

Filed
DEC 06 2013
Missouri Ethics
Commission

**BEFORE THE
MISSOURI ETHICS COMMISSION**

MISSOURI ETHICS COMMISSION,)
)
) Case No. 13E065
)
v.)
)
DORIS BORGELT,)
Candidate)
)
and)
)
FRIENDS OF DORIS,)
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, Borgelt and Friends of Doris, 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 to 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 Borgelt was an unsuccessful candidate for the office of Mayor of the City of Arnold in the April 2013 general election.

3. Respondent Friends of Doris is the candidate committee formed by Respondent Borgelt to support her candidacy in the April 2013 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. Based on the report of the Commission’s staff, the Commission determined that there were 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 file campaign finance disclosure reports

6. Respondents failed to timely file a statement of limited activity in lieu of an April 2013 quarterly report.
7. Respondents failed to timely file a “30 Day After” report for the April 2013 election.
8. The Jefferson County Clerk called Respondent Borgelt to remind her of the requirement to file reports.

COUNT II

Failure to timely report contributions received

9. Respondents failed to timely report \$620.00 in contributions received on the 8 Day Before report and 30 Day After report.

COUNT III

Failure to timely report expenditures made

10. Respondents failed to timely report \$729.44 in expenditures made on the 8 Day Before report and 30 Day After report.

COUNT IV

Failure to timely terminate or convert to debt service committee

11. Respondent Borgelt was not successful in the April 2013 election.
12. Respondent Borgelt reported a loan from herself to her candidate committee of \$1,100 on her 8 Day Before April 2013 report.
13. Respondent Borgelt reported \$330.46 as the money on hand at the end of her 8 Day Before April 2013 reporting period.

14. Within 30 days of April 2, 2013, Respondents neither terminated the committee and filed a termination report and statement, nor did they file an amended statement of committee organization identifying Respondent Friends of Doris as a debt service committee.

COUNT V

Incomplete "paid for by" disclosure statement

15. Respondent Borgelt published, circulated and/or distributed the advertisement, attached hereto as Exhibit A, by placing the ad in the Veterans Tribute publication.

16. Respondent Borgelt paid for the advertisement to be published.

17. The printed matter attached hereto as Exhibit A relates to a candidate in the April 2013 election.

18. The advertisement attached hereto as Exhibit A should have contained a clear and conspicuous statement "Paid for by Friends of Doris, Bob Boyer, Treasurer", but it did not.

JOINT PROPOSED CONCLUSIONS OF LAW

COUNT I

Failure to timely file campaign finance disclosure reports

19. Respondents were required to file campaign finance disclosure reports 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;

(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.

§ 130.046.1, RSMo.

20. If a committee has neither contributions received nor expenditures made aggregating more than \$500 and it received no contributions aggregating more than \$300 from a single contributor in a reporting period, the committee need not file a full disclosure report, but must file a statement of limited activity in lieu of that full report. § 130.046.5(2), RSMo.

21. There is probable cause to believe that Respondents Borgelt and Friends of Dories violated Sections 130.046.1 and 130.046.5(2), RSMo, by failing to timely file a statement of limited activity in lieu of the April 2013 quarterly report and failing to timely file a “#0 Day After” report for the April 2013 election, and that Respondents did so knowingly.

COUNT II

Failure to timely report contributions received

22. 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....

(b) Total amount of all anonymous contributions accepted;

(c) Total amount of all monetary contributions received through fund-raising events or activities from participants whose names and addresses were not obtained with such contributions, with an attached statement or copy of the statement describing each fund-raising event as required in subsection 6 of section 130.031;

...

§ 130.041.1(3), RSMo.

23. Any contributions not reported as a result of a committee filing a statement of limited activity “shall be included in the next disclosure report filed by the committee.”

§130.046.5(2), RSMo.

24. There is probable cause to believe that Respondents violated Sections 130.041.1(3) and 130.046.5(2), RSMo, by failing to timely report a total of \$620 in contributions received, and that Respondents did so knowingly.

COUNT III

Failure to timely report expenditures made

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

(a) The total dollar amount of expenditures made by check drawn on the committee's depository;

(b) The total dollar amount of expenditures made in cash;

...

§ 130.041.1(4), RSMo.

26. Any expenditures not reported as a result of a committee filing a statement of limited activity “shall be included in the next disclosure report filed by the committee.”

§130.046.5(2), RSMo.

27. There is probable cause to believe that Respondents violated Sections 130.041.1(4) and 130.046.5(2), RSMo, by failing to timely report a total of \$729.44 in expenditures made, and that Respondents did so knowingly.

COUNT IV

Failure to timely terminate or convert to debt service committee

28. Candidate committees “shall terminate the later of either thirty days after the general election for a candidate who was not elected or upon the satisfaction of all committee debt after the election, except that no committee retiring debt shall engage in any other activities in support of the candidate for which the committee was formed.” § 130.011(9), RSMo.

29. “Candidates ... report filed pursuant to subdivision (2) of subsection 1 of section 130.046 reflects outstanding obligations in excess of moneys on hand, may convert their campaign committee to a debt service committee as provided in this section.” § 130.037, RSMo.

30. “The treasurer and the candidate shall terminate the debt service committee pursuant to section 130.021 when the contributions received exceed the amount of the debt, and within thirty days the committee shall file disclosure reports pursuant to section 130.041 and shall return any excess moneys received to the contributor or contributors, if known, otherwise such moneys shall escheat to the state.” § 130.037, RSMo.

31. “No debt service committee shall be in existence more than eighteen months.” § 130.037, RSMo.

32. There is probable cause to believe that Respondents violated Sections 130.011(9) and 130.037, RSMo, by failing to either terminating the committee Respondent Friends of Doris nor filing an amended statement of committee organization identifying the committee as a debt service committee, and that Respondents did so knowingly.

COUNT V

Incomplete “paid for by” disclosure statement

33. “Any person publishing, circulating, or distributing any printed matter relative to any candidate for public office or 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.

34. Printed matter “shall be defined to include any pamphlet, circular, handbill, sample ballot, advertisement, including advertisements in any newspaper or other periodical, sign, including signs for display on motor vehicles, or other imprinted or lettered material;”
§ 130.031.8, RSMo.

35. “In regard to any printed matter paid for by a committee, it shall be sufficient identification to print the name of the committee as required to be registered by subsection 5 of section 130.021 and the name and title of the committee treasurer who was serving when the printed matter was paid for.” § 130.031.8(2), RSMo.

36. There is probable cause to believe that Respondent Borgelt violated Section 130.031.8(2), RSMo, by publishing the advertisement in the Veterans Tribute without including the proper “paid for by” disclosure, and that Respondent 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 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 \$3,450.00, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$430.00 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 of the campaign finance laws under Chapter 130, RSMo, within the two year period from the date of this order, then Respondents will be required to pay the remainder of the fee. The fee will due immediately upon final adjudication finding that any Respondent has committed such a violation..

d. Respondents Borgelt and Friends of Doris 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.

SO AGREED:

RESPONDENT DORIS BORGELT

By: Doris Borgelt 11/27/13
Doris Borgelt Date

RESPONDENT FRIENDS OF DORIS

By: Doris Borgelt 11/27/13
Doris Borgelt Date
Candidate

PETITIONER MISSOURI ETHICS
COMMISSION

By: James Klahr 12/6/13
James Klahr Date
Executive Director

By: Curtis R. Stokes 12/9/13
Curtis R. Stokes Date
Attorney for Petitioner

THE TRUTH WILL SET YOU FREE!



Doris for Mayor

Vote for the truth!

Don't settle for anything less!

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Follow me on Twitter @
dorisborgelt

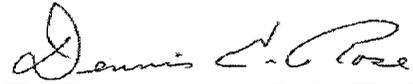


The fee will be paid by check or money order made payable to the Missouri Ethics Commission.

3. If any Respondent commits any further violation of the campaign finance laws under Chapter 130, RSMo, within the two year period from the date of this order, then Respondents will be required to pay the remainder of the fee. The fee will due immediately upon final adjudication finding that any Respondent has committed such a violation.
4. Respondents Borgelt and Friends of Doris shall be jointly and severally liable for all fees imposed under this order.

SO ORDERED this 6th day of December,
2013

By:



Dennis Rose, Chair
Missouri Ethics Commission