibit 1 was circulated to voters in the St. Charles area, and it used the phrase "Sour Grapes Joe."

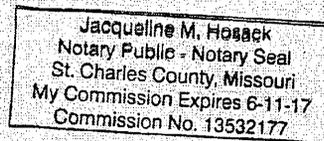
Cheryl Hibbeler
Affiant's Signature

In witness whereof I have hereunto subscribed my name and affixed my official seal this 26th day of AUGUST, 2013.

Jacqueline M. Hosack
Notary Public

Printed Notary Name: Jacqueline M. Hosack

My commission expires: 6-11-2017



"Sour Grapes" Joe
Throws a Fit Every Time he doesn't get his Way!

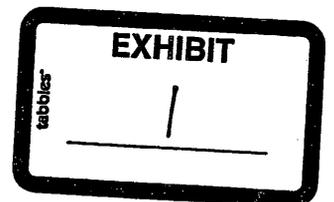


"Sour Grapes" Joe cost St. Charles County thousands of dollars in frivolous lawsuits because he was not chosen by his OWN party to run for office.!

St. Charles County can't afford anymore of **"Sour Grapes" Joe** or his frivolous lawsuits.

I. Mo Case # 0511-CV08222 (2005)

On November 2nd, tell **"Sour Grapes" Joe** to stop wasting our time and our money!





Missourians for
Government Accountability
endorses Cheryl Hibbeler

We're still
Watchdog
for our
Tax Dollars!

On November 2nd
Vote Cheryl Hibbeler,

St. Charles County Council District 1



Voted "Best Public Official"
by the readers of the Suburban Journal
and the "2009 Spirit of O'Fallon Award" winner

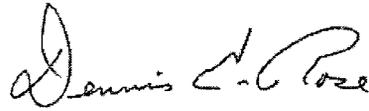
Printed by Missourians for Government Accountability, John Powell, Treasurer

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

3. If either Respondent Cheryl Hibbeler or Committee to Elect Cheryl Hibbeler 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.
4. Respondents Cheryl Hibbeler and Committee to Elect Cheryl Hibbeler shall be jointly and severally liable for all fees imposed under this order.

SO ORDERED this 20th day of August,
2013

By:



Dennis Rose, Chair
Missouri Ethics Commission