

BEFORE THE
MISSOURI ETHICS COMMISSION

Filed
AUG 03 2020
Missouri Ethics
Commission

MISSOURI ETHICS COMMISSION,)
)
Petitioner,)
)
v.) Case No. 20-0005-I
)
UNITING MISSOURI PAC, Committee,)
)
and)
)
CHARLOTTE BOYER, Treasurer,)
)
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, Uniting Missouri PAC and Charlotte Boyer, 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. Uniting Missouri PAC is a continuing committee that registered with the Missouri Ethics Commission by filing a Statement of Committee Organization on July 2, 2018.

3. Uniting Missouri PAC amended its Statement of Committee Organization on March 25, 2019, and changed the committee treasurer to Charlotte Boyer.

4. Pursuant to Sections 105.961.1, RSMo, the Commission's staff investigated a complaint that was filed with the Commission and reported the investigation's findings to the Commission. The complaint filed against Respondent Uniting Missouri PAC alleged that Respondent failed to report one in-kind contribution and failed to timely report a second in-kind contribution at its fair market value.

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

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

6. On or about December 11, 2019, Respondents received an in-kind contribution from The Big Blessing LLC in the form of air travel. This contribution was a private charter flight from Missouri to Washington D.C.

7. Uniting Missouri PAC maintains that this December 11, 2019 flight supported travel associated with fundraising activities on behalf of Uniting Missouri PAC.

8. On March 4, 2020, Respondents reported receipt of the December 11, 2019 air travel by filing a 48 Hour Report of Contribution Received over \$5,000.00.

9. Respondents did not determine the fair market value of the December 11, 2019 private charter flight; instead, Respondents reported the plane owner/operator's actual costs of \$12,320.00 as the value of this in-kind contribution.

COUNT II

10. On or about February 2, 2020, Respondents received an in-kind contribution from TM Aviation LLC in the form of air travel. This contribution was a private charter flight from Missouri to Miami, Florida.

11. Uniting Missouri PAC maintains that this February 2, 2020 flight supported travel associated with fundraising activities on behalf of Uniting Missouri PAC.

12. On February 11, 2020, Respondents reported receipt of the February 2, 2020 contribution by filing a 48 Hour Report of Contribution Received over \$5,000.00.

13. Respondents did not determine the fair market value of the February 2, 2020 private charter flight; instead, Respondents reported the plane owner/operator's actual costs of \$15,497.55 as the value of this in-kind contribution.

JOINT PROPOSED CONCLUSIONS OF LAW

14. A "contribution" is "a payment, gift, loan, advance, deposit, or donation of money or anything of value . . . for the support of any committee supporting or opposing candidates or ballot measures." § 130.011(12), RSMo.

15. "A contribution of anything of value shall be deemed to have a money value equivalent to the fair market value." *Id.*

16. An "in-kind contribution" is "a contribution . . . in a form other than money." § 130.011(19), RSMo.

17. Section 130.041.1(3)(d), RSMo, requires the reporting of the "total dollar value of all in-kind contributions received."

18. "All individuals and committees required to file disclosure reports under section 130.041 shall electronically report any contribution by any single contributor which exceeds five thousand dollars to the Missouri ethics commission within forty-eight hours of receiving the contribution." §130.044.1, RSMo.

19. There is probable cause to believe that Respondents violated Sections 130.041.1(3)(d) and 130.044.1, RSMo, by failing to report the fair market value of two flights within forty-eight hours of receipt of the contributions.

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. Respondents shall amend and file all reports and statements with the Commission, shall pay all late fees that may arise as a result of those amended filings, and expressly waive the right to appeal any assessment of late fees that may arise as a result of those amended filings.

c. It is the order of the Missouri Ethics Commission that a fee is imposed against Respondents in the amount of \$2,000.00, 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 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.

d. Regardless of the stay in paragraph 2.c. above, if there is probable cause to believe that any Respondent commits 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.

e. 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 legal 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.

SO AGREED:

RESPONDENT UNITING MISSOURI PAC

By: Charlotte Boyer 07/31/20
Charlotte Boyer Date

PETITIONER MISSOURI ETHICS COMMISSION

By: Elizabeth L. Ziegler 8/3/20
Elizabeth L. Ziegler Date
Executive Director

RESPONDENT CHARLOTTE BOYER

By: Charlotte Boyer 07/31/20
Charlotte Boyer Date

By: Laura E. Elsbury 8/3/2020
Laura E. Elsbury Date
General Counsel for Petitioner

ATTORNEY FOR RESPONDENTS

By: Lowell Pearson 7/31/2020
Lowell Pearson Date
Husch Blackwell

By: Brian Hamilton 8/3/20
Brian Hamilton Date
Attorney for Petitioner

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 CHARLOTTE BOYER,)
 Treasurer)
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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 130.041.1(3)(d) and 130.044.1, RSMo.

The Commission directs that the Joint Stipulation be adopted.

1. Respondents shall comply with all relevant sections of Chapter 130, RSMo.
3. Respondents shall amend and file all reports and statements with the Commission, shall pay all late fees that may arise as a result of those amended filings, and expressly waive the right to appeal any assessment of late fees that may arise as a result of those amended filings.
2. It is the Order of the Missouri Ethics Commission that a fee is imposed against Respondents in the amount of \$2,000.00, 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 the 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 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 was probable cause to believe that such Respondent has committed such a violation

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

SO ORDERED this 3rd day of August, 2020

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