

**Filed**  
**DEC 17 2013**  
Missouri Ethics  
Commission

**BEFORE THE  
MISSOURI ETHICS COMMISSION**

MISSOURI ETHICS COMMISSION,            )  
  )  
  Petitioner,            )  
  )  
v.    )  
  )  
JAMES BROWN,                                )  
  )  
  Respondent.            )

Case No. 13E107

**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 Respondent, James Brown, acknowledges that he has received and reviewed a copy of the Complaint filed by the Petitioner in this case, and the parties submit to the jurisdiction of the Missouri Ethics Commission.

The undersigned Respondent further acknowledges that he is 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 charges against Respondent be proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against Respondent; the right to present evidence on Respondent's behalf at the hearing; and the right to a decision upon the record of the hearing. Being aware of these rights provided to Respondent by operation of law, the undersigned Respondent knowingly and voluntarily waives each and every one of these rights and freely enters 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 agrees to abide by the terms of this document.

**I.**

Based upon the foregoing, the Petitioner and the undersigned Respondent 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. Respondent Brown is a resident of Smithville, Missouri.
2. The Smithville Area Fire Protection District had a proposed tax increase on the August 6, 2013 ballot.
3. Respondent Brown published, circulated and distributed a postcard in opposition to the tax increase which exceeded \$500.00 of his own funds.
4. Respondent Brown did not register a committee and did not file a non-committee expenditure report with Petitioner or Clay County Board of Elections.
5. 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.
6. Based on the report of the Commission's staff, the Commission determined that there were reasonable grounds to believe that violations of law occurred, and it therefore authorized a hearing in this matter pursuant to Section 105.961.3, RSMo.
7. Respondent Brown published, circulated, and/or distributed postcards, attached hereto as Exhibit A, by mailing them to voters in the Smithville, Missouri area.
8. Respondent Brown paid for the printed matter attached hereto as Exhibit A.

9. The printed matter attached hereto as Exhibit A relates to a ballot measure in the August 2013 election.

10. The postcards attached hereto as Exhibit A should have contained a clear and conspicuous statement: "Paid for by Jim Brown, P.O. Box 237, Smithville, MO", but they did not.

11. Respondent Brown made expenditures on July 24, 2013 in the amount of \$543.96 by purchasing postcards and postage with his personal funds. The postcards were in opposition of a ballot measure on the August 6, 2013 ballot.

12. Respondent failed to file a non-committee expenditure report despite spending in excess of \$500 in opposition of a ballot measure.

#### **JOINT PROPOSED CONCLUSIONS OF LAW**

13. "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.

14. "[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; but 'printed matter' is defined to exclude ... any sign personally printed and constructed by an individual without compensation from any other person and displayed at that individual's place of residence or on that individual's personal motor vehicle; any items of personal use given away

or sold, such as campaign buttons, pins, pens, pencils, book matches, campaign jewelry, or clothing, which is paid for by a candidate or committee which supports a candidate or supports or opposes a ballot measure and which is obvious in its identification with a specific candidate or committee and is reported as required by this chapter; and any news story, commentary, or editorial printed by a regularly published newspaper or other periodical without charge to a candidate, committee or any other person.” § 130.031.8, RSMo.

15. In regard to any printed matter paid for by an individual or individuals, it shall be sufficient identification to print the name of the individual or individuals and the respective mailing address or addresses, except that if more than five individuals join in paying for printed matter it shall be sufficient identification to print the words "For a list of other sponsors contact:" followed by the name and address of one such individual responsible for causing the matter to be printed, and the individual identified shall maintain a record of the names and amounts paid by other individuals and shall make such record available for review upon the request of any person. § 130.031.8(4), RSMo.

16. There is probable cause to believe that Respondent Brown violated Section 130.031.8(4), RSMo, by publishing, circulating and distributing postcards without including the proper “paid for by” disclosure, and that Respondent did so knowingly.

17. According to 130.047, RSMo:

Any person who is not a defined committee who makes an expenditure or expenditures aggregating five hundred dollars or more in support of, or opposition to, one or more candidates ... shall file a report signed by the person making the expenditures, or that person's authorized agent. The report shall include the name

and address of the person making the expenditure, the date and amount of the expenditure or expenditures, the name and address of the payee, and a description of the nature and purpose of each expenditure. Such report shall be filed with the appropriate officer having jurisdiction over the election of the candidate or ballot measure in question as set forth in section 130.026 no later than fourteen days after the date of making an expenditure which by itself or when added to all other such expenditures during the same campaign equals five hundred dollars or more. If, after filing such report, additional expenditures are made, a further report shall be filed no later than fourteen days after the date of making the additional expenditures; except that, if any such expenditure is made within fourteen days prior to an election, the report shall be filed no later than forty-eight hours after the date of such expenditure. The provisions of this subsection shall not apply to a person who uses only the person's funds or resources to make an expenditure or expenditures in support of or in coordination or consultation with a candidate or committee; provided that, any such expenditure is recorded as a contribution to such candidate or committee and so reported by the candidate or committee being supported by the expenditure or expenditures.

18. There is probable cause to believe that Respondent Brown violated Section 130.047.1, RSMo, by failing to file a non-committee expenditure report despite having spent in excess of \$500 in opposition to a ballot measure on the August 6, 2013 ballot, and that Respondent Brown 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 1.

a. Respondent 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 Respondent Brown in the amount of \$1,100, pursuant to Section 105.961.4(6), RSMo. However, if Respondent pays \$200 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 Respondent Brown 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 Respondent 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.

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. Respondent, together with his heirs, successors, and assigns, does 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 Respondent or Respondent's 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 Respondent from any late filing fees due to the appropriate filing authority, including Petitioner Missouri Ethics Commission. Respondent understands that late filing fees accrue automatically under Section 105.963, RSMo.

RESPONDENT JAMES BROWN

By: James H Brown 12/2/13  
James Brown Date

PETITIONER MISSOURI ETHICS  
COMMISSION

By: James Klahr 12/17/13  
James Klahr Date  
Executive Director

By: Elizabeth L Ziegler 12/17/13  
Elizabeth L. Ziegler Date  
Attorney for Petitioner

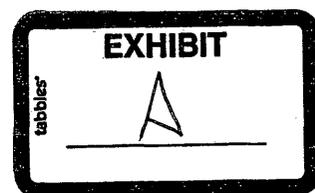
**TAXES TAXES TAXES**

**VOTE NO**

**ON THE PROPOSED TAX INCREASE BY  
THE SMITHVILLE AREA FIRE  
PROTECTION  
DISTRICT**

**AUGUST 6th 2013**

Missouri Ethics Commission  
AUG 09 2013



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Smithville, MO 64089

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STEVEN WOLCOTT

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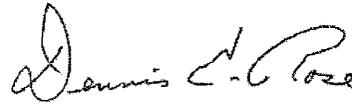
SMITHVILLE MO 64089-3801



3. If Respondent Brown commits 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 Respondent 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 Respondent committed such a violation.

SO ORDERED this 17<sup>th</sup> day of December,  
2013

By:



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Dennis Rose, Chair  
Missouri Ethics Commission