

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 Black was a candidate for the Missouri House of Representatives (District 23) in the August 2012 primary election. Respondent Black formed Derron Black for Missouri as his candidate committee for the August 2012 primary election.

3. Pursuant to Section 105.961, RSMo, the Commission's staff has investigated the reports and statements filed with the Commission and reported the investigation's findings to the Commission.

4. 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 and accurately report contributions received

5. Respondents did not timely report the following five monetary contributions totaling \$1,050:

Contributor	Date	Amount
Cash Deposit	03/14/12	\$100.00
Local Union #124 Voluntary Political Fund	07/03/12	\$250.00
R.D. James	07/23/12	\$100.00
Teamsters Local Union No. 41	07/23/12	\$400.00
Missouri State U.A.W. PAC	08/06/12	\$200.00
	TOTAL	\$1,050.00

6. Respondents did not timely report the following two in-kind contributions totaling \$388.44:

Contributor	Date	Amount	Note
Derron Black	06/14/12	\$290.01	Candidate paid for printing
Bank of America	11/14/12	\$98.43	Bank removed negative balance to force close account
	TOTAL	\$388.44	

COUNT II

Failure to deposit contribution into official depository account and cash expenditure

7. Respondents received a \$200 check contribution from the Missouri State U.A.W. PAC on or about July 30, 2012.

8. Respondent Black endorsed and cashed this check on or about August 6, 2012.

9. Respondents did not deposit this check into Respondents' official depository account.

10. Respondents did not timely report the \$200 contribution from the Missouri State U.A.W. PAC.

11. Respondents stated that these funds were used to purchase gasoline for the election.

12. Respondents did not maintain committee records documenting gasoline expenditures purchased with cash.

13. Respondents did not timely report the \$200 cash expenditure.

COUNT III

Failure to timely and accurately report expenditures

14. Respondents failed to timely report the following nine expenditures greater than \$100 each, totaling \$4,102.87:

Payee	Date	Amount	Paid or Incurred
Lee's Printing Co	07/03/12	\$147.05	Paid
Office Depot	07/05/12	\$122.57	Paid
Office Depot	07/10/12	\$114.20	Paid
Office Depot	07/12/12	\$280.71	Paid
Lee's Printing Co	07/16/12	\$419.36	Paid
Lee's Printing Co	07/26/12	\$261.42	Incurred
Lee's Printing Co	07/31/12	\$1,579.41	Incurred
Lee's Printing Co	07/31/12	\$978.15	Incurred
Gas Purchases	07/31/12	\$200.00	Paid
	TOTAL	\$4,102.87	

15. Respondents failed to timely report the following ten expenditures of \$100 or less each, totaling \$280.23:

Payee	Amount	Date	Transaction Type
Office Max	\$72.79	04/09/12	Check Card
CVS	\$4.30	04/16/12	Check Card
Valley View Liquors	\$4.50	04/17/12	Check Card
Bank of America Overdraft Fee	\$35.00	07/17/12	Bank Fees
Bank of America Overdraft Fee	\$35.00	07/17/12	Bank Fees
Office Depot	\$9.64	07/19/12	Check
Bank of America Overdraft Fee	\$35.00	07/20/12	Bank Fees
Extended Overdrawn Balance Charge	\$35.00	07/23/12	Bank Fees
Bank of America Overdraft Fee	\$35.00	07/27/12	Bank Fees
Bank of America Monthly Maintenance Fee	\$14.00	08/31/12	Bank Fees
TOTAL	\$280.23		

COUNT IV

Failure to maintain committee records and failure to account for outstanding debt on committee termination statement

16. Respondents filed a termination statement and report on August 20, 2012, but did not close the official depository account at that time.

17. On August 20, 2012, Respondents' official depository account had a negative balance of -\$98.43. In November 2012, the bank credited the account \$98.43 to force close the account. On the termination statement and report, Respondents did not disclose the negative balance as outstanding committee debt, and Respondents did not report the disposal of this negative balance on Respondents' termination statement.

18. Respondents identified Respondent Black as the individual responsible for maintaining committee records on the committee's termination statement.

19. Respondents did not maintain and make available for inspection all of the committee's records; for example, Respondents did not maintain and make available for inspection bills, receipts, or invoices for the \$200 cash expenditures discussed at paragraphs 11 through 13 above.

CONCLUSIONS OF LAW

COUNT I

Failure to timely and accurately report contributions received

20. 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;

...

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

...

§ 130.041.1(3), RSMo.

21. There is probable cause to believe that Respondents violated Section 130.041.1(3), RSMo, by failing to timely report \$1,050 in monetary contributions and failing to timely report \$388.44 in in-kind contributions, and that Respondents did so knowingly.

COUNT II

Failure to deposit contribution into official depository account and cash expenditure

22. All 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.” § 130.021.2, RSMo.

23. “All contributions which the committee receives in money, checks and other negotiable instruments shall be deposited in a committee's official depository account.” § 130.021.4(1), RSMo.

24. “[E]ach 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” § 130.031.2, RSMo.

25. There is probable cause to believe that Respondents violated Sections 130.021.2, 130.021.4(1), and 130.031.2, RSMo, by not depositing a \$200 contribution into the committee's official depository account and by making a cash expenditure of \$200, and that Respondents did so knowingly.

COUNT III

Failure to timely and accurately report expenditures

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

- (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;

(e) A list of each loan made, by name and mailing address of the person receiving the loan, together with the amount, terms and date;

§ 130.041.1(4), RSMo.

27. An expenditure includes “an agreement or promise to pay[] money or anything of value, including a candidate’s own money or property, for the purchase of goods, services, property, facilities or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office” § 130.011(16), RSMo.

28. There is probable cause to believe that Respondents violated Section 130.041.1(4), RSMo, by failing to timely report \$4,102.87 in expenditures over \$100 each and failing to timely report \$280.23 in expenditures \$100 or less each, and that Respondents did so knowingly.

COUNT IV

Failure to maintain committee records and failure to account for outstanding debt on committee termination statement

29. A committee’s termination statement “shall include: . . . 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, RSMo.” § 130.021.8, RSMo.

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

31. 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.

32. “All records and accounts of . . . expenditures shall be preserved for at least three years after the date of the election to which the records pertain.” § 130.036.8, RSMo.

33. “Such records shall be available for inspection.” § 130.036.8, RSMo.

34. A committee’s termination statement must also include “the distribution made of any remaining surplus funds and the disposition of any deficits” § 130.021.8, RSMo.

35. 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.

36. There is probable cause to believe that Respondents violated Section 130.036.1, RSMo, by failing to maintain and make available for inspection committee records such as receipts, bills, and invoices, necessary to prepare and substantiate campaign finance reports, and by failing to accurately disclose outstanding committee debt and the disposal of that outstanding debt with Respondents’ termination statement and report, and that Respondents did so knowingly.

ORDER

The Missouri Ethics Commission finds probable cause that Respondents Black and Derron Black for Missouri violated, and have knowingly violated, Sections 130.041.1(3), 130.021.2, 130.021.4(1), 130.031.2, 130.041.1(4), 130.036.1, and 130.036.8, RSMo.

Respondents shall not commit any further violations of the campaign finance laws under Chapter 130, RSMo, for a period of two (2) years from the date of this order.

The Commission orders Respondents to file and amend accurately all necessary campaign finance reports and statements pursuant to Sections 105.961.4(2) and 105.961.5(3), RSMo.

The Missouri Ethics Commission further orders a fee be imposed against Respondents in the amount of \$7,000 pursuant to Section 105.961.4(6), RSMo. If any Respondent pays \$700 of that fee within forty-five (45) days of the date of this Order and files all required campaign finance disclosure reports, the remainder of the fee will be stayed.

Regardless of the stay in the paragraph above, 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 as originally imposed by the Commission. The fee will be due immediately upon final adjudication finding that Respondent committed such a violation.

Respondents Black and Derron Black for Missouri shall be jointly and severally liable for all fees imposed under this order.

SO ORDERED this 10th day of August, 2014.



Charles Weedman, Chair
MISSOURI ETHICS COMMISSION