

Filed
AUG 18 2014
Missouri Ethics
Commission

**BEFORE THE
MISSOURI ETHICS COMMISSION**

MISSOURI ETHICS COMMISSION,)
)
Petitioner,)
)
v.)
)
MISSOURI HOUSE DEMOCRATIC) Case No. 13E140
CAMPAIGN COMMITTEE,)
d/b/a MO HOUSE DEMOCRATIC)
CAMPAIGN COMMITTEE)
Continuing Committee)
)
Respondent.)

CONSENT ORDER

The parties having filed a Joint Stipulation of Facts, Waiver of Hearing, 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 Respondent MO House Democratic Campaign Committee violated Sections §130.041.1(3)(d), §130.041.1(4), §130.041.1(8), and §130.021.7, 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. Respondent 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 Respondent Missouri House Democratic Campaign Committee d/b/a Mo House Democratic Committee in the amount of \$10,000.00, pursuant to Section 105.961.4(6), RSMo. The fee will be paid by check or money order made payable to the Missouri Ethics Commission within forty-five days after the date of the Order.

3. It is the further Order of the Missouri Ethics Commission that Respondent Missouri House Democratic Campaign Committee d/b/a Mo House Democratic Committee file accurately all necessary campaign finance reports and statements, including but not limited to reports from January 2012 through termination of the committee, as appropriate within forty-five days after the date of the Order.

SO ORDERED this 18th day of August,
2014

By:



Charles Weedman, Chair
Missouri Ethics Commission

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) Case No. 13E140
MISSOURI HOUSE DEMOCRATIC CAMPAIGN)
COMMITTEE,)
d/b/a MO HOUSE DEMOCRATIC CAMPAIGN)
COMMITTEE)
Continuing Committee)
)
Respondent.)

**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 Respondent, Missouri House Democratic Campaign Committee acknowledges that it has 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 Respondent further acknowledges that it is 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 Respondent be proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against Respondent; the right to present evidence on Respondent's behalf at the hearing; and the right to a decision upon the record of the hearing. Being aware of these rights provided to Respondent by operation of law, the undersigned Respondent knowingly

and voluntarily waives each and every one of these rights and freely enters 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 agrees to abide by the terms of this document.

I.

Based upon the foregoing, the Petitioner and the undersigned Respondent 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 §105.955, RSMo, in part for the purpose of enforcing the provisions of Chapter 130, RSMo.

2. Respondent Missouri House Democratic Campaign Committee is a non-profit corporation that was registered with the Missouri Secretary of State and registered with the Missouri Ethics Commission from October 10, 1997 through July 18, 2013, as a continuing committee named “Mo House Democratic Campaign Committee” hereinafter referred to as “the committee.” Respondent Missouri House Democratic Campaign Committee is referred to hereafter as “MHDCC.”

3. The Missouri House Democratic Campaign Committee was registered as a non-profit corporation with the Missouri Secretary of State from February 2009 through December 19, 2012 when it was administratively dissolved. The Articles of Incorporation stated that the corporation was formed to work with the Democratic Caucus in the Missouri House of Representatives. The Annual Report filed by Jody Murphy on November 16, 2011, identified

Jody Murphy as president and board member, and listed Cyrus Dashtaki and Stacy Steen as board members.

4. Jody Murphy served as the Executive Director of the MHDCC from about January 2011 through November 2012. Jody Murphy no longer resides in the State of Missouri.

5. From July 29, 2011 through July 2, 2013 Cyrus Dashtaki served as the Treasurer of the committee.

6. The official fund depository account for the committee was Central Bank Account No. ending in *3743. The official fund depository was closed due to a zero balance in February 2013. From November 28, 2011 through February 2013, Jody Murphy was the sole authorized signer on the official fund depository account. During the period of his employment, all committee checks were signed solely by Jody Murphy.

7. Through his employment as Executive Director, Jody Murphy performed or supervised various duties for the committee which included receiving contributions and making expenditures from and through the committee's official fund depository account; withdrawing funds from the committee's official fund depository account; filing, signing and/or attesting to various official filings; signing checks and conducting fundraising on behalf of the committee; filing, signing and attesting to various disclosure reports on behalf of the committee, maintaining records on behalf of the committee; and receiving official notices on behalf of the committee.

8. The Commission received a complaint filed against Respondent pursuant to §105.957, RSMo.

COUNT I

Failure to timely and accurately report expenditures and in-kind contributions

Expenditures to Mad Dog Mail, Inc.

9. Mad Dog Mail, Inc. is a corporation registered in Florida and provides general consulting, designing and mailing of campaign mail pieces.

10. During the period covered by this agreement, \$269,982.09 was reported by MHDCC in monetary expenditures to Mad Dog Mail, Inc., as follows:

Date	Purpose	Amount	Type	Report
1/16/2012	Mailing	\$2,451.38	Paid	AMENDED April Quarterly Report
9/18/2012	Direct Mail	\$7,500.00	Paid	October Quarterly Report
10/4/2012	Direct mail	\$26,553.26	Paid	8 Day Before General Election-11/6/2012
10/5/2012	Direct mail	\$27,895.29	Paid	8 Day Before General Election-11/6/2012
10/8/2012	Direct mail	\$16,289.39	Paid	8 Day Before General Election-11/6/2012
10/11/2012	Direct mail	\$30,000.00	Paid	8 Day Before General Election-11/6/2012
10/15/2012	Direct mail	\$19,385.42	Paid	8 Day Before General Election-11/6/2012
10/18/2012	Direct mail	\$28,567.19	Paid	8 Day Before General Election-11/6/2012
10/22/2012	Direct mail	\$30,000.00	Paid	8 Day Before General Election-11/6/2012
10/24/2012	Direct mail	\$25,483.68	Paid	8 Day Before General Election-11/6/2012
10/26/2012	Direct mail	\$30,000.00	Paid	30 Day After General Election-11/6/2012
10/30/2012	Direct Mail	\$25,856.48	Paid	30 Day After General Election-11/6/2012
TOTAL		\$269,982.09		

11. During the period covered by this agreement, records obtained from Mad Dog Mail, Inc. indicate invoices billed to MHDCC in the amount of \$274,171.99.

12. During the period of the agreement, Mad Dog Mail, Inc. was paid \$148,102.37 from the official fund depository account for the committee.

13. During the period covered by this agreement, Mad Dog Mail, Inc. was paid \$62,312.46 by other persons for invoices billed to the MHDCC.

14. During the period covered by this agreement, seventeen mailers were invoiced by Mad Dog Mail, Inc. to the MHDCC but showed “unpaid” on the invoices for a total of \$63,757.16. The printed material contained disclaimers which stated that they were paid for by the MHDCC.

15. For mailers at issue in this agreement, Respondent failed to file direct expenditure reports or failed to report in-kind contributions for expenditures made in support of candidates or received by other committees.

16. Respondent failed to file timely, accurate, and cumulative campaign finance reports by reporting \$269,982.09 in monetary expenditures to Mad Dog Mail, Inc. when the committee actually paid Mad Dog Mail, Inc. \$148,102.37 from the official fund depository, other persons paid Mad Dog Mail, Inc. \$62,312.46, and the remainder of the reported monetary expenditures to Mad Dog Mail, Inc. were not identified as paid from the official fund depository account or from other persons.

Failure to timely and accurately report additional expenditures

17. Respondent failed to file timely, accurate, and cumulative campaign finance reports with accurate money on hand by failing to timely and accurately report \$87,821.00 in expenditures each of which exceeded one hundred dollars, from the official fund depository accounts, as follows in paragraphs 18 through 24.

18. Respondent filed a January 2012 Quarterly Report on January 17, 2012 and an amended report on June 26, 2013. Respondent failed to report the following expenditure for the January 2012 Quarter as follows:

Item Date	Posted Date	Check No.	Description	Check Amount	Reference Notes
11/01/11	11/07/11	1901	Stacy Steen	\$3,583.69	consulting

19. Respondent filed an April 2012 Quarterly Report on April 16, 2012, and an amended report on June 26, 2013. Respondent failed to report the following expenditure for the April 2012 Quarter as follows:

Item Date	Posted Date	Check No.	Description	Check Amount	Reference Notes
02/01/12	02/01/12	1946	Stacy Steen	\$3,000.00	fundraising

20. Respondent filed an 8 Day Before 2012 Primary Election Report on July 30, 2012, and an amended report on September 5, 2012. Respondent failed to report the following expenditures for the period of July 1, 2012 through July 26, 2012 as follows:

Item Date	Posted Date	Check No.	Description	Check Amount	Reference Notes
07/02/12	07/05/12	1953	Fred Wickham	\$306.48	reimbursement
07/07/12	07/10/12	1958	Jody Murphy	\$432.12	reimbursement
07/10/12	08/07/12	1960	Fred Wickham	\$132.03	reimbursement
07/10/12	07/11/12	1959	Jody Murphy	\$227.19	reimbursement
07/15/12	08/15/12	1976	Zack Allen	\$1,250.00	payment
07/17/12	07/23/12	1962	Blair Henry	\$72.50	gas-reimbursement
			Total	\$2,420.32	

21. Respondent filed a 30 Day After 2012 Primary Election Report on September 5, 2012. No amended report was filed. Respondent failed to report the following expenditures for the period of July 27, 2012 through September 1, 2012 as follows:

Item Date	Posted Date	Check No.	Description	Check Amount	Reference Notes
07/27/12	07/31/12	1970	Blair Henry	\$137.53	reimbursement
07/28/12	08/07/12	1971	Fred Wickham	\$80.61	reimbursement
07/28/12	07/26/12	1966	Greene County Democratic Party	\$400.00	rent
07/28/12	07/30/12	1972	Jody Murphy	\$148.00	reimbursement
07/28/12	07/26/12	1968	Momentum Analysis	\$1,302.66	expenses
08/01/12	08/02/12	1974	Blair Henry	\$81.95	reimbursement
08/20/12	08/22/12	1990	UGA, LLC	\$3,000.00	rent
08/21/12	08/27/12	1991	Jason Copeland	\$130.53	reimbursement
08/23/12	08/24/12	1992	Jody Murphy	\$358.12	reimbursement
08/24/12	08/29/12	1998	Momentum Analysis	\$7,200.00	polling
08/27/12	09/17/12	1999	Campus Media	\$347.72	travel
08/27/12	08/28/12	2000	Jody Murphy	\$531.26	travel
09/01/12	09/05/12	1997	Brian Smith	\$2,500.00	payment
			Total	\$16,218.38	

22. Respondent filed an October 2012 Quarterly Report on October 15, 2012. No amended report was filed. Respondent failed to report the following expenditures for the October 2012 Quarter as follows:

Item Date	Posted Date	Check No.	Description	Check Amount	Reference Notes
09/04/12	09/07/12	2003	JVW Inc	\$4,300.00	production
09/15/12	09/18/12	2012	Katrina Utz	\$625.00	payment
09/18/12	09/20/12	2016	Momentum Analysis	\$7,500.00	polling
			Total	\$12,425.00	

23. Respondent filed an 8 Day Before 2012 General Election Report on October 29, 2012, for the period of October 1, 2012 through October 26, 2012. No amended report was filed. Respondent MHDCC failed to report the following expenditures for this period as follows:

Item Date	Posted Date	Check No.	Description	Check Amount	Reference Notes
10/01/12	10/03/12	2022	Brian Smith	\$2,500.00	payment
10/01/12	10/10/12	2020	Sarah Wood Martin LLC	\$2,648.49	payment
10/19/12	10/24/12	2038	Campus Media	\$11,629.83	payment
10/22/12	10/29/12	2041	Ryan Burke	\$5,500.00	payment
			Total	\$22,278.32	

24. Respondent failed to report the following expenditure to Hayley Rumback Political Consulting on the 8 Day Before 2012 General Election Report. An expenditure in that amount was reported to Mad Dog Mail, Inc. as follows:

Item Date	Posted Date	Check No.	Description	Check Amount	Reference Notes
10/04/12	10/09/12	2026	Hayley Rumback Political Consulting	\$27,895.29	research
		Date Reported	Description	Amount Reported	
		10/5/2012	Mad Dog Mail	\$27,895.29	

25. Respondent failed to file timely, accurate, and cumulative campaign finance reports with accurate money on hand by failing to timely report \$163.62 in expenditures, each of which was one hundred dollars or less, from the official fund depository account:

Date	Description	Check Amount	Report
06/04/12		\$25.00	July 2012 Quarterly
08/03/12	FRST BK MRCH SVCFEE	\$25.00	30 Day After 2012 Primary
08/03/12	FRST BK MRCH SVCINTERCHNG	\$1.58	30 Day After 2012 Primary
08/29/12	Harland Clarke Chk Orders	\$45.83	30 Day After 2012 Primary
09/04/12	FRST BK MRCH SVCFEE	\$25.00	October 2012 Quarterly
10/23/12	Overdraft Charge	\$30.00	30 Day After 2012 General
02/11/13	Service Charge	\$11.21	April 2013 Quarterly
	Total	\$163.62	

COUNT II

Failure to File a Statement of Committee Organization Designating a Deputy Treasurer

26. From January 2011 through its termination on July 18, 2013, there were two Statements of Committee Organization on file with the Commission for Respondent MHDCC designating a treasurer but no deputy treasurer as follows:

Filed June 29, 2009 through July 29, 2011, Danny Powell, Treasurer

Filed July 29, 2011, Cyrus Dashtaki, Treasurer

27. From the period of January 2011 through November 2012, Jody Murphy was the sole signatory on the official fund depository account, and received contributions, made expenditures, and performed other duties on behalf of the committee as outlined in paragraph 7 of this agreement.

28. While employed as the Executive Director of the Missouri House Democratic Campaign Committee, Murphy effectively served as the Deputy Treasurer for the committee.

29. Respondent failed to file an amended statement of committee organization as required by §130.021.7, RSMo, identifying Jody Murphy as deputy treasurer from the period of January 2011 through November 2012, and failed to file an amended statement of committee organization identifying any deputy treasurer through the committee's termination in July 2013.

JOINT PROPOSED CONCLUSIONS OF LAW

COUNT I

Failure to timely and accurately report expenditures and in-kind contributions

30. Respondent was required to file campaign finance disclosure reports that set forth the total value of all in-kind contributions received. §130.041.1(3)(d), RSMo.

31. Respondent was 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;
- (c) The total dollar value of all in-kind expenditures made;
- (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. Expenditures of one hundred dollars or less may be grouped and listed by categories of expenditure showing the total dollar amount of expenditures in each category, except that the report shall contain an itemized listing of each payment made to campaign workers by name, address, date, amount and purpose of each payment and the aggregate amount paid to each such worker;

§130.041.1(4), RSMo.

32. §130.041.1(8), RSMo requires a committee to report a separate listing by full name and address of any committee for which a transfer of funds or a contribution in any amount has been made during the reporting period, together with the date and amount of each such transfer or contribution.

33. There is probable cause to believe that Respondent violated §130.041.1(3)(d), RSMo, §130.041.1(4), RSMo and §130.041.1(8), RSMo by failing to timely and accurately report expenditures, contributions made, and fees paid by Respondent and therefore failing to timely and accurately report the money on hand in cumulative reports.

COUNT II

Failure to File a Statement of Committee Organization Designating a Deputy Treasurer

34. Every committee, as defined by Section 130.011, RSMo, “shall have a treasurer who, except as provided in subsection 10 of this section, shall be a resident of this state and reside in the district or county in which the committee sits.” §130.021.1, RSMo.

35. A committee may also have a deputy treasurer who, ... shall be a resident of this state and serve in the capacity of committee treasurer in the event the committee treasurer is unable for any reason to perform the treasurer's duties.

36. According to Chapter 130, a committee treasurer or deputy treasurer may:

- Accept contributions and make expenditures from through the committee’s official depository account. §130.021.4(1) RSMo.
- Withdraw funds from the committee’s official depository account and deposit such funds in one or more savings accounts in the committee's name in any bank, savings and loan association or credit union within this state, and may also withdraw funds from an official depository account for investment in the committee's name in any certificate of deposit, bond or security. §130.021.4(2) RSMo.
- File, sign and attest a Statement of Committee Organization with the appropriate election authority. §130.021.5 RSMo.
- Receive contributions, sign checks, and conduct fundraising on behalf of the committee. §130.031, RSMo.
- Maintain committee records on behalf of the committee. §130.036, RSMo.
- File, sign and attest disclosure reports on the behalf of the committee. §130.041, RSMo.

- Receive notices on behalf of the committee. §130.056.2(9), RSMo.

37. According to §130.021.5(3), RSMo, the statement of committee organization shall contain:

“(3) The name, mailing address and telephone number of the committee treasurer, and the name, mailing address and telephone number of its deputy treasurer if the committee has named a deputy treasurer;”

38. According to §130.021.7, RSMo

“A committee which has filed a statement of organization and has not terminated shall not be required to file another statement of organization, except that when there is a change in any of the information previously reported as required by subdivisions (1) to (8) of subsection 5 of this section an amended statement of organization shall be filed within twenty days after the change occurs, but no later than the date of the filing of the next report required to be filed by that committee by section 130.046.”

39. There is probable cause to believe that Respondent violated §130.021.7, RSMo, by failing to file an amended statement of committee organization designating a deputy treasurer from the period of January 2011 through July 2013 within twenty days after Respondent employed and designated individuals to perform the duties of deputy treasurer and who, in fact performed those duties on behalf of Respondent.

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. Respondent 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 Respondent Missouri House Democratic Campaign Committee d/b/a Mo House Democratic Committee in the amount of \$10,000.00, pursuant to Section 105.961.4(6), RSMo. The fee will be paid by check or money order made payable to the Missouri Ethics Commission within forty-five days after the date of the Order.
 - c. It is the further Order of the Missouri Ethics Commission that Respondent Missouri House Democratic Campaign Committee d/b/a Mo House Democratic Committee file accurately all necessary campaign finance reports and statements, including but not limited to reports from January 2012 through termination of the committee, as appropriate within forty-five days after the date of the 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. Respondent, together with its heirs, successors, and assigns, does 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 Respondent or Respondent's 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 Respondent from any late filing fees due to the appropriate filing authority, including Petitioner Missouri Ethics Commission. Respondent understands that late filing fees accrue automatically under Section 105.963, RSMo.

RESPONDENT MISSOURI HOUSE
DEMOCRATIC CAMPAIGN COMMITTEE
d/b/a MO HOUSE DEMOCRATIC
CAMPAIGN COMMITTEE

PETITIONER MISSOURI ETHICS
COMMISSION

By: Jody Murphy 8/13
Jody Murphy Date
Former Executive Director

By: James H. Klahr 8/13/14
James Klahr Date
Executive Director

By: Cyrus Dashaki 8/13/14
Cyrus Dashaki Date
Former Treasurer

By: Elizabeth L. Ziegler 8/14/14
Elizabeth L. Ziegler Date
Attorney for Petitioner

By: Brad Ketcher 8/13/14
Brad Ketcher Date
Attorney for Respondent Missouri House
Democratic Campaign Committee d/b/a Mo
House Democratic Committee