

BEFORE THE  
MISSOURI ETHICS COMMISSION

**Filed**  
**OCT 19 2011**  
Missouri Ethics  
Commission

MISSOURI ETHICS COMMISSION,	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	
JOHN DIEHL, SR.,	)	Nos. 11E016, 11E017, 11E020,
Candidate	)	11E021, 11E022
	)	
838 Sugar Hill Drive	)	
Manchester, MO 63102	)	
	)	
COMMITTEE TO ELECT JOHN DIEHL,	)	
Candidate Committee	)	
	)	
838 Sugar Hill Drive	)	
Manchester, MO 63102	)	
	)	
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, John Diehl, Sr., and Committee to Elect John Diehl, acknowledge that they have received and reviewed a copy of the Complaint filed by the Petitioner in these cases, 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 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 Section 105.955, RSMo, in part for the purpose of enforcing the provisions of Chapter 130, RSMo.
2. Respondent John Diehl, Sr., is, and was at all relevant times, a candidate for the position of Ward 3 Alderman for the City of Manchester, Missouri, in the April 6, 2010, election.
3. Respondent Committee to Elect John Diehl is, and was at all relevant times, a candidate committee as defined by Section 130.011(5), RSMo, formed by Respondent Diehl to receive contributions and/or make expenditures in behalf of Respondent Diehl's candidacy in the April 6, 2010, election.

4. Pursuant to Sections 105.959.5 and 105.961.1, RSMo, a special investigator has conducted an investigation and reported findings to the Commission.

5. Based on that report, the Commission determined that there are 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.

6. Respondents did not file an "8 day before" report until April 8, 2010, which was ten days late and two days after the election.

7. Respondents did not file a "30 day after" disclosure report until May 10, 2010, which was four days late.

8. On April 8, 2010, Respondents filed a "Statement of Limited Activity" in lieu of an April Quarterly report with the Saint Louis County Board of Elections.

9. On May 10, 2010, Respondents filed an April Quarterly report, amending their "Statement of Limited Activity."

10. In this amended April Quarterly filing, Respondents reported that Respondent Committee to Elect John Diehl received contributions, in the form of loans received, aggregating \$809.37, and that Respondent Committee to Elect John Diehl made expenditures aggregating \$2,685.13.

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

11. Under Missouri law, "the candidate, if applicable, treasurer, or deputy treasurer of every committee which is required to file a statement of organization, shall file a . . . disclosure report of receipts and expenditures." § 130.041.1, RSMo.

12. Such 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." § 130.041.1, RSMo.

13. As a candidate for the position of Ward 3 Alderman for the City of Manchester, Missouri, in the April 6, 2010, election, Respondents were required to file such reports with the Saint Louis County Board of Elections. § 130.026.2, RSMo.

14. Under Missouri law, the reports required under Section 130.041, RSMo, 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; except that, a successful candidate who takes office prior to the twenty-fifth day after the election shall have complied with the report requirement of this subdivision if a disclosure report is filed by such candidate and any candidate committee under the candidate's control before such candidate takes office, and such report shall be for the period closing on the day before taking office.

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

§ 130.046.1, RSMo.

15. The reporting deadlines and periods for quarterly reports are as follows:

<b>REPORTING DEADLINE</b>	<b>REPORTING PERIOD ENDING</b>
January 15, 2010	December 31, 2009
April 15, 2010	March 31, 2010
July 15, 2010	June 30, 2010
October 15, 2010	September 30, 2010

§ 130.046.3, RSMo.

16. In addition, Respondents were exempt from filing the disclosure reports required by Chapter 130, RSMo, only to the extent that “during that reporting period the committee has neither received contributions aggregating more than five hundred dollars nor made expenditure [sic] aggregating more than five hundred dollars and has not received contributions aggregating more than three hundred dollars from any single contributor and if the committee’s treasurer files a statement with the appropriate officer that the committee has not exceeded the identified thresholds in the reporting period.” § 130.046.5(2), RSMo.

17. Respondents were required to file on or before March 29, 2010, an “8 day before” disclosure report.

18. Respondents were required to file on or before May 6, 2010, a “30 day after” disclosure report.

19. Because Respondent Committee to Elect John Diehl received contributions, in the form of loans received, aggregating \$809.37, and because Respondent Committee to Elect John

Diehl made expenditures aggregating \$2,685.13, Respondents should have timely filed the April Quarterly report, and not a “Statement of Limited Activity” in lieu of that April Quarterly report.

20. There is probable cause to believe that Respondents violated Sections 130.041 and 130.046, RSMo, when Respondents John Diehl, Sr., and Committee to Elect John Diehl filed an “8 day before” report ten days late, filed a “30 day after” report four days late, and filed a “Statement of Limited Activity” in lieu of an April Quarterly report when Respondent Committee to Elect John Diehl’s contributions and expenditures both independently exceeded \$500 during the April Quarterly reporting period, 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 John Diehl, Sr., and Committee to Elect John Diehl, in the amount of \$1,000.00 pursuant to § 105.961.4(6), RSMo. However, if Respondents pay \$100 of that fee and file all reports within forty-five (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 John Diehl, Sr., and Committee to Elect John Diehl 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, 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 Respondents have committed such a violation.
- d. Respondents John Diehl, Sr., and Committee to Elect John Diehl shall be jointly and severally liable for all fees imposed under this order.

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, successor and assigns, do hereby waive, release, acquire and forever discharge the Missouri Ethics Commission and its attorneys 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 Respondents and

Respondents' attorney now have or which they may hereafter have, which is based upon or arises out of the above cases.

RESPONDENT JOHN DIEHL, SR.

By: John Diehl Sr. 10/6/11  
John Diehl, Sr., Date

PETITIONER

By: Julie A. Allen 10/19/2011  
Julie A. Allen Date  
Executive Director

RESPONDENT COMMITTEE TO ELECT JOHN DIEHL

By: John Diehl Sr. 10/6/11  
John Diehl, Sr. Date

By: Curtis R. Stokes 10/19/2011  
Curtis R. Stokes Date  
Staff Attorney  
Missouri Ethics Commission  
3411-A Knipp Drive  
Jefferson City, MO 65109  
Telephone: (573) 751-2020  
Attorney for Petitioner

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**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 John Diehl, Sr., and Committee to Elect John Diehl violated §130.041, RSMo, and §130.046 RSMo, as stated in the Joint Stipulation.

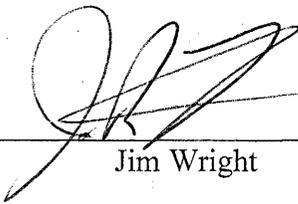
The Commission directs that all terms and orders of the Joint Stipulation be adopted herein and implemented.

- 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 John Diehl, Sr., and Committee to Elect John Diehl, in the amount of \$1,000.00 pursuant to § 105.961.4(6), RSMo. However, if Respondents pay \$100 of that fee and file all reports within forty-five (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 John Diehl, Sr., and Committee to Elect John Diehl 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, 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 Respondents have committed such a violation.
- d. Respondents John Diehl, Sr., and Committee to Elect John Diehl shall be jointly and severally liable for all fees imposed under this order.

SO ORDERED this 19<sup>th</sup> day of October, 2011.

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

  
Jim Wright