

BEFORE THE
MISSOURI ETHICS COMMISSION

Filed
OCT 08 2020
Missouri Ethics
Commission

MISSOURI ETHICS COMMISSION,)	
)	
Petitioner,)	
)	
v.)	
)	
TRACY FOSTER,)	Case No. 20-0028-I
Candidate,)	20-0038-I
)	
and)	
)	
TRACY J. FOSTER CAMPAIGN FUND,)	
Candidate Committee,)	
)	
Respondents.)	

**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 Respondents, Tracy J. Foster Campaign Fund and Tracy Foster, acknowledge that they have received and reviewed a copy of the legal 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 allegations against Respondents be proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against Respondents; the right to present evidence on Respondents' behalf at the hearing; and the right to a decision upon the record of the hearing. Being aware of these rights provided to

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 Hearing 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 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.¹

2. Respondent Tracy Foster was a successful candidate for County Assessor in Pike County, Missouri in the August 4, 2020 primary election.

3. On April 24, 2020, Respondent Foster registered her candidate committee, Tracy J. Foster Campaign Fund, by filing a Statement of Committee Organization with the Missouri Ethics Commission.

4. Dona Riffle was listed as Treasurer on the Statement of Committee Organization.

5. Pursuant to Sections 105.961.1, RSMo, the Commission's staff investigated a complaint that was filed with the Commission and reported the investigation findings to the Commission.

¹ Unless noted otherwise, all statutory references are to the Revised Statutes of Missouri 2000 (Supp. 2019).

6. Based on the investigation report, the Commission determined that there were reasonable grounds to believe that violations of law had occurred, and it therefore authorized a hearing in this matter pursuant to Section 105.961.3, RSMo.

COUNT I

Failure to provide a "paid for by" disclosure statement on printed campaign material

7. Respondents created four handmade campaign signs in support of Foster's candidacy for Pike County Assessor.

8. On June 11, 2020, Respondents placed these handmade campaign signs in various locations around Bowling Green, MO. Respondents did not own any of the properties where the signs were posted.

9. The handmade signs did not contain a proper "Paid for by" disclosure statement.

COUNT II

Failure to report an in-kind contribution on a campaign finance disclosure report

10. The materials used to create the above-mentioned handmade signs were donated to Respondents.

11. Respondents did not report the receipt of the donated materials used to create the handmade signs as in-kind contributions on a campaign finance disclosure report.

JOINT PROPOSED CONCLUSIONS OF LAW

COUNT I

Failure to provide a "paid for by" disclosure statement on printed campaign material

12. "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.

13. “[P]rinted 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.

14. “In regard to any printed matter paid for by a committee, it shall be sufficient identification to print the name of the committee as required to be registered by subsection 5 of section 130.021 and the name and title of the committee treasurer who was serving when the printed matter was paid for.” § 130.031.8(2), RSMo.

15. There is probable cause to believe that Respondents violated Section 130.031.8, RSMo, by failing to include a “Paid for by” disclosure statement on campaign related material in support of Foster’s candidacy for Pike County Assessor.

COUNT II

Failure to report an in-kind contribution on a finance disclosure report

16. A contribution is “payment, gift, loan, advance, deposit, or donation of money or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office[.]” § 130.011(12), RSMo.

17. Pursuant to Section 130.011(19), RSMo, an in-kind contribution is a contribution in a form other than money.

18. Candidate “committees are required to report receipts at the times and for the periods prescribed in section 130.046, including... (d) Total dollar value of all in-kind contributions received[.]” § 130.041.1(3)(d), RSMo.

19. There is probable cause to believe that Respondents violated Section 130.041.1(3)(d), RSMo, by failing to report the receipt of donated material used to create campaign signs.

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. Respondents 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 Respondents in the amount of \$1,100.00, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$200.00 of that fee within forty-five 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.

c. Regardless of the stay in paragraph 2.b above, if there is probable cause to believe that any Respondent committed any further violation or violations of the campaign finance laws under Chapter 130, RSMo, within the two year period from the date of this order, then the Respondent who committed the violation will be required to pay the remainder of the fee. The fee will be due immediately upon final adjudication finding that there is probable cause to believe that such Respondent has committed such a violation.

d. Respondents 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 this action.

4. Respondents, together with their heirs, successors, and assigns, do 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 Respondents or Respondents' attorney may now have or which they may hereafter have, which are based upon or arise out of this case.

RESPONDENT TRACY J. FOSTER
CAMPAIGN FUND

PETITIONER MISSOURI ETHICS
COMMISSION

By: Tracy Foster 10-1-2020
Tracy Foster Date

By: Elizabeth L. Ziegler 10-8-20
Elizabeth L. Ziegler Date
Executive Director

RESPONDENT TRACY FOSTER

By: Tracy Foster 10-1-2020
Tracy Foster Date

By: Brian Hamilton 10/8/20
Brian Hamilton Date
Attorney for Petitioner

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TRACY FOSTER,) Case No. 20-0028-I
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TRACY J. FOSTER CAMPAIGN FUND,)
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 Respondents.)

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 there is probable cause to believe that Respondents violated Sections 130.031.8 and 130.041.1(3)(d), RSMo.

The Commission directs that the Joint Stipulation be adopted.

1. Respondents shall comply with all relevant sections of Chapters 130, RSMo.
2. It is the order of the Missouri Ethics Commission that a fee is imposed against Respondents in the amount of \$1,100.00, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$200.00 of that fee within forty-five days after the date of this order, the remainder of the fee will be stayed. The fee will be paid by check or money order made payable to the Missouri Ethics Commission.
3. Regardless of the stay in paragraph 2 above, if the Commission finds that there is probable cause to believe that any Respondent committed any further violation of the campaign finance laws under Chapter 130, RSMo, within the two-year period from the date of this order, then the Respondent who committed the violation will be required to pay the remainder of the fee. The fee will be due immediately upon a final probable cause finding that such Respondent has committed a violation.

4. Respondents shall be jointly and severally liable for all fees imposed under this order.

SO ORDERED this 8th day of October, 2020

By: 
Cheryl D. S. Walker, Chair
Missouri Ethics Commission