

BEFORE THE
MISSOURI ETHICS COMMISSION

Filed
MAR 11 2010
Missouri Ethics
Commission

MISSOURI ETHICS COMMISSION)	
)	
Petitioner,)	
)	
v.)	No. 09A275
)	
CHERYL M. NELSON, Candidate)	
)	
and)	
)	
DAPHYNE GARRETT, Treasurer)	
)	
and)	
)	
CITIZENS TO ELECT CHERYL M. NELSON,)	
Committee)	
)	
Respondents.)	

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 3411 A Knipp Drive, Jefferson City, Missouri 65109. The Commission was represented by Elizabeth L. Ziegler, Legal Counsel. The Respondent Cheryl Nelson was represented by Eric E. Vickers. On this date, Counsel for Respondents Cheryl Nelson filed a Waiver of Hearing Appearance and an executed Stipulation of Findings of Fact and Conclusions of Law. The Commission admitted into evidence

Petitioner's Exhibits 1 through 11, and Respondents Exhibit A. 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. Respondent Citizens to Elect Cheryl Nelson ("Committee") was registered as a candidate committee with the St. Louis County Board of Election which was in existence at all relevant times

3. Pursuant to §130.026, RSMo, Petitioner and the election authority for the district or political subdivision is the appropriate officer designated to receive campaign finance reports for a campaign committee.

4. A Statement of Committee Organization was filed with Petitioner on January 4, 2005, specifying Respondent Committee as a candidate committee. The Statement of Committee Organization listed Respondent Cheryl Nelson, as Candidate, and Daphyne Garrett, as Treasurer for Respondent Committee.

5. Respondent Cheryl M. Nelson ("Candidate") was an unsuccessful candidate for Alderman Ward 5 in the City of St Louis for the March 8, 2005 election

6. Respondents filed a 30 Day after Primary Election report on February 25, 2005 and a 30 Day after General Election report on March 25, 2005. The 30 Day after General Election report disclosed \$2,834.13 in money on hand and no committee debt.

7. Respondents have filed no other reports and have not terminated as a committee.

8. Pursuant to §105.961.1, RSMo, a special investigator has conducted an investigation and reported findings to the Commission.

Failure to File Campaign Finance Disclosure Reports

9. Respondents have failed to file the following campaign finance disclosure reports:

8 day before primary election
8 day before general election
April 2005 Quarterly report
July 2005 Quarterly report
October 2005 Quarterly report
January 2006 Quarterly report
April 2006 Quarterly report
July 2006 Quarterly report
October 2006 Quarterly report
April 2007 Quarterly report
July 2007 Quarterly report
October 2007 Quarterly report
January 2008 Quarterly report
April 2008 Quarterly report
July 2008 Quarterly report
October 2008 Quarterly report
April 2009 Quarterly report
July 2009 Quarterly report

Failure to Terminate

10. Respondents failed to terminate thirty days after the General Election, and that Respondents did so knowingly.

CONCLUSIONS OF LAW

Failure to File Campaign Finance Disclosure Reports

1. §130.046.1, RSMo provides as follows:

The disclosure reports required by section 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...; and

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

2. There is probable cause to believe that Respondents violated §130.046.1, RSMo and §130.041.1, RSMo by failing to file eighteen campaign finance disclosure reports, and that Respondents did so knowingly.

Failure to Terminate

3. §130.011(9), RSMo, requires 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 general election.

4. §130.021.8, RSMO provides:

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.

5. There is probable cause that Respondents violated §130.011(9), RSMo and §130.021.8, RSMO by failing to terminate thirty days after the General Election, and that Respondents did so knowingly.

ORDER

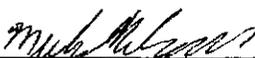
The Commission finds probable cause that Cheryl Nelson and Citizens to Elect Cheryl Nelson knowingly violated §130.041. 1, RSMo, §130.046.1, RSMo, §130.011(9), RSMo and §130.021. 8, RSMO.

It is the order of the Missouri Ethics Commission that a fee is imposed against the Respondents Cheryl Nelson and Citizens to Elect Cheryl Nelson in the amount of \$19,000.00 pursuant to § 105.961.4(6) RSMo and that Cheryl Nelson and Citizens to Elect Cheryl Nelson file all campaign finance disclosure reports which are due by the committee within 45 days of the date of this order.

However, if Respondents Cheryl Nelson and Citizens to Elect Cheryl Nelson file all necessary reports with the Commission and the Local Election Authority and pay \$950.00 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 Cheryl Nelson and Citizens to Elect Cheryl Nelson 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