

**BEFORE THE
MISSOURI ETHICS COMMISSION**

Filed
MAR 27 2014
Missouri Ethics
Commission

MISSOURI ETHICS COMMISSION,)	
)	
Petitioner,)	
)	
v.)	
)	
COMMITTEE TO RESTORE THE PRIDE,)	Case No. 13A111
)	
and)	
)	
TOM DIEHL,)	
)	
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 Committee to Restore the Price and Tom Diehl violated Sections 130.046, 130.041.1(3), 130.041.1(4), 130.021.4, 130.036.1, and 130.021.8, RSMo, as stated in the Joint Stipulation.

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

1. Respondents shall comply with all relevant sections of Chapter 130, RSMo.
2. It is the order of the Missouri Ethics Commission that a fee is imposed against Respondents in the amount of \$9,500 pursuant to Section 105.961.4(6), RSMo. However, if either Respondent pays \$950 of that fee within forty-five (45) days of the date of this 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 and sent to the Missouri Ethics Commission.

3. If either Respondent Committee to Restore the Pride or Diehl commit any further violations of the campaign finance laws pursuant to Chapter 130, RSMo, as amended, within the two year period from the date of this order, then both Respondents will be required to pay the remainder of the fee as originally imposed by the Commission. The fee will be due immediately upon final adjudication finding that Respondents committed such a violation.
4. Respondents Committee to Restore the Pride and Diehl shall be jointly and severally liable for all fees imposed under this order.

SO ORDERED this 27th day of March, 2014

By:



Charles Weedman, Chair
Missouri Ethics Commission

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Commission

MISSOURI ETHICS COMMISSION,)	
)	
Petitioner,)	
)	
v.)	
)	
COMMITTEE TO RESTORE THE PRIDE,)	Case No. 13A111
Campaign Committee,)	
)	
and)	
)	
TOM DIEHL,)	
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 stipulation to the facts and consent to the action se forth below.

The undersigned Respondents, Committee to Restore the Pride and Diehl, 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 privileged 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 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 Committee to Restore the Pride is a campaign committee that filed a statement of committee organization with the Saint Louis Count Board of Elections.
3. Respondent Diehl was the treasurer of Respondent Committee to Restore the Pride since approximately March 23, 2011.
4. Pursuant to Section 105.961, RSMo, the Commission's staff has investigated the reports and statements filed with the Saint Louis County Board of Elections 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. The “30 Day After” report for the November 2010 election was due on December 2, 2010. Respondents filed this report on March 29, 2011, which was 117 days after December 2, 2010. Respondents disclosed approximately \$22,000 in contributions and \$13,000 in expenditures for the reporting period on this “30 Day After” report.

7. Respondents did not timely file quarterly reports from April 2012 to October 2013.

COUNT II

Failure to timely and accurately report contributions

8. Respondents incurred an expenditure of \$44,806.08 to Unicom ARC, \$38,841.60 of which was paid.

9. On or about December 16, 2011, Unicom ARC forgave the remaining \$5,964.48 due on the invoice, but Respondents did not timely report this as an in-kind contribution received.

10. Respondents received a contribution of \$1,346.02 from a related committee, Friends of Mehlville School District (a continuing committee registered with the Missouri Ethics Commission) on December 13, 2011, but Respondents did not timely report this contribution.

COUNT III

Failure to timely and accurately report expenditures

11. On or about November 11, 2011, Respondents issued a check to “School Food & Nutrition Srv.” for \$368.67, but Respondents did not timely report this expenditure.

COUNT IV

Failure to timely and accurately file termination statement and report and failure to maintain committee records

12. Respondents closed the committee's official depository account on December 31, 2011 and did not thereafter maintain an official depository account.

13. Respondents did not file a termination statement within thirty days of closing the official depository account.

14. Respondents were unable to produce all committee receipts and invoices in response to requests and subpoenas from the Missouri Ethics Commission.

JOINT PROPOSED CONCLUSIONS OF LAW

COUNT I

Failure to timely file campaign finance disclosure reports

15. Respondents were required to file campaign finance disclosure reports. § 130.046.1, RSMo.

16. "The candidate or the committee treasurer of any committee except a candidate committee is ultimately responsible for all reporting requirements pursuant to this chapter." § 130.058, RSMo.

17. There is probable cause to believe that Respondents violated Section 130.046, RSMo, by failing to timely file campaign finance disclosure reports, and that Respondents did so knowingly.

COUNT II

Failure to timely and accurately report contributions

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. 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;

(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;

(d) Total dollar value of all in-kind contributions received;

(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.

19. An “in-kind” contribution is a contribution “in a form other than money.”

§ 130.011(19), RSMo.

20. There is probable cause to believe that Respondents violated Section 130.041.1(3), RSMo, by failing to timely and accurately report an in-kind contribution of \$5,964.48 and a monetary contribution of \$1,346.02, and that Respondents did so knowingly.

COUNT III

Failure to timely and accurately report expenditures

21. 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;

...

(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.

§ 130.041.1(4), RSMo.

22. There is probable cause to believe that Respondents violated Section 130.041.1(4), RSMo, by failing to timely and accurately report a \$368.67 expenditure, and that Respondents did so knowingly.

COUNT IV

Failure to timely and accurately file termination statement and report and failure to maintain committee records

23. Every committee “shall have a single official fund depository ... and thereafter maintain at least one official depository account in its own name.” § 130.021.4(1), RSMo.

24. Any changes to this official depository account must be reported within twenty days on an amended statement of committee organization. § 130.021.7, RSMo.

25. Each candidate and committee must maintain accurate records and accounts on a current basis. § 130.036.1, RSMo.

26. The records must be maintained in accordance with accepted normal bookkeeping procedures “and shall contain the bills, receipts, deposit records, canceled checks and other detailed information necessary to prepare and substantiate any statement or report required to be filed pursuant to this chapter.” § 130.036.1, RSMo.

27. “Upon termination of a committee, a termination statement indicating dissolution shall be filed not later than ten days after the date of dissolution with the appropriate officer or officers with whom the committee's statement of organization was filed. The termination statement shall include: the distribution made of any remaining surplus funds and the disposition

of any deficits; and the name, mailing address and telephone number of the individual responsible for preserving the committee's records and accounts as required in section 130.036.”

§ 130.021.8, RSMo.

28. There is probable cause to believe that Respondents violated Sections 130.021.4, 130.036.1, and 130.021.8, RSMo, by failing to maintain an official depository account after December 31, 2011, failing to file a termination report after closing the committee account, and failing to maintain all documents necessary to prepare and substantiate campaign finance disclosure reports, 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 \$9,500, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$950 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 Committee to Restore the Pride or Diehl 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 both Respondents will be required to pay the remainder of the fee. The fee will be due immediately upon final adjudication finding that Respondents has committed such a violation.

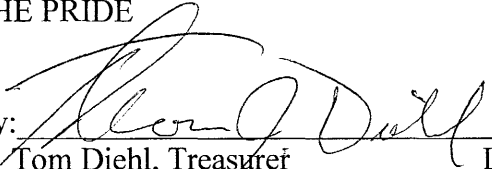
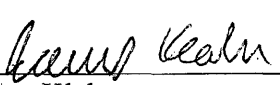
d. Respondents Committee to Restore the Pride and Diehl shall be jointly and severally liable for all fees imposed under this Order.

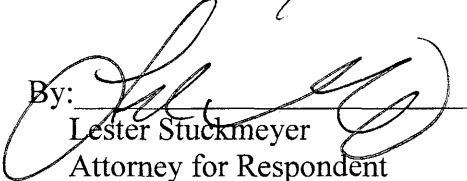
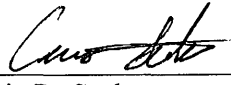
3. The parties consent to the entry of record and approval of this Joint Stipulation and to the termination of any further proceedings before the Commission based upon the Complaint filed by the Petitioner in the above action.

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.

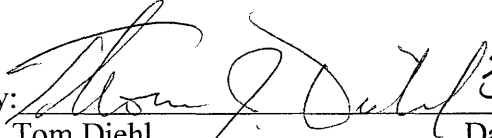
SO AGREED:

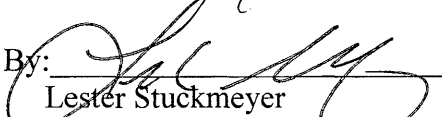
RESPONDENT COMMITTEE TO RESTORE THE PRIDE PETITIONER MISSOURI ETHICS COMMISSION

By:  3/19/14 By:  3/27/14
Tom Diehl, Treasurer Date James Klahr Date
Executive Director

By:  3/5/14 By:  3/25/14
Lester Stuckmeyer Date Curtis R. Stokes Date
Attorney for Respondent Attorney for Petitioner

RESPONDENT TOM DIEHL

By:  3/19/14
Tom Diehl Date

By:  3/5/14
Lester Stuckmeyer Date
Attorney for Respondent Diehl