# MISSOURI COURT OF APPEALS
# WESTERN DISTRICT

**MISSOURI ETHICS COMMISSION,**

**Respondent,**

**v.**

**PHILIP LEVOTA,**

**Appellant.**

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DOCKET NUMBER WD84233

**Date: December 14, 2021**

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Appeal from:

Cole County Circuit Court
The Honorable Patricia S. Joyce, Judge

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Appellate Judges:

Division Three: Lisa White Hardwick, Presiding Judge, Gary D. Witt and Edward R. Ardini, Jr., Judges

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Attorneys:
Philip L. Levota, Independence for appellant.
Craig Harrison, Jefferson City for respondent.

**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS**
**WESTERN DISTRICT**

**MISSOURI ETHICS COMMISSION, Respondent,**
**v.**
**PHILIP LEVOTA, Appellant.**

WD84233 Cole County

Before Division Three Judges: Lisa White Hardwick, Presiding Judge, Gary D. Witt and Edward R. Ardini, Jr., Judges

After the Missouri Ethics Commission ("MEC") determined that Philip LeVota violated campaign finance laws and issued two $10,000 civil fees against him, LeVota appealed to the Administrative Hearing Commission ("AHC"). The AHC disagreed with the MEC and found that LeVota did not violate campaign finance laws and was not subject to a civil fee. The circuit court reversed the AHC's decision. On appeal, the MEC seeks review of the AHC's decision, contending that the AHC erred in finding that LeVota could not be held liable because he was not associated with a continuing committee and did not use committee contributions for impermissible purposes. The MEC further argues that the AHC erred in finding that the MEC needed to include an argument as an affirmative defense and in stating that it was reviewing the MEC's order of only one $10,000 fee.

**AFFIRMED IN PART, AND REVERSED AND REMANDED IN PART.**

**Division Three holds:**

(1) The AHC erred in concluding that LeVota could not be held liable for violating Section 130.031.2, RSMo 2016, because he was not associated with the Show-Me Council ("Council") when he withdrew $4,000, $950, and $360 from the Council's account. When the provisions of Chapter 130 are read together as a whole, they demonstrate the legislature's clear intent that liability for a committee's financial transactions that are made in violation of any of the chapter's provisions, including those contained in Section 130.031.2, is not limited to only committee treasurers or persons who hold a position on a committee. LeVota's $4,000, $950, and $360 withdrawals violated Section 130.031.2's requirement that an expenditure of more than $50 be made by a check drawn on

the committee's account and signed by the committee treasurer, and his $950 withdrawal violated Section 130.031.2's prohibition against making a check payable to "cash" except to replenish a petty cash fund.

(2) The AHC did not err in determining that LeVota's $4,000 and $950 withdrawals did not violate Section 130.034's prohibition against converting committee contributions to his personal use or using them for a purpose not allowed by law. LeVota offered evidence indicating that the withdrawals were payment for his campaign consulting services he provided. The AHC found LeVota's evidence credible and accorded it greater weight than the MEC's evidence, and we defer to its decision to do so. LeVota's evidence was sufficient to support a finding that the $4,000 and $950 withdrawals were used for Section 130.034.2(1)'s allowable purpose of "[a]ny ordinary expenses incurred relating to a campaign."

(3) The AHC did not err in determining that LeVota's $360 withdrawal did not violate Section 130.034's prohibition against converting committee contributions to his personal use or using them for a purpose not allowed by law. LeVota offered evidence indicating that the $360 withdrawal was donated by the Council to a formed charitable organization. The AHC found LeVota's evidence credible and accorded it greater weight than the MEC's evidence, and we defer to its decision to do so. Section 130.034.2(7) allows a committee to make an unconditional gift to "charitable, fraternal or civic organizations or other associations formed to provide for some good in the order of benevolence."

(4) We need not address the MEC's point alleging that the AHC erred in stating in its order that the MEC issued one $10,000 fee against LeVota instead of two $10,000 fees. We have determined that LeVota is liable for violating Section 130.031.2 but is not liable for violating Section 130.034. Because we are directing that the case be remanded to the MEC to order the appropriate penalty for LeVota's violation of Section 130.031.2, this point is moot.

**Opinion by: Lisa White Hardwick, Judge** December 14, 2021

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