

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 (“the 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 Citizens for Growth is a continuing committee formed on or about March 16, 2012, and which registered with its local election authority as a campaign committee on or about April 20, 2012.
3. Respondent Schwartz was the treasurer of Respondent Citizens for Growth at all relevant times.
4. Pursuant to Section 105.961, RSMo, the Commission’s staff has investigated a complaint filed with the Commission and reported the investigation’s findings to the Commission.
5. Respondent Citizens for Growth formed as a committee on March 16, 2012, when it incurred an expenditure of \$865.80 for yard signs.

6. Respondents failed to form the committee more than sixty days prior to the April 3, 2012, election, but participated in that election by purchasing the yard signs that supported and/or opposed certain local candidates.

7. Because the signs supported local candidates other than judges under the non-partisan court plan, Respondents should have filed a statement of committee organization with the County Clerk and the Missouri Ethics Commission as a continuing committee, but Respondents filed a statement of committee organization with the County Clerk as a campaign committee.

8. Respondents filed their statement of committee organization on April 20, 2012, which was more than 20 days after Respondent Citizens for Growth formed as a committee.

9. Respondents failed to timely file the "40 Days Before" report that was due on February 23, 2012, for the April 2012 election.

10. Respondents failed to timely file the "8 Days Before" report that was due on March 26, 2012, for the April 2012 election.

11. Respondents failed to timely file the "April 2012" quarterly report that was due on April 16, 2012.

12. Respondents made expenditures aggregating \$2,606.74 that supported candidate Michael Franks for the Neosho City Council, but failed to timely disclose that specific amount in a direct expenditure report.

13. Respondents made expenditures aggregating \$656.54 that supported candidate Bill Crowe for the Neosho City Council, but failed to timely disclose that specific amount in a direct expenditure report.

14. Respondents made expenditures aggregating \$383.53 that supported candidate Dr. Andrew Hamby for the Neosho City Council, but failed to timely disclose that specific amount in a direct expenditure report.

JOINT PROPOSED CONCLUSIONS OF LAW

15. A committee must file a statement of committee organization with the appropriate officer within twenty (20) days after becoming 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.

16. The appropriate officer for a continuing committee is both the Missouri Ethics Commission and the election authority for the county in which the committee is domiciled. § 130.026.5, RSMo.

17. A continuing committee is:

a committee of continuing existence which is not formed, controlled or directed by a candidate, and is a committee other than a candidate committee or campaign committee, whose primary or incidental purpose is to receive contributions or make expenditures to influence or attempt to influence the action of voters whether or not a particular candidate or candidates or a particular ballot measure or measures to be supported or opposed has been determined at the time the committee is required to file any statement or report pursuant to the provisions of this chapter.

§ 130.011(10), RSMo.

18. A continuing committee “shall be formed no later than sixty days prior to the election for which the committee receives contributions or makes expenditures.” § 130.011(10), RSMo.

19. A campaign committee, on contrast to a continuing committee, is a committee whose sole purpose is to support or oppose the qualification and passage of one or more particular ballot measures in an election or the retention of judges under the nonpartisan court plan, such committee shall be formed no later than thirty days prior to the election for which the committee receives contributions or makes expenditures, and which shall terminate the later of either thirty days after the general election or upon the satisfaction of all committee debt after the general election, except that no committee retiring debt shall engage in any other activities in support of a measure for which the committee was formed

§ 130.011(8), RSMo.

20. Committees must file campaign finance disclosure reports at the following times prescribed by Section 130.046, RSMo:

(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; except that, a successful candidate who takes office prior to the twenty-fifth day

after the election shall have complied with the report requirement of this subdivision if a disclosure report is filed by such candidate and any candidate committee under the candidate's control before such candidate takes office, and such report shall be for the period closing on the day before taking office; and

(3) Not later than the fifteenth day following the close of each calendar quarter.

Notwithstanding the provisions of this subsection, if any committee accepts contributions or makes expenditures in support of or in opposition to a ballot measure or a candidate, and the report required by this subsection for the most recent calendar quarter is filed prior to the fortieth day before the election on the measure or candidate, the committee shall file an additional disclosure report not later than the fortieth day before the election for the period closing on the forty-fifth day before the election.

21. There is probable cause to believe that Respondents Schwartz and Citizens for Growth violated Sections 130.021.5, 130.011, and 130.046, RSMo, by failing to timely a statement of committee organization, failing to accurately file a statement of committee organization, participating in an election less than sixty days after becoming a continuing committee, and failing to timely file three (3) campaign finance disclosure reports, and that Respondents Schwartz and Citizens for Growth did so knowingly.

22. Respondents were required to file campaign finance disclosure reports, at the times set forth in Section 130.046, RSMo, disclosing:

...
The amount of expenditures for or against a candidate ... during the period covered and the cumulative amount of expenditures for or against that candidate..., with each candidate being listed by name, mailing address and office sought. For the purpose of disclosure reports, expenditures made in support of more than one candidate or ballot measure or both shall be apportioned reasonably among the candidates or ballot measure or both.

§ 130.041.1(7), RSMo.

23. There is probable cause to believe that Respondents Schwartz and Citizens for Growth violated Section 130.046.1(7), RSMo, by failing to timely file a direct expenditure report for expenditures totaling \$3,646.81, and that Respondents Schwartz and Citizens for Growth did so knowingly.

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 to this Joint Stipulation 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 \$3,000, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$300 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 either Respondent Gene Schwartz or Citizens For Growth 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 both Respondents 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.

d. Respondents Schwartz and Citizens for Growth 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 the above 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 the above cases.

5. This joint stipulation does not settle, release, waive, or otherwise relieve Respondents from any late filing fees due to the appropriate filing authority, including Petitioner Missouri Ethics Commission. Respondents understand that late filing fees accrue automatically under Section 105.963, RSMo.

RESPONDENT GENE SCHWARTZ

By: Gene Schwartz 3-22-13
Gene Schwartz Date

By: Andrew Wood 3-26-13
Andrew Wood Date
Attorney for Respondent

PETITIONER MISSOURI ETHICS
COMMISSION

By: Stacey Heislen 4/2/2013
Stacey Heislen Date
Acting Executive Director

By: Curtis R. Stokes 4-2-13
Curtis R. Stokes Date
Attorney for Petitioner

RESPONDENT CITIZENS FOR GROWTH

By: Gene Schwartz 3-22-13
Gene Schwartz Date
Treasurer, Citizens for Growth

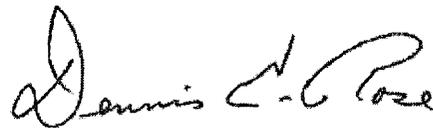
By: Andrew Wood 3-26-13
Andrew Wood Date
Attorney for Respondent

money order made payable to the Missouri Ethics Commission and sent to the Missouri Ethics Commission.

3. If Respondents Gene Schwartz and Citizens for Growth commit 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 Respondents Gene Schwartz and Citizens for Growth will be required to pay the remainder of the fee as originally imposed by the Commission. The fee will be due immediately upon final adjudication finding that Respondents Gene Schwartz and Citizens for Growth committed such a violation.
4. Respondents Gene Schwartz and Citizens for Growth shall be jointly and severally liable for all fees imposed under this order.

SO ORDERED this 2nd day of April, 2013

By:



Dennis Rose, Chair
Missouri Ethics Commission