

Filed
AUG 10 2011
Missouri Ethics
Commission

**BEFORE THE
MISSOURI ETHICS COMMISSION**

MISSOURI ETHICS COMMISSION)	
)	
Petitioner,)	
v.)	
PHIL AMATO, Candidate)	No. 10E174
)	
and)	
)	
FRIENDS OF PHIL AMATO, Committee)	
)	
Respondents.)	

**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**

The undersigned parties jointly stipulate to the facts and consent to the action set forth below.

The undersigned Respondents, Phil Amato and Friends of Phil Amato, 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 acknowledge that they are 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 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 Respondent's 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 waives 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 Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law, as follows:

JOINT 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 January 28, 2010, A Statement of Committee Organization was filed for Respondent, Friends of Phil Amato (“Committee”), as a Candidate Committee.

3. Respondent Committee was formed in support of Respondent Phil Amato for Jefferson County Council in the August 3, 2010 Primary and the November 2, 2010 General Election.

4. Pursuant to §130.026, RSMo, Petitioner and the local election authority are the appropriate officers designated to receive the statement of committee organization and campaign finance reports for Committee.

5. Pursuant to §130.058, RSMo the candidate is ultimately responsible for all reporting requirements pursuant to this chapter.

6. On October 25, 2010, Respondents filed an 8 Day Before General Election Report which included a Statement of Fund-Raising Activity or Event showing an event occurring on October 12, 2010 with 200 participants that raised \$6,925 in contributions from persons whose name and addresses were contained in committee records pursuant to §130.031.6, RSMo.

7. The 8 Day Before General Election report failed to itemize 12 contributions in excess of \$100.00 each and which totaled \$3,650.00 as follows:

CONTRIBUTOR INFORMATION	DATE	AMOUNT
90th Legislative District Democratic Committee	10/12/2010	\$200.00
CHIPP Political Fund 1401	10/12/2010	\$250.00
Edwin Kerker	10/12/2010	\$150.00
Electrical Workers Voluntary Poitical	10/12/2010	\$200.00
Friends or Ryan McKenna	10/12/2010	\$250.00
Jefferson County Democratic Central Committee	10/12/2010	\$250.00
Kenneth Rothman	10/12/2010	\$150.00
Machinst District #9 PAC	10/12/2010	\$350.00
Marion Becker	10/12/2010	\$400.00
Plumbers and Pipefitters Local 562	10/12/2010	\$300.00
Tim and Kristen Crutchley	10/12/2010	\$150.00
William Rossfeld	10/12/2010	\$1,000.00

8. On January 30, 2011, Respondents filed an amended 8 Day Before General Election Report itemizing the contributions stated in paragraph 7.

9. On October 12, 2010, Respondents received a contribution in cash of \$400.00 from Marion Becker, the Deputy Treasurer of Respondent Committee.

10. This contribution was reported on the amended 8 Day Before General Election Report.

11. On December 20, 2010, Petitioner received a complaint filed against Respondents.

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

JOINT CONCLUSIONS OF LAW

COUNT I

1. §130.011(17), RSMo defines a fund-raising event a:

an event such as a dinner, luncheon, reception, coffee, testimonial, rally, auction or similar affair through which contributions are solicited or received by such means as the purchase of tickets, payment of attendance fees, donations for prizes or through the purchase of goods, services or political merchandise.

2. According to §130.031.6, RSMo, in pertinent part:

Notwithstanding the provisions of subsection 5 of this section, contributions from individuals whose names and addresses cannot be ascertained which are received from a fund-raising activity or event, such as defined in section 130.011, shall not be deemed anonymous contributions, provided the following conditions are met:

(1) There are twenty-five or more contributing participants in the activity or event;

...

(3) The person responsible for conducting the activity or event does not knowingly accept payment from any single person of more than one hundred dollars unless the name and address of the person making such payment is obtained and recorded pursuant to the record-keeping requirements of section 130.036;

(4) A statement describing the event shall be prepared by the candidate or the treasurer of the committee for whom the funds were raised or by the

person responsible for conducting the activity or event and attached to the disclosure report of contributions and expenditures required by section 130.041. The following information to be listed in the statement is in addition to, not in lieu of, the requirements elsewhere in this chapter relating to the recording and reporting of contributions and expenditures:

...

(f) The total dollar amount of contributions received from the event from participants whose names and addresses were not obtained with such contributions and an explanation of why it was not possible to obtain the names and addresses of such participants;

(g) The total dollar amount of contributions received from contributing participants in the event who are identified by name and address in the records required to be maintained pursuant to section 130.036.

3. According to §130.036.3, RSMo :

Notwithstanding the provisions of section 130.041 that only contributors of more than one hundred dollars shall be reported by name and address for all committees, the committee's records shall contain a listing of each contribution received by the committee, including those accepted and those which are rejected and either returned to the donor or transmitted to the state treasurer. Each contribution, regardless of the amount, shall be recorded by date received, name and address of the contributor and the amount of the contribution, except that any contributions from unidentifiable persons which are received through fund-raising activities and events as permitted in subsection 6 of section 130.031 shall be recorded to show the dates and amounts of all such contributions received together with information contained in statements required by subsection 6 of section 130.031. The procedure for recording contributions shall be of a type which enables the candidate, committee treasurer or deputy treasurer to maintain a continuing total of all contributions received from any one contributor

4. According to §130.041.1(3)(a) and (c), RSMo, in pertinent part:

Except as provided in sections 130.049 and 130.050, each report shall set forth:

(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 ...

...

(c) Total amount of all monetary contributions received through fund-raising events or activities from participants whose names and addresses were not obtained with such contributions, with an attached statement or copy of the statement describing each fund-raising event as required in subsection 6 of section 130.031;

3. There is probable cause that Respondents have violated §130.031.6, RSMo and §130.041.1(3)(a) and (c), RSMo by failing to report timely contributions received at a fund-raising event in excess of \$100.00 each, for a total of \$3,650.00 in contributions, and that Respondents did so knowingly.

COUNT II

4. According to §130.031. 1, RSMo:

No contribution of cash in an amount of more than one hundred dollars shall be made by or accepted from any single contributor for any election by a ... candidate committee.

5. There is probable cause that Respondents have violated §130.031.1, RSMo by receiving a contribution of \$400.0 in cash which was in excess of \$100.00 from a single contributor, and that Respondents did so knowingly.

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. Respondents agree that they will 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 the Respondents Phil Amato and Friends of Phil Amato in the amount of \$2,000.00 pursuant to §105.961.4(6) RSMo. However, if Respondents pay \$200.00 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 at the time of execution of this Joint Stipulation.

c. If Respondents Phil Amato and Friends of Phil Amato 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, 2000, 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 guilty of such a violation.

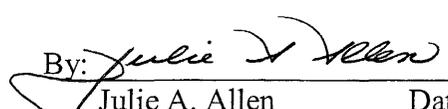
3. The parties consent to the entry of record and approval of this Joint Stipulation and to the termination of any further proceedings before the Commission based upon the Complaint filed by the Petitioner in the above action.

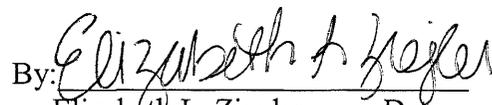
4. Respondents, together with their heirs, successors and assigns, do hereby waive, release, acquit and forever discharge the Missouri Ethics Commission and its attorney of or from any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including, but not limited to, a claim for attorney's fees whatsoever which Respondent and her attorney now have or which they may hereafter have, which is based upon or arises out of the above case.

RESPONDENT

By:  8-1-11
Phil Amato Date
Friends of Phil Amato

PETITIONER

By:  8/10/2011
Julie A. Allen Date
Executive Director

By:  8/10/11
Elizabeth L. Ziegler Date
General Counsel
Missouri Ethics Commission
3411-A Knipp Drive
P.O. Box 1370
Jefferson City, MO 65102
Telephone: (573) 751-2020

Attorney for Petitioner

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**BEFORE THE
MISSOURI ETHICS COMMISSION**

MISSOURI ETHICS COMMISSION)
)
) Petitioner,)
v.)) No. 10E174
)
PHIL AMATO, Candidate)
)
and)
)
FRIENDS OF PHIL AMATO, Committee)
)
) 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 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 the Respondents Phil Amato and Friends of Phil Amato Committee violated §130.031.6, RSMo, §130.041.1(3)(a) and (c), RSMo, and §130.031.1, RSMo as stated in the Joint Stipulation.

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

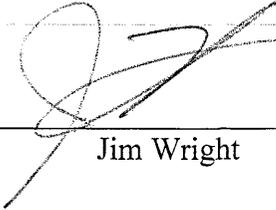
- a. Respondents agree that they will comply with all relevant sections of Chapter 130, RSMo.
- b. It is the order of the Missouri Ethics Commission that a fee is imposed against the Respondents Phil Amato and Friends of Phil Amato in the amount of \$2,000.00 pursuant to §105.961.4(6) RSMo. However, if Respondents pay \$200.00 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 at the time of execution of this Joint Stipulation.

c. If Respondents Phil Amato and Friends of Phil Amato 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, as amended, 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 guilty of such a violation.

SO ORDERED this 10th day of August, 2011.

By: _____


Jim Wright