

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.

For good consideration herein acknowledged, Respondents further agree that the statements in the affidavit signed and executed by Respondent Biermann, incorporated by reference herein as Attachment 1, are true and correct, and that Respondent Biermann will provide true and correct testimony when called upon as a witness in any proceeding relating to, regarding, or touching upon any topic in the affidavit.

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 Biermann was an unsuccessful candidate for the position of State Representative in the November 2010 general election.

3. Respondent Committee to Elect Kenny Biermann was the candidate committee formed by Respondent Biermann to support his candidacy in the November 2010 general election.

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. Respondents hired Regional Growth Consultants as campaign consultants for the 2010 election.

6. Respondents reported a payment of \$2,145 to "RGC," (i.e., Regional Growth Consultants), on October 19, 2010, with the purpose of "consulting fee," on the "8 Days Before" report, but the "independent contractor" supplemental report specifying the service or services provided was left blank.

7. Respondents reported a payment of \$2,981.96 to "rgc consulting" (i.e., Regional Growth Consultants), on November 6, 2010, with the purpose of "consulting" on the "30 Days After" report, without filing an "independent contractor" supplemental report specifying the service or services provided.

JOINT PROPOSED CONCLUSIONS OF LAW

8. The words "consulting or consulting services, fees, or expenses", or similar words, shall not be used to describe the purpose of a payment. § 130.041.4, RSMo.

9. "Any payment to such an independent contractor shall be on a form ... established by the ethics commission and shall include identification of the specific service or services provided including, but not limited to, public opinion polling, research on issues or opposition

background, print or broadcast media production, print or broadcast media purchase, computer programming or data entry, direct mail production, postage, rent, utilities, phone solicitation, or fund raising, and the dollar amount prorated for each service." § 130.041.4, RSMo.

10. Reports required by Section 130.041, RSMo, are due at the times prescribed in Section 130.046, RSMo.

11. There is probable cause to believe that Respondents violated Section 130.041.4, RSMo, by reporting \$5,126.95 in expenditures with the purpose of either "consulting" or "consulting fee," and not timely filing an "independent contractor" supplemental report, and that Respondents 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 \$1,000, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$100 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 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 Biermann and Committee to Elect Kenny Biermann 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 KENNY BIERMANN

By: Kenny Biermann Aug 27, 2013
Kenny Biermann Date

PETITIONER MISSOURI ETHICS
COMMISSION

By: Stacey Heislen 8/28/13
Stacey Heislen Date
Acting Executive Director

RESPONDENT COMMITTEE TO
ELECTION KENNY BIERMANN

By: Kenny Biermann Aug 27, 2013
Kenny Biermann, Candidate Date

By: Curtis R. Stokes 8/28/13
Curtis R. Stokes Date
Attorney for Petitioner

STATE OF MISSOURI)
)
COUNTY OF)

Affidavit of Kenny Biermann

Before me, the undersigned authority, personally appeared Kenny Biermann, who being by me duly sworn, deposed as follows:

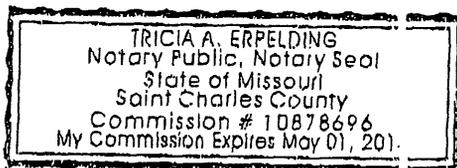
My name is Kenny Biermann (affiant). I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

1. I was a candidate for office in the Missouri House of Representatives in the November 2010 General Election.
2. To support my candidacy I formed the Committee to Elect Kenny Biermann.
3. For the November 2010 election I hired Regional Growth Consultants, LLC and Danny Powell to work on my campaign.
4. On my "8 Day Before" campaign finance disclosure report, I reported a payment of \$2,145 to "RCG," which is Regional Growth Consultants, on October 19, 2010.
5. I reported the purpose of that payment as "consulting fee."
6. On my "30 Day After" campaign finance disclosure report, I reported a payment of \$2,981.96 to "rgc consulting," which is Regional Growth Consultants on November 6, 2010.
7. I reported the purpose of that payment as "consulting."
8. I did not file a supplemental "independent contractor" disclosure form setting forth the actual service or services provided by Regional Growth Consultants for either of these payments.



Affiant's Signature

In witness whereof I have hereunto subscribed my name and affixed my official seal this 27th day of August, 2013.





Notary Public

Printed Notary Name: Tricia A. Erpelding

My commission expires:

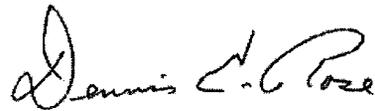
RSMo. However, if Respondents pay \$100 of that fee within forty-five days after the date of the Order, the remainder of the fee will be stayed, subject to the provisions below. The fee will be paid by check or money order made payable to the Missouri Ethics Commission.

c. If either Respondent 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 Biermann and Committee to Elect Kenny Biermann shall be jointly and severally liable for all fees imposed under this order.

SO ORDERED this 20th day of August,
2013

By:



Dennis Rose, Chair
Missouri Ethics Commission