

Filed
APR 20 2017
Missouri Ethics
Commission

**BEFORE THE
MISSOURI ETHICS COMMISSION**

MISSOURI ETHICS COMMISSION,)
)
 Petitioner,)
)
v.)
)
DIANE FORTE,)
Lee's Summit Councilmember,)
)
 Respondent.)

Case No. 16-0098-I

**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, Diane Forte, acknowledges that she 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 she 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 105, RSMo.
2. Respondent Forte filed a Declaration of Candidacy with the Lee's Summit City Clerk announcing her candidacy in the April 2014 municipal election. On or about April 2014, Respondent Forte was elected as a Councilmember in Lee's Summit, District 1.
3. Lee's Summit, Missouri, is a charter city, under Chapter 82, RSMo, and a political subdivision of the State of Missouri.
4. As a member of the council, Respondent is member of a governing body of Lee's Summit, Missouri. Section 79.035, RSMo.
5. Respondent Forte is the sole owner of Diane Forte Enterprises, LLC.
6. On or about May 4, 2015, Diane Forte Enterprises, LLC performed services to the City of Lee's Summit and received \$768.00 in payment paid in full by the city. The transaction was not made pursuant to an award of contract upon public notice and competitive bidding.

7. On or about May 9, 2016, Diane Forte Enterprises, LLC performed services to the City of Lee's Summit and received \$1,170.00 in payment paid in full by the city. The transaction was not made pursuant to an award of contract upon public notice and competitive bidding.

8. 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.

9. Based on the report of the Commission's staff, 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.

10. Respondent Forte, as the sole owner of Diane Forte Enterprises, LLC, was prohibited from providing services to the City of Lee's Summit unless Diane Forte Enterprises, LLC qualified as a business entity under § 105.458.2, RSMo, and if so, the services were in excess of \$500.00 without a contract let following public notice and competitive bidding and the bid was the lowest received.

11. Respondent Forte filed, through her agent Patrick Starke, an Articles of Organization with the Missouri Secretary of State on January 6, 2014 for Diane Forte Enterprises, LLC.

JOINT PROPOSED CONCLUSIONS OF LAW

12. Pursuant to § 105.458.1(1), RSMo, "no member of any legislative or governing body of any political subdivision of the state shall ... [p]erform any service for such political subdivision or any agency of the political subdivision for any consideration other than the compensation provided for the performance of his or her official duties, except as otherwise provided in this section."

13. “No sole proprietorship, partnership, joint venture, or corporation in which any member of any legislative body of any political subdivision is the sole proprietor, a partner having more than a ten percent partnership interest, or a coparticipant or owner of in excess of ten percent of the outstanding shares of any class of stock, shall:

(1) Perform any service for the political subdivision or any agency of the political subdivision for any consideration in excess of five hundred dollars per transaction or five thousand dollars per annum, or in the case of a school board five thousand dollars per annum, unless the transaction is made pursuant to an award on a contract let after public notice and competitive bidding, provided that the bid or offer accepted is the lowest received.” § 105.458.2(1), RSMo.

14. There is probable cause to believe that Respondent Forte violated Sections 105.458.1 and 105.458.2(1), RSMo, by performing services in the selling of products for compensation to the City of Lee’s Summit, and in any event without a contract let following public notice and competitive bidding.

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 A.

a. Respondent shall comply with all relevant sections of Chapter 105, RSMo.

b. It is the Order of the Missouri Ethics Commission that a fee is imposed against Respondent Diane Forte in the amount of \$1,938.00, pursuant to Section 105.961.4(6), RSMo. However, if Respondent pays \$387.00 of that fee within forty-five 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 Diane Forte commits any further violation or violations of the conflict of interest laws under Chapter 105, 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 her 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.

RESPONDENT DIANE FORTE

By: Diane Forte 4/10/17
Diane Forte Date

PETITIONER MISSOURI ETHICS
COMMISSION

By: James Klahr 4/24/17
James Klahr Date
Executive Director

By: Brian Hamilton 4/20/17
Brian Hamilton Date
Attorney for Petitioner

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MISSOURI ETHICS COMMISSION**

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MISSOURI ETHICS COMMISSION,)	
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Petitioner,)	
)	Case No. 16-0098-I
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DIANE FORTE,)	
)	
Respondent.)	

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 Forte violated Sections 105.458.1 and 105.458.2(1), 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 Forte in the amount of \$1,938.00, pursuant to Section 105.961.4(6), RSMo. However, if Respondent pays \$387.00 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 the Missouri Ethics Commission.
3. If Respondent Forte commits any further violation of the conflict of interest laws pursuant to Chapter 105, 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 committed such a violation.

SO ORDERED this 20th day of April, 2017

By:

Nancy Hagan

Nancy Hagan, Chair
Missouri Ethics Commission