BEFORE THE
MISSOURI ETHICS COMMISSION

Filed
AUG 05 2010
Missouri Ethics Commission

MISSOURI ETHICS COMMISSION	)	
Petitioner,	)	
v.	)	
CITY OF MOLINE ACRES	)	No. 09E278
AND	)	
MICHELE DeSHAY	)	No. 09E279
AND	)	
SHONTE HARMON-YOUNG	)	No. 09E280
AND	)	
NINA WALKER	)	No. 09E282
Respondents.	)	

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 Stipulaton") with the Missouri Ethics Commission in this matter, the Missouri Ethics Commission hereby accepts as true the facts stipulated and finds that the Respondents City of Moline Acres, DeShay, Harmon-Young and Walker violated §130.031.8, RSMo. The Commission further finds that Respondents DeShay, Harmon-Young and Walker violated §115.646, 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. Respondent agrees that it will comply with all relevant sections of Chapter 130, RSMo.

b. It is the order of the Missouri Ethics Commission that a letter of reprimand be issued to the City of Moline Acres pursuant to §105.961.4(4), RSMo for violation of §130.031.8, RSMo.

c. It is the order of the Missouri Ethics Commission that a letter of reprimand be issued to the Respondents DeShay, Harmon-Young and Walker pursuant to §105.961.4(4), RSMo for violation of §115.646, RSMo and §130.031.8, RSMo.

SO ORDERED this 6th day of August 2010.

By: _____
Jim Wright, Chairman

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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, the City of Moline Acres, Michele DeShay, Shonte Harmon- Young and Nina Walker 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 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 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 105, RSMo.

2. Pursuant to §105.957.1(6), RSMo, the Missouri Ethics Commission may receive complaints and investigate violations of the provisions of any state law, order, ordinance, or resolution of any political subdivision of the State of Missouri relating to the conduct of officials or employees of the political subdivision.

3. The City of Moline Acres is a fourth class City and qualifies as a political subdivision of the State of Missouri and qualifies as a political subdivision pursuant to §105.450(8), RSMo and §79.010, RSMo.

4. During this period, Respondents Michele DeShay and Shonte Harmon- Young were Aldermen for the City of Moline Acres.

5. During the period of this complaint, Respondent Nina Walker was employed as the City Clerk of the City of Moline Acres.

6. On December 11, 2007, the Board of Aldermen for the City of Moline Acres passed Bill No. 29-2007, Ordinance 975, providing for the submission of Proposition A for the April 8, 2008 election.

7. Proposition A provided for an increase in the Merchant's License Fee from 0.1 percent to 1 percent. Proposition A was a ballot issue in the April 8, 2008 election.

8. In February 2008, a full-time employee of the City created and formatted printed matter regarding Proposition A. The printed matter was designed and created on a City computer and during official work hours of the employee. A copy of the printed matter is attached to this joint stipulation as Exhibit A.

9. The printed matter stated," Vote YES for Proposition A, Merchant License Fee Increase, April 2008.

10. The printed matter did not include any "Paid for by" language.

11. The correct identification on the printed matter relative to Proposition A which was paid for by the City of Moline Acres was "Paid for by the City of Moline Acres, Fred Hodges, Mayor, 2449 Chambers Rd., St. Louis, Mo 63136."

12. The printed matter was copied onto purple paper purchased at Office Depot on February 7, 2008 with City funds.

13. The printed matter was copied on a copy machine leased by the City with IKON Office Solutions with City funds.

14. Respondents DeShay, Harmon-Young and Walker knew about the creation, purchase of supplies and copying of the printed matter in support of Proposition A before it occurred.

15. Respondents DeShay, Harmon-Young and Walker reviewed the printed matter at City Hall prior to its distribution to residents in Moline Acres.

16. The printed matter was distributed to voters in the City of Moline Acres prior to the April 8, 2008 election.

17. Respondents, City of Moline Acres, DeShay, Harmon-Young and Walker published, circulated and distributed printed matter identified as Exhibit A.

18. On October 16, 2009, the Commission received a complaint pursuant to §105.957, RSMo.

JOINT CONCLUSIONS OF LAW

1. According to §79.110, RSMo:

> The mayor and board of aldermen of each City governed by this chapter shall have the care, management and control of the City and its finances, and shall have power to enact and ordain any and all ordinances not repugnant to the constitution and laws of this state, and such as they shall deem expedient for the good government of the City, the preservation of peace and good order, the benefit of trade and commerce and the health of the inhabitants thereof, and such other ordinances, rules and regulations as may be deemed necessary to carry such powers into effect, and to alter, modify or repeal the same.

2. §115.646, RSMo provides as follows:

> No contribution or expenditure of public funds shall be made directly by any officer, employee or agent of any political subdivision to advocate, support, or oppose any ballot measure or candidate for public office. This section shall not be construed to prohibit any public official of a political subdivision from making public appearances or from issuing press releases concerning any such ballot measure.

3. §115.646, RSMo relates to the conduct of officials and employees of all Missouri political subdivisions.

4. The use of City employees, including Respondent Walker, City equipment and City funds in the creation and copying of the printed matter constituted an expenditure of public funds in advocacy and support of Proposition A on the April 8, 2008 election. Respondents DeShay, Harmon-Young and Walker planned the use of City personnel, equipment and funds in the creation of literature in support of Proposition A on the April 8, 2008 election before it occurred.

5. Respondents DeShay, Harmon-Young and Walker caused the above-described expenditures of funds to occur by directing or authorizing the use of City personnel, equipment and funds in support of the ballot issue.

6. There is probable cause to determine that Respondents DeShay, Harmon-Young and Walker, Aldermen and the City Clerk, who were officers or employees of the City who were responsible for the management, control, supervision, and expenditure of its public funds, violated §115.646, RSMo by making or causing to be made directly an expenditure or expenditures of its public funds which advocated or supported the passage of a ballot measure proposed by the City of Moline Acres in the April 8, 2008 election.

7. §130.031.8 RSMo states:

> Any person publishing, circulating, or distributing any printed matter relative to any candidate for public office or any ballot measure shall on the face of the printed matter identify in a clear and conspicuous manner the person who paid for the printed matter with the words "Paid for by" followed by the proper identification of the sponsor pursuant to this section.
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> .....
>
> (3) In regard to any printed matter paid for by a corporation or other business entity, labor organization, or any other organization not defined to be a committee by subdivision (7) of section 130.011 and not organized especially for influencing one or more elections, it shall be sufficient identification to print the name of the entity, the name of the principal officer of the entity, by whatever title known, and the mailing address of the entity, or if the entity has no mailing address, the mailing address of the principal officer.

8. Respondent, City of Moline Acres as a municipal corporation in the State of Missouri, is a person as defined by Section 130.011(22), RSMo.

9. There is probable cause to believe that Respondents, City of Moline Acres, DeShay, Harmon-Young and Walker violated §130.031.8, RSMo, by publishing, circulating and distributing printed matter without properly identifying "Paid for by" on printed matter relative to Proposition A in the April 8, 2008 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 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 agrees that it will comply with all relevant sections of Chapter 130, RSMo.

b. It is the order of the Missouri Ethics Commission that a letter of reprimand be issued to the City of Moline Acres pursuant to §105.961.4(4), RSMo for violation of §130.031.8, RSMo.

c. It is the order of the Missouri Ethics Commission that a letter of reprimand be issued to the Respondents DeShay, Harmon-Young and Walker pursuant to §105.961.4(4), RSMo for violation of §115.646, RSMo and §130.031.8, RSMo.

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-styled action.

4. Respondent, together with its heirs and assigns, and his attorney, 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 their attorneys now have or which they may hereafter have, which is based upon or arises out of the above-styled case.

RESPONDENTS

By: Michele DeShay 7-26-10
Michele DeShay, Mayor Date

By: 7/26/10
Shonte Harmon-Young, Alderman Date

By: Nina Walker 7-26-10
Nina Walker, City Clerk Date

By: 7-26-10
Donnell Smith Date
City Attorney
City of Moline Acres
Missouri Bar No. 44570

4625 Lindell Blvd., Suite 500
St. Louis, MO 63108
Telephone:
Telefax:

Attorney for Respondent

PETITONER

By: Julie A. Allen
Julie A. Allen Date
Executive Director

By: Elizabeth L. Ziegler 8/4/10
Elizabeth L. Ziegler Date
General Counsel
Missouri Ethics Commission
Missouri Bar No. 35493

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Attorney for Petitioner