

BEFORE THE
MISSOURI ETHICS COMMISSION

Filed
MAR 11 2010
Missouri Ethics
Commission

MISSOURI ETHICS COMMISSION)
)
Petitioner,)
)
v.)
)
SAMUEL COLEMAN, Candidate)
)
and)
)
COLEMAN FOR REPRESENTATIVE, Committee)
)
Respondents.)

No. 09A113

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

This is the Final Decision and Order of the Missouri Ethics Commission following a hearing on a Complaint filed by Petitioner, by and through Counsel, pursuant to §105.961, RSMo, and Chapter 536, RSMo. The hearing was conducted before the following members of the Missouri Ethics Commission: Michael Kilgore, Ken Legan, Jeff Davison, Jim Wright, Brad Mitchell and Jim Tweedy.

The closed hearing took place on March 11, 2010, at the offices of the Missouri Ethics Commission at 3411A Knipp Drive, Jefferson City, Missouri 65109. The Commission was represented by Elizabeth L. Ziegler, Legal Counsel. Respondent Samuel Coleman appeared in person.

The Commission admitted into evidence Petitioner's Exhibits 1 through 18, and Respondent's Exhibits A and B. The Petitioner and Respondents also entered into a Stipulation of Findings of Fact and Law which was entered into the record. Having

considered all the competent and substantial evidence upon the whole record, the Commission finds as follows:

FINDINGS OF FACT

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. On October 5, 2007 a Statement of Committee Organization was filed for Respondent Coleman for Representative (“Committee”), as a Candidate Committee.
3. Respondent Committee was formed in support of Samuel Coleman for State Representative in the 58th District in the August 5, 2008 election.
4. Respondent Coleman did not appear on the ballot for State Representative, District 58 in the August 5, 2008 primary election.
5. On the Statement of Committee Organization, Respondents disclosed official fund depository, No. 985380414, at the National City Bank, 119 N. Broadway, St. Louis, MO 65205.
6. Pursuant to §130.026, RSMo, Petitioner is the appropriate officer designated to receive the statement of committee of organization and campaign finance reports for Committee.
7. Pursuant to §130.058, RSMo the candidate is ultimately responsible for all reporting requirements pursuant to this chapter.
8. Pursuant to §105.959, RSMo, the Commission’s staff has audited the files of the Commission and reported its findings to the Commission.

9. Based on the report of its staff, the Commission determined that there are reasonable grounds to believe that a violation of law has occurred and is therefore authorized to hold a hearing in this matter pursuant to § 105.961.3, RSMo.

Failure to Accurately Report Contributions Received

10. Respondents have violated §130.041.1(3)(a) , RSMo by failing to report contributions totaling \$1,179.16, including the name, address, employer or occupation of the contributor which were deposited into the official fund depository, and by reporting \$680.00 in contributions which were not deposited into the official fund depository.

11. The following contributions were deposited into the official fund depository but are not accurately reflected on campaign finance disclosure reports filed by Respondents:

Date	Check #	Contributor	Amount	Correct Report
12/11/2007	3637	Sheronda Brown	\$100.00	Jan08Q
12/31/2007	200162	Guarantee Interiors	\$325.00	Jan08Q
2/3/2008	1806	Actblue	\$312.16	Apr08Q
2/29/2008	871	Evan Krauss	\$100.00	Apr08Q
3/11/2008	Cash		\$342.00	Apr08Q

12. Respondents reported the following contributions on campaign finance disclosure reports which were not deposited as reported into the official fund depository:

Date	Payee	Amount	Reported
	Anonymous Cash Contributor	\$20.00	Apr08Qtrly
3/11/2008	Jolease Marshall	\$50.00	Apr08Qtrly
3/11/2008	Kim Banks	\$20.00	Apr08Qtrly
3/12/2008	LaRhonda Wilson	\$20.00	Apr08Qtrly
3/29/2008	Robert Horton	\$325.00	Apr08Qtrly
3/31/2008	Cash from Fundraising Event	\$245.00	Apr08Qtrly

Failure to Accurately Report Expenditures

13. The following expenditures were paid from the official fund depository but not accurately reflected on campaign finance reports filed by Respondents:

Date	Check #	Payee	Amount	Correct Rpt
12/3/2007	1010	Barnard Rubber Stamp	\$22.95	Jan08Q
		Sub-total:	\$22.95	
1/14/2008	Debit Card	Q-Stop	\$46.32	Apr08Q
1/18/2008	Bank Charge	Item Photocopy Fee	\$7.50	Apr08Q
2/29/2008	Bank Charge	Check Image Fee	\$2.00	Apr08Q
3/3/2008	Debit Card	Exxonmobil	\$43.31	Apr08Q
3/31/2008	Bank Charge	Check Image Fee	\$2.00	Apr08Q
		Sub-total:	\$101.13	
4/17/2008	Debit Card	Amoco Oil	\$54.42	July08Q
4/18/2008	Debit Card	Exxonmobil	\$60.30	July08Q
4/21/2008	Debit Card	Kings Phillips	\$38.94	July08Q
4/21/2008	Debit Card	Federal Express	\$19.38	July08Q
4/25/2008	Debit Card	Kobe at Westport	\$25.31	July08Q
4/30/2008	Bank Charge	Check Image Fee	\$2.00	July08Q
5/14/2008	1032	Demetrick Allen	\$1,500.00	July08Q
5/30/2008	Bank Charge	Check Image Fee	\$2.00	July08Q
5/30/2008	Debit Card	Gas Mart	\$55.81	July08Q
6/19/2008	1034	Cardia Johnson	\$1,500.00	July08Q
6/30/2008	Bank Charge	Check Image Fee	\$2.00	July08Q
		Sub-total:	\$3,260.16	
7/31/2008	Bank Charge	Check Image Fee	\$2.00	Oct08Q
8/29/2008	Bank Charge	Check Image Fee	\$2.00	Oct08Q
9/30/2008	Bank Charge	Check Image Fee	\$2.00	Oct08Q
10/31/2008	Bank Charge	Check Image Fee	\$2.00	Jan09Q
11/12/2008	Debit Card	Enterprise Rent-A-Car	\$168.06	Jan09Q
11/28/2008	Bank Charge	Check Image Fee	\$2.00	Jan09Q
12/19/2008	1035	Kohner Properties	\$750.00	Jan09Q
12/31/2008	Bank Charge	Check Image Fee	\$2.00	Jan09Q
		Sub-total:	\$930.06	
1/15/2009	1036	Kohner Properties	\$700.00	Apr09Q
1/30/2009	Bank Charge	Check Image Fee	\$2.00	Apr09Q
2/27/2009	Bank Charge	Check Image Fee	\$2.00	Apr09Q
3/31/2009	Bank Charge	Check Image Fee	\$2.00	Apr09Q

		Sub-total:	\$706.00	
4/30/2009	Bank Charge	Check Image Fee	\$2.00	July09Q
5/29/2009	Bank Charge	Check Image Fee	\$2.00	July09Q
5/30/2009	1060	Justin Wong	\$910.00	July09Q
6/29/2009	Bank Charge	Check Image Fee	\$2.00	July09Q
		Sub-total:	\$916.00	

14. On the April 2008 Quarterly Disclosure Report, Respondents reported the following expenditure which was not expended from the official fund depository:

Date	Payee	Amount	Report
3/25/2008	Auburn Quad	\$12.84	Apr08Q

Failure to File Full and Timely Campaign Finance Disclosure Reports

15. Respondents filed a Statement of Limited Activity on April 13, 2009 for the period of October 1, 2008 through March 31, 2009. Respondents made \$1,636.06 in expenditures from July 1, 2008 through March 31, 2009.

16. Respondents filed a Statement of Limited Activity on July 29, 2009 for the period of April 1, 2009 through June 30, 2009. Respondents made \$916.00 in expenditures from April 1, 2009 through June 30, 2009.

17. Respondents filed the July 2009 Quarterly Disclosure Report, originally due no later than July 15, 2009, on July 29, 2009.

Failure to Terminate

18. Having not appeared on the August 5, 2008 ballot, and having not filed an amended Statement of Committee stating an election date in which Respondent Coleman would run for office, Respondent Coleman was required to terminate the Committee.

CONCLUSIONS OF LAW

Failure to Accurately Report Contributions Received

1. According to § 130.041.1(3)(a) , RSMo:

Except as provided in subsection 5 of section 130.016, the candidate, if applicable, treasurer or deputy treasurer of every committee which is required to file a statement of organization, shall file a legibly printed or typed disclosure report of receipts and expenditures. The reports shall be filed with the appropriate officer designated in section 130.026 at the times and for the periods prescribed in section 130.046. Except as provided in sections 130.049 and 130.050, each report shall set forth:

- (3) Receipts for the period, including:

- (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;

2. There is probable cause that Respondents have violated §130.041.1(3)(a) , RSMo by failing to report contributions totaling \$1,179.16, including the name, address, employer or occupation of the contributor which were deposited into the official fund depository, and by reporting \$680.00 in contributions which were not deposited into the official fund depository.

Failure to Accurately Report Expenditures

3. §130.041.1(4)(d), RSMo provides:

§130.041.1. Except as provided in subsection 5 of section 130.016, the candidate, if applicable, treasurer or deputy treasurer of every committee which is required to file a statement of organization, shall file a legibly printed or typed disclosure report of receipts and expenditures. The reports shall be filed with the appropriate officer designated in section 130.026 at the times and for the periods prescribed in section 130.046. Except as provided in sections 130.049 and 130.050, each report shall set forth:

(4) Expenditures for the period, including:

...

(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.

4. There is probable cause to believe that Respondents violated §130.041.1(4)(d), RSMo by failing to report \$5,936.30 in expenditures, including the name and address of each to whom the expenditure was made or incurred from the official fund depository, and by reporting \$12.84 in expenditures which were not expended from the official fund depository, and that Respondents did so knowingly.

Failure to File Full and Timely Campaign Finance Disclosure Reports

5. §130.046.1(3), RSMo provides the quarterly disclosure reports required by section 130.041 for all committees shall be filed not later than the fifteenth day following the close of each calendar quarter.

6. §130.046.5(2), RSMo provides:

No disclosure report needs to be filed for any reporting period if during that reporting period the committee has neither received contributions aggregating more than five hundred dollars nor made expenditure aggregating more than five hundred dollars and has not received contributions aggregating more than three hundred dollars from any single contributor and if the committee's treasurer files a statement with the appropriate officer that the committee has not exceeded the identified thresholds in the reporting period.

7. There is probable cause to believe that Respondents violated §130.046.1(3), RSMo and §130.046.5(2), RSMo by filing Limited Activity Statements in April and July 2009, when Respondents expenditures for both reporting periods exceeded \$500.00, and by filing the July 2009 Quarterly Disclosure Report untimely, and that Respondents did so knowingly.

Failure to Terminate

8. §130.011(3), RSMo defines a candidate committee as:

(3) "Candidate", an individual who seeks nomination or election to public office.... A candidate shall be deemed to seek nomination or election when the person first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote the person's candidacy for office; or

(b) Knows or has reason to know that contributions are being received or expenditures are being made or space or facilities are being reserved with the intent to promote the person's candidacy for office...; or

(c) Announces or files a declaration of candidacy for office;

9. §130.011(9), RSMo defines a candidate committee as:

a committee which shall be formed by a candidate to receive contributions or make expenditures in behalf of the person's candidacy and which shall continue in existence for use by an elected candidate or which 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...

10. §130.046.7, RSMo provides:

In the case of a committee which disbands and is required to file a termination statement pursuant to the provisions of section 130.021 with the appropriate officer not later than the tenth day after the committee was dissolved, the candidate, committee treasurer or deputy treasurer shall

attach to the termination statement a complete disclosure report for the period closing on the date of dissolution. A committee shall not utilize the provisions of subsection 8 of section 130.021 or the provisions of this subsection to circumvent or otherwise avoid the reporting requirements of subsection 6 or 7 of this section.

11. There is probable cause the Respondents violated §130.011(9), RSMo and §130.046.7, RSMo by failing to terminate Committee and file a termination statement with the Commission, and that Respondents *did so knowingly*.

ORDER

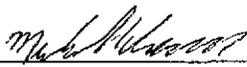
The Commission finds probable cause that Samuel Coleman and Coleman for Representative knowingly violated §130.041.1(3)(a) , RSMo, §130.041. 1(4)(d), RSMo, §130.046. 1(3), RSMo, §130.046. 5(2), RSMo, and §130.011(9), RSMo and §130.046.7, RSMo.

It is the order of the Missouri Ethics Commission that a fee is imposed against the Respondents Samuel Coleman and Coleman for Representative in the amount of \$5,000.00 pursuant to § 105.961.4(6) RSMo and that Samuel Coleman and Coleman for Representative file all campaign finance disclosure reports which are due by the committee within 45 days of the date of this order.

However, if Respondents Samuel Coleman and Coleman for Representative file all necessary reports with the Commission and pay \$500.00 of that fee within 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 Samuel Coleman and Coleman for Representative have not committed any further violations of the campaign finance disclosure laws pursuant to Chapter 130, RSMo, during the two year stay, then the Respondents will not be required to pay the remainder of the fee. If, however, either Respondent is found to have violated the campaign finance laws pursuant to Chapter 130, RSMo, during this two year stay, 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 Respondents probable cause of such a violation.

Date: 03/11/2010



Michael S. Kilgore, Chairman
MISSOURI ETHICS COMMISSION