

BEFORE THE
MISSOURI ETHICS COMMISSION

Filed
MAR 11 2010
Missouri Ethics
Commission

MISSOURI ETHICS COMMISSION,)
)
 Petitioner,)
)
vs.) Case No. 09E077
)
EDDIE TUCKER, Candidate,)
)
and)
)
EDDIE TUCKER, Committee,)
)
 Respondents.)

CONSENT ORDER

The parties having filed a Joint Stipulation of Facts, Waiver of Hearings 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 the Respondents Eddie Tucker, Candidate, and Eddie Tucker, Committee, violated §130.016, §130.021, §130.021.2, §130.031.2, §130.046, and §130.050.3, 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 agree that they will 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 the Respondents Eddie Tucker, Candidate and Eddie Tucker, Committee in the

amount of \$6,228.00 pursuant to §105.961.4(6) RSMo. However, if Respondents pay \$622.00 of that fee within forty- five (45) days after the date of the Order, the remainder of the fee will be stayed for two years, 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.

If Respondents Eddie Tucker, Candidate and Eddie Tucker, Committee have not committed any further violations of the campaign finance disclosure laws pursuant to Chapter 130, RSMo 2000, during the two year stay then Respondents will not be required to pay this fee.

If, however, any Respondent is found to have violated the campaign finance laws pursuant to Chapter 130, RSMo 2000, during this two year stay, Respondents will be required to pay the fee as originally imposed by the Commission. The fee will be due immediately upon final adjudication finding Respondent guilty of such a violation.

SO ORDERED this 15th day of March, 2010.

By: 
Michael Kilgore

Filed

MAR 11 2010

**Missouri Ethics
Commission**

BEFORE THE
MISSOURI ETHICS COMMISSION

MISSOURI ETHICS COMMISSION)
)
Petitioner,)
)
v.)
)
EDDIE TUCKER, Candidate)
)
and)
)
EDDIE TUCKER, Committee)
)
Respondents.)

No. 09E077

**JOINT STIPULATION OF FACTS, WAIVER OF HEARINGS 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, Eddie Tucker, Candidate and Committee 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 proven upon the record by competent and substantial evidence; the right to cross-examine any witness appearing at the hearing against Respondents; the right to present evidence on Respondents' own behalf at the hearing; and the right to a decision upon the record of

the hearing. Being aware of these rights provided to the 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 Hearings 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 which would be introduced if a hearing was held in this case as follows:

JOINT PROPOSED FINDINGS OF FACT CONCLUSIONS OF LAW

1. The Missouri Ethics Commission (“the Commission”) is an agency of the State of Missouri established pursuant to § 105.955, RSMo, in part for the purpose of enforcing the provisions of Chapter 130, RSMo.
2. Respondent, Eddie Tucker was an unsuccessful candidate for the St. Louis City Board of Aldermen – Ward 11 in the April 7, 2009 municipal election. Respondent filed a declaration of candidacy with the St. Louis City Board of Elections as an independent candidate, as required by the charter of the City of St. Louis.
3. On April 15, 2009, a complaint was filed with Petitioner.
4. Pursuant to § 105.961, RSMo Commission staff investigated the complaint and reported its findings to the Commission.

5. Pursuant to § 130.026.2 (3), RSMo, Petitioner and the local election authority are the appropriate officers designated to receive the statement of committee of organization and campaign finance reports for Committee.

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

COUNT I – Statement of Exemption and Rejection of Exemption

7 §130.016. 1, RSMo provides:

No candidate for...municipal office in a city with a population of more than one hundred thousand shall be required to comply with the requirements to file a statement of organization or disclosure reports of contributions and expenditures for any election in which neither the aggregate of contributions received nor the aggregate of expenditures made on behalf of such candidate exceeds five hundred dollars and no single contributor, other than the candidate, has contributed more than three hundred twenty-five dollars, provided that:

(1) The 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 and that the aggregate of contributions received from any single contributor will not exceed the amount of the limitation on contributions to elect an individual to the office of state representative as calculated in subsection 2 of section 130.032...

8. §130.016. 2, RSMo provides:

Any candidate who has filed an exemption statement as provided in subsection 1 of this section shall not accept any contribution or make any expenditure in support of the person's candidacy, either directly or indirectly or by or through any committee or any other person acting with the candidate's knowledge and consent, which would cause such contributions or expenditures to exceed the limits specified in subdivision

(1) of subsection 1 of this section unless the candidate later rejects the exemption pursuant to subsection 3 of this section...

9. §130.016. 3, RSMo provides:

If, after filing the exemption statement provided for in this section, the candidate subsequently determines the candidate wishes to exceed any of the limits in subdivision (1) of subsection 1 of this section, the candidate shall file a notice of rejection of the exemption with the appropriate officer; however, such rejection shall not be filed later than thirty days before election. A notice of rejection of exemption shall be accompanied by a statement of organization as required by section 130.021 and any other statements and reports which would have been required if the candidate had not filed an exemption statement.

10. On March 13, 2009, Respondent received an in-kind contribution of \$750.00 from a single contributor. On a subsequently filed 8 Day Before Election Report, Respondent also reported receiving \$300.00 in anonymous contributions of \$25.00 or less, and a contribution of \$88.60 from a single contributor.

11. On March 13, 2009, Respondent Tucker, Candidate paid Creative Litho, Inc. \$382.85 for door hangers, posters and sample ballots. On March 24, 2009, Respondent Tucker, Candidate paid the United States Postal Service \$380.00 for postage and envelopes. On April 3, 2009 the registered voters in the 11th Ward of the City of St. Louis received printed matter in support of Respondent Tucker's candidacy and which was paid for by Respondent Tucker. On April 5, 2009, door hangers in support of Respondent Tucker were placed on residences in the southern end of the 11th Ward. On April 7, 2009, Respondent Tucker handed out sample ballots in support of his candidacy.

12. On March 30, 2009 Respondent Eddie Tucker, Candidate filed a statement of exemption with Petitioner. Respondent also filed two Statements of Limited Activity for candidates who filed statements of exemption on March 30, 2009 for 40 Days Before General Election and 8 Days Before General Election.

13. Prior to March 30, 2009, Respondent Tucker, Candidate received at least \$750.00 from a single contributor, and made \$762.85 in expenditures.

14. Prior to March 30, 2009, the aggregate of contributions received or the aggregate of expenditures made on behalf of Respondent exceeded \$500.00 from a single contributor, other than the candidate, contributed more than \$325.00.

15. On April 4, 2009 a fundraiser was held in support of Respondent's candidacy. Respondents paid the following expenditures on April 3, 2009 which appeared on a 24 Hour Before General Election Report: Respondent Tucker, candidate paid Leon H. Lewis & Sons \$225.75 in cash for food; \$220.00 to Lohr Distributing for drinks. The Report also included an expenditure of \$164.00 to Sams Club for food.

16. On June 10, 2009, Respondent Eddie Tucker, Candidate filed a Statement of Exemption Rejection with Petitioner.

17. There is probable cause to believe that Respondent Eddie Tucker, Candidate violated §130.016, RSMo, by filing a Statement of Exemption on March 30, 2009 when the aggregate of contributions received or the aggregate of expenditures made on behalf of Respondent exceeded \$500.00 and a single contributor, other than the candidate, contributed more than \$325.00, and by not filing a Statement of Rejection of Exemption until June 10, 2009, and that Respondent Tucker did so knowingly.

COUNT II – Failure to Form Timely a Candidate Committee and to File Timely a Statement of Committee Organization

18. §130.021.2, RSMo provides:

Every candidate for offices listed in subsection 1 of section 130.016 who has not filed a statement of exemption pursuant to that subsection and every candidate for offices listed in subsection 6 of section 130.016 who is not excluded from filing a statement of organization and disclosure reports

pursuant to subsection 6 shall form a candidate committee and appoint a treasurer. Thereafter, all contributions on hand and all further contributions received by such candidate and any of the candidate's own funds to be used in support of the person's candidacy shall be deposited in a candidate committee depository account established pursuant to the provisions of subsection 4 of this section, and all expenditures shall be made through the candidate, treasurer or deputy treasurer of the person's candidate committee.

19. §130.021.5, RSMo provides:

... any candidate who is not excluded from forming a committee in accordance with the provisions of section 130.016 shall file a statement of organization with the appropriate officer within twenty days after the person or organization becomes a committee but no later than the date for filing the first report required pursuant to the provisions of section 130.046.

20. On February 17, 2009, Respondent filed a declaration of candidacy with the St. Louis City Board of Elections as an independent candidate, as required by the charter of the City of St. Louis.

21. Respondent was required to file a Statement of Committee Organization no later than March 23, 2009.

22. On June 10, 2009 Respondents filed a Statement of Committee Organization with Petitioner under committee name "Eddie Tucker". The statement listed no Official Fund Depository and no such fund was ever established.

23. There is probable cause to believe that Respondents violated §130.021, RSMo, by failing to file a Statement of Committee Organization until June 10, 2009, when a Statement of Committee Organization was due no later than March 23, 2009, and that Respondent Tucker did so knowingly.

COUNT III – Failure to Establish an Official Fund Depository

24. The Statement of Committee Organization filed with Petitioner listed no Official Fund Depository and no such fund was ever established.

25. §130.021.2, RSMo cited in paragraph 21 requires that every committee establish an official fund depository, and that all contributions be deposited and expenditures made from the official fund depository.

26. Respondent has reported receiving a total of \$1,466.60 in monetary contributions, and making \$2,216.70 in expenditures. No monetary contributions were deposited into an official fund depository and no expenditures were made from an official fund depository.

27. There is probable cause to believe that Respondents violated §130.021.2, RSMo, by failing to establish an official fund depository for all monetary contributions and expenditures, and that Respondent Tucker did so knowingly.

COUNT IV Cash Expenditures over \$50

28. According to §130.031.2, RSMo:

Except for expenditures from a petty cash fund which is established and maintained by withdrawals of funds from the committee's depository account and with records maintained pursuant to the record-keeping requirements of section 130.036 to account for expenditures made from petty cash, each expenditure of more than fifty dollars, except an in-kind expenditure, shall be made by check drawn on the committee's depository and signed by the committee treasurer, deputy treasurer or candidate. A single expenditure from a petty cash fund shall not exceed fifty dollars, and the aggregate of all expenditures from a petty cash fund during a calendar year shall not exceed the lesser of five thousand dollars or ten percent of all expenditures made by the committee during that calendar year. A check made payable to "cash" shall not be made except to replenish a petty cash fund.

29. On April 3, 2009, Respondent Tucker paid Leon H. Lewis & Sons \$225.75 in cash for food.

30. There is probable cause to believe that Respondent Tucker violated §130.031.2, RSMo by making at least one single expenditure in the amount of \$225.75 in cash, and that Respondents did so knowingly.

COUNT V - Failure to File Timely Campaign Finance Disclosure Reports

31. Paragraphs 1 through 36 are incorporated by reference.

32. § 130.046.1, RSMo, provides that campaign finance disclosure reports required by §130.041 for all committees shall be filed 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;

(3) Not later than the fifteenth day following the close of each calendar quarter.

33. §130.011(9), RSMo provides that a candidate committee of an unsuccessful candidate shall terminate the later of either thirty days after the general election or upon the satisfaction of all committee debt after the election.

34. On June 10, 2009, Respondents filed the following campaign finance disclosure reports: an 8 Day Before General Election Report, originally due March 30,

2009; an April 2009 Statement of Limited Activity, originally due April 15, 2009; and a Termination Statement originally due May 7, 2009.

35. §130.050.3, RSMo requires the receipt of any late contribution or loan of more than two hundred fifty dollars by a candidate committee supporting a candidate shall be reported to the appropriate officer no later than 24 hours after receipt

36. On June 10, 2009, Respondents filed a 24 Hour Report of Late Contribution Received, reporting the receipt of \$820.00 in contributions received from fundraising activities on April 4, 2009. Such report was due no later than April 5, 2009.

37. There is probable cause that Respondents have violated §130.046. RSMo and §130.050.3 RSMo by filing the following reports on June 10, 2009: an 8 Day Before General Election Report, originally due March 30, 2009; an April 2009 Statement of Limited Activity, originally due April 15, 2009; and a Termination Statement originally due May 7, 2009; and a 24 Hour Report of Late Contribution Received, originally due April 5, 2009, 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 agree that they will 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 the Respondents Eddie Tucker, Candidate and Eddie Tucker, Committee in the amount of \$6,228.00 pursuant to §105.961.4(6) RSMo. However, if Respondents pay \$622.00 of that fee within forty- five (45) days after the date of the Order, the remainder of the fee will be stayed for two years, 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.

If Respondents Respondents Eddie Tucker, Candidate and Eddie Tucker, Committee have not committed any further violations of the campaign finance disclosure laws pursuant to Chapter 130, RSMo 2000, during the two year stay then Respondents will not be required to pay this fee.

If, however, any Respondent is found to have violated the campaign finance laws pursuant to Chapter 130, RSMo 2000, during this two year stay, Respondents will be required to pay the fee as originally imposed by the Commission. The fee will be due immediately upon final adjudication finding Respondent guilty of such a violation.

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-styled action.

4. Respondent, together with his heirs and assigns, and his attorney, do hereby waive, release, acquit and forever discharge the Missouri Ethics Commission and its attorney 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 respondent and their attorneys now have or which they may hereafter have, which is based upon or arises out of the above-styled case.

RESPONDENT

PETITIONER

By: Eddie Tucker 3-9-10
Eddie Tucker, Candidate Date

By: Julie A. Allen 3/2/10
Julie A. Allen Date
Executive Director

By: Eddie Tucker 3-9-10
Eddie Tucker, Committee Date

By: Elizabeth L. Ziegler 3/11/10
Elizabeth L. Ziegler Date
General Counsel
Missouri Ethics Commission
Missouri Bar No. 35493

3411-A Knipp Drive
P.O. Box 1370
Jefferson City, MO 65102
Telephone: (573)751-2020
Telefax: (573) 526-4506

Attorney for Petitioner