

**Filed**  
JUL 01 2010  
Missouri Ethics  
Commission

**BEFORE THE  
MISSOURI ETHICS COMMISSION**

MISSOURI ETHICS COMMISSION )  
 )  
 Petitioner, )  
 )  
 v. ) No. 09A117  
 )  
 PHIL LeVOTA and CITIZENS FOR LeVOTA, )  
 )  
 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 Joint Findings of Facts and Conclusions of Law ("Joint Stipulation") with the Missouri Ethics Commission in this matter, the Missouri Ethics Commission hereby accepts as true the proposed Findings of Fact, adopts the proposed Conclusions of Law, and finds that Phil LeVota and Citizens for LeVota violated certain provisions of Chapter 130, RSMo, as stated in the Conclusions of Law.

The Commission directs that all terms and orders of the Joint Stipulation be adopted herein and implemented.

It is the order of the Commission that Respondents Phil LeVota and Citizens for LeVota pay a fee of Fifteen Thousand Five Hundred Dollars (\$15,500.00) to the Missouri Ethics Commission pursuant to § 105.961.4(6), RSMo and § 130.072, RSMo. However, if Respondent Phil LeVota and Citizens for LeVota pay One Thousand Five Hundred Fifty Dollars (\$1,550.00) of that fee upon execution of this document, 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 Phil LeVota and Citizens for LeVota 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 probable cause of such a violation.

SO ORDERED this 30<sup>th</sup> day of June, 2010.

By: \_\_\_\_\_

Chairman

**BEFORE THE  
MISSOURI ETHICS COMMISSION**

MISSOURI ETHICS COMMISSION	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 09A117
	)	
PHIL LeVOTA and CITIZENS FOR LeVOTA,	)	
	)	
Respondents.	)	

**JOINT STIPULATION OF FACTS, WAIVER OF  
HEARINGS BEFORE THE MISSOURI ETHICS COMMISSION,  
AND CONSENT ORDER WITH JOINT PROPOSED  
FINDS 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, Phil LeVota and Citizens for LeVota, 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 acknowledges that they are aware of the various rights and privileges afforded them 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 proposed Joint Findings of Fact and the proposed Joint Conclusions of Law, as follows:

**JOINT FINDINGS OF FACT**

1. The Missouri Ethics Commission (the "Commission") is an agency of the State of Missouri created and established pursuant to Section 105.955, RSMo, in part for the purpose of executing and enforcing the provisions of Chapter 130, RSMo.

2. Respondent Phil LeVota ("LeVota") was an unsuccessful candidate for Municipal Judge in the Lee's Summit, Missouri April 8, 2008 municipal election.

3. Respondent Citizens for LeVota ("Committee") registered as a candidate committee with the Jackson County Board of Election Commissioners and was the candidate committee for LeVota in the April 8, 2008 municipal election.

4. A Statement of Committee Organization was filed for the Committee with the Jackson County Board of Election Commissioners on March 4, 2008. Respondents listed its official fund depository as the Bank of Odessa in Odessa, Missouri.

5. Pursuant to § 130.026, RSMo, the Jackson County Board of Election Commissioners is the appropriate officer designated to receive campaign finance reports for a committee supporting a candidate for Municipal Judge in Lee's Summit, Missouri.

6. Pursuant to § 105.959, RSMo, the Commission's staff has audited the statements and reports of the Committee and reported its findings to the Commission, and the Commission found that reasonable grounds existed to believe that violations had occurred and referred the case to counsel for a hearing before the Commission under § 105.961.3, RSMO.

7. On an 8-day before election report filed with the appropriate officer on March 27, 2008, the Committee reported that on March 21, 2008 it had accepted a loan in the amount of \$10,000.00 from Respondent Phil LeVota.

8. That report was erroneous because the loan was contemplated but not actually funded.

9. On a 30-day after report filed with the appropriate officer on May 5, 2008, the Committee reported that it had repaid the \$10,000.00 monetary loan from Respondent LeVota.

10. That report was erroneous because the loan contemplated but not actually funded.

11. On a 30-day after election report filed with the appropriate officer on May 5, 2008, the Committee reported that on April 8, 2008 it had accepted a monetary contribution of \$3,000.00 from Respondent Phil LeVota.

12. That report was erroneous because no such monetary contribution was made by the candidate, who instead made certain in-kind contributions as set out below.

13. On February 29, 2008, Designer Graphics was paid \$557.63 for a sign supporting Respondent LeVota's campaign. The sign said "Paid for By Citizens for LeVota."

14. On its 8-day before election report, the Committee reported having made expenditures on March 13, 2008 to Designer Graphics of \$712.48 and on March 14, 2008 to Print USA, Inc. of \$1,529.94.

15. On its 30-day after election report, the Committee reported having made an expenditure of \$600.00 to the Lee's Summit Journal.

16. None of the expenditures listed in Paragraphs 13, 14, or 15 were made from the Committee's official depository account, but rather were paid by Respondent LeVota personally.

17. Respondent Committee failed to disclose on its 8-day before election campaign finance report the expenditure to Designer Graphics of \$557.63 referred to in paragraph 13 above, which was made on February 29, 2008, the 40<sup>th</sup> day before the election.

18. The 30-day after election report filed by Respondent Committee failed to include seven (7) expenditures totaling \$2,456.83 that it made from its depository account during that reporting period, which were reported in later disclosure reports.

19. On its 30-day after election report, the Committee failed to include the mailing addresses of persons to whom expenditures of more than \$100.00 had been made.

20. Printed material supporting the candidacy of Respondent LeVota was affixed to the cover of the Lee's Summit Journal on April 2, 2008 and on April 4, 2008.

21. Respondent Committee incurred an obligation to pay the Lee's Summit Journal for those printed items a sum which the Journal states was \$1,100.00 and which Respondents states was \$665.00.

22. The incurred expenditure to the Lee's Summit Journal of between \$665.00 and \$1,100.00 was not reported on the 30-day after report but was included on a later disclosure report filed by the Committee.

23. On April 4, 2008 the Lee's Summit Journal carried an ad paid for in part by Show-Me Council for Accountability & Responsibility in Government ("Show-Me Council"), a continuing

committee, in support of Respondent LeVota's campaign. Respondent LeVota signed a check for \$504.00 from the Show-Me Council to the Lee's Summit Journal for a portion of the payment for the ad.

24. The ad was also paid for in part by Respondent LeVota or his Committee.

25. The above-described payment by Show-Me Council was an in-kind contribution to Respondent Citizens for LeVota.

26. Respondent Committee failed to timely report the receipt of the in-kind contribution from Show-Me Council.

27. On August 13, 2008, cash in the amount of \$665.00 was withdrawn in cash from the Committee's official fund depository account by Respondent LeVota. On its termination report, the Committee reported an expenditure in that amount to the Lee's Summit Journal. Respondents state that payment in cash was required by the Lee's Summit Journal.

28. On its 30-day after election report, Respondent Committee showed cash on hand of \$150.87 and no indebtedness.

29. Respondent Committee failed to file its termination report within thirty (30) days after the election.

30. Respondents have not maintained accurate and complete records and accounts of all of the Committee's receipts and expenditures from the April 8, 2008 municipal election.

#### **JOINT CONCLUSIONS OF LAW**

1. Pursuant to § 130.058, RSMo, a candidate is ultimately responsible for all reporting requirements of the candidate's committee under Chapter 130, RSMo.

2. Section 130.041.1(3), RSMo reads in pertinent part as follows:

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:

.....  
(3) Receipts for the period, including:

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

(e) A separate listing by name and address and employer, or occupation if self-employed or notation of retirement, of each person from whom the committee received contributions in money or any other thing of value, aggregating more than one hundred dollars, together with the date and amount of each such contribution.

3. § 130.041.1(4), RSMo provides, in pertinent part:

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:

(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;

.....  
(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. . . .

4. There is probable cause that Respondents have violated § 130.041.1, RSMo because the Committee erroneously reported that it had received and repaid a \$10,000.00 loan when the loan was contemplated but not funded, and because the Committee erroneously reported that it had received a monetary contribution of \$3,000.00 when no such contribution had been made by the candidate, who instead made certain in-kind contributions.

5. § 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.

6. § 130.021.4(1), RSMo provides, in pertinent part:

All contributions which the committee receives in money, checks and other negotiable instruments shall be deposited in a committee's official depository account. Contributions shall not be accepted and expenditures shall not be made by a committee except by or through an official depository account and the committee treasurer, deputy treasurer, or candidate.

7. There is probable cause that Respondents have violated §§ 130.021.2 and 130.021.4(1), RSMo by failing to deposit in the Committee's depository account \$3,400.05 of the candidate's own funds which were used in support of his candidacy, as listed in paragraphs 13, 14 and 15 of the Findings of Fact.

8. Section 130.046.1(1), RSMo requires expenditures made on the 40<sup>th</sup> day before the election to be reported on its 8-day before election disclosure report.

9. There is probable cause that the Respondents have violated § 130.041.1, RSMo and § 130.046.1(2), RSMo by failing to timely report the \$557.63 expenditure to Designer Graphics as listed in paragraph 13 of the Findings of Fact.

10. Section 130.046.1(2), RSMo requires disclosure of expenditures made between the eleventh day before the election and the twenty-fifth day after the election to be reported on the thirty-day after election disclosure report.

11. There is probable cause to believe that Respondents have violated § 130.041.1, RSMo and § 130.046.1(2), RSMo by failing to timely report seven (7) expenditures totaling \$2,456.83 that it made during the reporting period which were required to be disclosed on the Committee's 30-day after report, which were reported in later disclosure reports.

12. There is probable cause that Respondents have violated § 130.041.1(4)(d), RSMo by failing to disclose addresses of three persons to whom the Committee made expenditures as set out in paragraph 19 of the Findings of Fact, and that they knowingly did so.

13. Under § 130.011(16), RSMo, an expenditure includes an agreement or promise to pay money for goods or services supporting the election of a candidate for public office.

14. There is probable cause that Respondents have violated § 130.041.4(d)), RSMo by failing to report incurred expenditures totaling between \$665.00 and \$1,100.00 as set out in paragraphs 20 through 22 of the Findings of Fact, and that they knowingly did so.

15. There is probable cause that Respondents have violated § 130.041.1(3), RSMo by failing to disclose the in-kind contribution that it received from Show-Me Council as described in paragraphs 23 through 26 of the Findings of Fact.

16. § 130.031.2, RSMo provides:

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.

17. There is probable cause that Respondents have violated § 130.031.2, RSMo by making a cash withdrawal of more than \$50.00 from the Committee's depository account as described in paragraph 27 of the Findings of Fact, and that they knowingly did so.

18. Under § 130.011(9), RSMo, a candidate committee supporting an unsuccessful candidate is required to terminate within thirty (30) days after the general election or upon satisfaction of all committee debt, whichever is later.

19. There is probable cause that Respondents violated § 130.011(9), RSMo by not terminating the Committee within thirty (30) days after the election, and that they knowingly did so.

20. Section 130.036.1, RSMo requires the candidate or treasurer of a committee to maintain accurate records and accounts.

21. Subsection 8 of § 130.036, RSMo reads as follows:

8. All records and accounts of receipts and expenditures shall be preserved for at least three years after the date of the election to which the records pertain. Records and accounts regarding supplemental disclosure reports or reports not required pursuant to an election shall be preserved for at least three years after the date of the report to which the records pertain. Such records shall be available for inspection by the campaign finance review board and its duly authorized representatives.

22. There is probable cause that Respondents have violated §§ 130.036.1 and 130.036.8, RSMo, by failing to maintain accurate and complete records and accounts for the April 8, 2008 municipal election.

**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 in this matter.

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. Respondents agree that they shall file the required missing and amended reports for Citizens for LeVota with the Jackson County Board of Election Commissioners accurately reflecting the receipts and expenditures of the committee by close of business on Friday, June 25, 2010.

c. It is order of the Missouri Ethics Commission that a fee is imposed against the Respondents Phil LeVota and Citizens for LeVota in the amount of \$15,500.00 pursuant to § 105.961.(6), RSMo.

However, if Respondent Phil LeVota and Citizens for LeVota pay \$1,550.00 of that fee upon execution of this document, 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 Phil LeVota and Citizens for LeVota 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 probable cause of such a violation.

3. The parties consent to the entry of record and approval of this Joint Stipulation and



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