

BEFORE THE
MISSOURI ETHICS COMMISSION

Filed
SEP 28 2016
Missouri Ethics
Commission

MISSOURI ETHICS COMMISSION,)
)
Petitioner,)
) Case No. 16-0048-I
v.)
)
BERRY PARKS,)
)
Respondent.)

**JOINT STIPULATION OF FACTS, WAIVER OF HEARING
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 Respondent, Barry Parks, acknowledges that he has 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 Respondent further acknowledges that he is 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 allegations against Respondent be proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against Respondent; the right to present evidence on Respondent's behalf at the hearing; and the right to a decision upon the record of the hearing. Being aware of these rights provided to Respondent by operation of law, the undersigned Respondent knowingly and voluntarily waives each and every one of these rights and freely enters into this Joint Stipulation of Facts, Waiver of

Hearing before the Missouri Ethics Commission, and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law, and agrees to abide by the terms of this document.

I.

Based upon the foregoing, the Petitioner and the undersigned Respondent 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 PROPOSED FINDINGS OF FACT

1. The Missouri Ethics 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 Parks was an unsuccessful incumbent candidate for the Smithville Fire Protection Board in the April 5, 2016 election.

3. Pursuant to Sections 105.957 and 105.961, RSMo, the Commission's staff investigated a complaint filed with the Commission and reported the investigation findings to the Commission.

4. Based on the investigation report, the Commission determined that there were 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.

COUNT I

Failure to timely file a statement of committee organization

5. Between March 16 and March 23, 2016, Respondent Parks made aggregate expenditures from personal funds that exceeded \$1,000 for banners, yard signs, and newspaper advertisements.

6. The Eight Day Before April 2016 Election report, for activity through March 24, 2016, was due on March 28, 2016, and therefore March 28, 2016 was the filing deadline for Respondent Parks to file a statement of committee organization with the Clay County Board of Elections.

7. Respondent Parks did not timely file a Statement of Committee Organization with the Clay County Board of Elections.

COUNT II

Failure to file campaign finance disclosure reports

8. For the April 5, 2016 election, Respondent Parks was required to file the following reports, with the following reporting periods:

Report	Report Period Ending	Report Due
8 Day Before April Election	March 24, 2016	March 28, 2016
April 2016 Quarterly	March 31, 2016	April 15, 2016
30 Day After April Election	April 30, 2016	May 5, 2016
Termination Report	May 5, 2016	May 5, 2016

9. Respondent Parks did not timely file campaign finance reports with the Clay County Board of Elections.

COUNT III

Failure to timely and accurately report expenditures

10. Respondent Parks failed to report the following four (4) expenditures that were over \$100 each, totaling \$1,213.91:

Date	Payee	Amount
3/16/2016	Smithville Herald	\$205.20
3/23/2016	Printing and Shipping Solutions	\$598.31
3/23/2016	Smithville Herald	\$205.20
3/30/2016	Smithville Herald	\$205.20
	TOTAL	\$1,213.91

11. Respondent Parks failed to report one expenditure of \$57.35.

COUNT IV

Improper "paid for by" disclosure

12. Using his own personal funds, Respondent Parks purchased yard signs, a true and accurate copy of which is attached hereto as Exhibit A.
13. Respondent Parks displayed the yard signs in various locations in Clay County.
14. The yard signs referred to in Exhibit A related to a candidate in the April 2016 election.
15. The banners and yard signs should have contained a clear and conspicuous statement: "Paid for by Berry Parks," but instead stated "Paid for by candidate."

JOINT PROPOSED CONCLUSIONS OF LAW

COUNT I

Failure to timely file a statement of committee organization

16. Committees must file a statement of committee organization "within twenty days after the person or organization becomes a committee *but no later than the date for filing the first report required pursuant to the provisions of section 130.046.*" § 130.021.5, RSMo (emphasis added).
17. Candidates for special purpose districts are exempt from filing a statement of committee organization only "if the aggregate of contributions received or expenditures made by the candidate and any other person with the candidate's knowledge and consent in support of the person's candidacy does not exceed one thousand dollars and the aggregate of contributions from any single contributor does not exceed three hundred twenty-five dollars. § 130.016.6, RSMo.
18. There is probable cause to believe that Respondent Parks violated Sections 130.021.5 and 130.016.6, RSMo, by failing to timely file a statement of committee organization

with the Clay County Board of Elections after exceeding \$1,000 in aggregate expenditures in support of his candidacy.

COUNT II

Failure to file campaign finance disclosure reports

19. “The disclosure reports required by Section 130.041, for all committee 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.

§ 130.046.1, RSMo.

20. A candidate committee “shall terminate the later of either thirty days after the general election for a candidate who was not elected or upon the satisfaction of all committee debt after the election, except that no committee retiring debt shall engage in any other activities in support of the candidate for which the committee was formed.” § 130.011(9), RSMo.

21. “In the case of a committee which disbands and is required to file a termination statement pursuant to the provisions of section 130.021 with the appropriate officer not later than the tenth day after the committee was dissolved, the candidate, committee treasurer or deputy

treasurer shall attach to the termination statement a complete disclosure report for the period closing on the date of dissolution.” § 130.046.7, RSMo.

22. There is probable cause to believe that Respondent Parks violated Sections 130.046.1 and 130.046.7, RSMo, by failing to timely file three (3) campaign finance disclosure reports and a committee termination report, and that Respondent did so knowingly.

COUNT III

Failure to timely and accurately report expenditures

23. Respondents were required to file campaign finance disclosure reports that set forth expenditures for the period, including the:

(a) Total dollar amount of expenditures made by check drawn on the committee’s depository; ...

(d) The full name and mailing address of each person to whom an expenditures 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 expenditures. 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, except that the report shall contain an itemized listing of each payment made to campaign workers by name, address, date, amount and purpose of each payment and the aggregate amount paid to each such worker;

§ 130.041.1(4), RSMo.

24. There is probable cause to believe that Respondent Parks violated Section 130.041.1(4), RSMo, by failing to report four (4) expenditures, over \$100 each, totaling \$1,213.91 and one (1) expenditure of \$57.35, and that Respondent did so knowingly.

COUNT IV

Improper "paid for by" disclosure

25. "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." § 130.031.8, RSMo.

26. Printed matter "shall be defined to include any pamphlet, circular, handbill, sample ballot, advertisement, including advertisements in any newspaper or other periodical, sign, including signs for display on motor vehicles, or other imprinted or lettered material." § 130.031.8, RSMo.

27. In regard to any printed matter paid for by a candidate from the candidate's personal funds, it shall be sufficient identification to print the first and last name by which the candidate is known. § 130.031.8(1), RSMo.

28. There is probable cause to believe that Respondent Parks violated Section 130.031.8, RSMo, by publishing, circulating and distributing banners and yard signs without including the proper "paid for by" disclosure.

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 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 1.

a. Respondent shall 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 Respondent Parks in the amount of \$2,300, pursuant to Section 105.961.4(6), RSMo. However, if Respondent pays \$320 of that fee within forty-five (45) days after the date of the Order, the remainder of the fee will be stayed, subject to the provisions below. The fee will be paid by check or money order made payable to the Missouri Ethics Commission.


c. If Respondent Parks commits any further violation of the campaign finance laws under Chapter 130, RSMo, within the two-year period from the date of this order, then Respondent will be required to pay the remainder of the fee. The fee will be due immediately upon final adjudication finding that Respondent has committed 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.

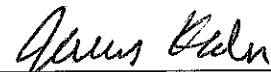
4. Respondent, together with his heirs, successors, and assigns, does hereby waive, release, acquit and forever discharge the Missouri Ethics Commission and its attorneys of or from any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited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

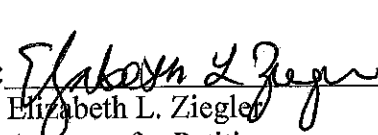
SO AGREED:

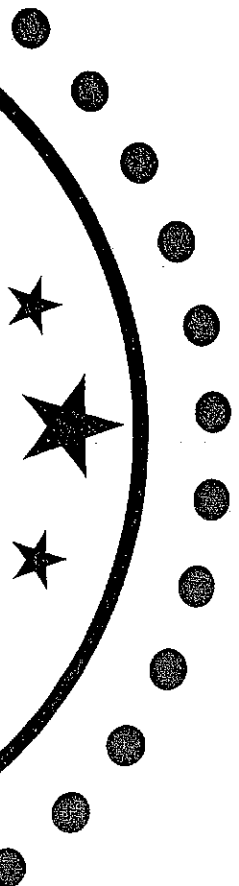
RESPONDENT BARRY PARKS

By: 
Barry Parks Date

PETITIONER MISSOURI ETHICS
COMMISSION

By:  9/29/16
James Klahr Date
Executive Director

By:  9/28/16
Elizabeth L. Ziegler Date
Attorney for Petitioner



Re-elect

BERRY

PARKS

★ **FIRE BOARD** ★

Paid for by Candidate

EXHIBIT
A

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CONSENT ORDER

The parties have filed a Joint Stipulation of Facts, Waiver of Hearing, and Proposed Consent Order with the Missouri Ethics Commission. Accordingly, the Missouri Ethics Commission accepts as true the facts stipulated and finds that Respondent Parks violated Sections 130.021.5, 130.016.6, 130.046.1, 130.046.7, 130.041.1(4) and 130.031.8, RSMo.

The Commission directs that the Joint Stipulation be adopted.

1. Respondent shall comply with all relevant sections of Chapter 130, RSMo.
2. It is the order of the Missouri Ethics Commission that a fee is imposed against Respondent Parks in the amount of \$2,300 pursuant to Section 105.961.4(6), RSMo. However, if Respondent pays \$320 of that fee within forty-five (45) days after the date of this Order, the remainder of the fee will be stayed, subject to the provisions below. The fee will be paid by check or money order made payable to and sent to the Missouri Ethics Commission.
3. Regardless of the stay in paragraph 2 above, if Respondent Parks commits any further violations of the campaign finance laws pursuant to Chapter 130, RSMo, as amended, within the two-year period from the date of this order, then Respondent will be required

to pay the remainder of the fee. The fee will be due immediately upon final adjudication finding that Respondent committed such a violation.

SO ORDERED this ^{4th}28 day of September, 2016

By:

Nancy Hagan

Nancy Hagan, Chair
Missouri Ethics Commission