

BEFORE THE  
MISSOURI ETHICS COMMISSION

Filed  
SEP 30 2016  
Missouri Ethics  
Commission

MISSOURI ETHICS COMMISSION, )  
 )  
 Petitioner, )  
 )  
 v. ) Case No. 16-0011-I  
 )  
 CITIZENS FOR PROGRESS, )  
 )  
 and )  
 )  
 WENDELL WYCUFF, )  
 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, Wycuff and Citizens for Progress, acknowledge that they have 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 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.

2. Respondent Wycuff formed a committee, Citizens for Progress, a voluntary unincorporated association of individuals, for the purpose of influencing voters and supporting candidates for school board in Ash Grove in Greene County, Missouri.

3. Respondent Wycuff acted as the treasurer for Respondent Citizens for Progress at all times relevant to this complaint, opening an official depository account, accepting contributions, and making expenditures.

4. Pursuant to Sections 105.957 and 105.961, RSMo, the Commission's staff investigated a complaint filed with the Commission and reported the investigation findings to the Commission.

5. Based on the investigation report, 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.

**COUNT I**

*Failure to timely file a statement of committee organization*

6. Respondent Wycuff formed Respondent Citizens for Progress as a committee in 2014, and opened an official depository account for Citizens for Progress at that time.

7. As of the date of this complaint, Respondents have not filed a statement of committee organization with either the Ethics Commission or the Greene County Clerk.

**COUNT II**

*Failure to file campaign finance reports*

8. Respondents failed to timely file a 40 Day Before April 2016 election report for the reporting period ending February 20, 2016, in which period Respondents incurred \$758.62 in expenditures.

9. Respondents failed to timely file an 8 Day Before April 2016 election report for the reporting period ending March 24, 2016, in which period Respondents made an expenditure of \$97.70 for postage.

10. Respondents failed to timely file a 24 Hour Report for the April 2016 election for \$462.70 in expenditures made through March 29, 2016.

11. Respondents failed to timely file an April 2016 quarterly statement of limited activity for the reporting period ending through March 31, 2016.

12. Respondents failed to timely file a 30 Day After April 2016 election report for the reporting period ending April 30, 2016, in which period Respondents made \$240 in expenditures.

**COUNT III**

*Failure to timely and accurately report expenditures*

13. Respondents failed to report the following three (3) expenditures over \$100 each, totaling \$1,461.32:

<b>Date</b>	<b>Purpose</b>	<b>From</b>	<b>Amount</b>
2/8/2016	Banners and yard signs	Banners on the Cheap	\$758.62

<b>Date</b>	<b>Purpose</b>	<b>From</b>	<b>Amount</b>
3/28/2016	Postage	USPS	\$462.70
3/30/2016	Newspaper ad	Ash Grove paper	\$240.00
		<b>TOTAL</b>	<b>\$1,461.32</b>

14. Respondents failed to report an expenditure of \$97.70 for printing.

**COUNT IV**

*Failure to file direct expenditure reports*

15. Respondents failed to file required campaign finance reports and therefore failed to file direct expenditure reports disclosing the candidates supported or opposed by \$1,558.82 in expenditures made by Respondents during the April 2016 election cycle.

**JOINT PROPOSED CONCLUSIONS OF LAW**

**COUNT I**

*Failure to timely file a statement of committee organization*

16. "The treasurer or deputy treasurer acting on behalf of any person or organization or group of persons which is a committee by virtue of the definitions of committee in section 130.011 and any candidate who is not excluded from forming a committee in accordance with the provisions of section 130.016 shall file a statement of organization with the appropriate officer within twenty days after the person or organization becomes 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.

17. For purposes of Chapter 130, RSMo, a committee is "a person or any combination of persons, who accepts contributions or makes expenditures for the primary or incidental purpose of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates . . ." §130.011(7), RSMo.

18. 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.

19. “The appropriate officers for a continuing committee and for any other committee not named in subsection 3, 4 and 5 of this section” are the Missouri Ethics Commission and the election authority for the county in which the committee is domiciled. § 130.026.5, RSMo.

20. There is probable cause to believe that Respondents Citizens for Progress and Wycuff violated Section 130.021.5, RSMo, by failing to timely file a statement of committee organization, and that Respondents did so knowingly.

## **COUNT II**

### *Failure to file campaign finance reports*

21. The “treasurer or deputy treasurer of a committee shall file disclosure reports pursuant to this section, except for any calendar quarter in which the contributions received by the committee or the expenditures or contributions made by the committee do not exceed five hundred dollars.” § 130.046.3, RSMo.

22. “The reporting dates and periods covered for such quarterly reports shall not be later than the fifteenth day of January, April, July and October for the periods closing on the thirty first day of December, the thirty-first day of March, the thirtieth day of June and the thirtieth day of September.” § 130.046.3, RSMo.

23. Continuing committees are required to additional file campaign finance disclosure reports at the following times and for the following periods:

- (1) Not later than the eighth day before an election for the period closing on the twelfth day before the election;
- (2) Not later than twenty-four hours after aggregate expenditures of two hundred fifty dollars or more are made after the twelfth day before the election; and
- (3) Not later than the thirtieth day after an election for a period closing on the twenty-fifth day after the election.

§ 130.046.3, RSMo.

24. "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." § 130.046.1, RSMo.

25. There is probable cause to believe that Respondents Citizens for Progress and Wycuff violated Sections 130.046.1 and 130.046.3, RSMo, by failing to file four (4) full campaign finance disclosure reports and one (1) statement of limited activity, and that Respondents did so knowingly.

### **COUNT III**

#### *Failure to timely and accurately report expenditures*

26. Committees must file regular campaign finance reports disclosing the committee's expenditures for the reporting period, including:

- (d) The full name and mailing address of each person to whom an expenditure of money or any other thing of value in the amount of

more than one hundred dollars has been made, contracted for or incurred, together with the date, amount and purpose of each expenditure. Expenditures of one hundred dollars or less may be grouped and listed by categories of expenditure showing the total dollar amount of expenditures in each category, except that the report shall contain an itemized listing of each payment made to campaign workers by name, address, date, amount and purpose of each payment and the aggregate amount paid to each such worker.

§ 130.041.1(4), RSMo.

27. There is probable cause to believe that Respondents Citizens for Progress and Wycuff violated Section 130.041.1(4), RSMo, by failing to timely and accurately report three (3) expenditures over \$100 each, totaling \$1,461.32, and by failing to timely and accurately report an expenditure of \$97.70 for printing, and that Respondents did so knowingly.

#### **COUNT IV**

##### *Failure to file direct expenditure reports*

28. Committees supporting ballot measures are required to file direct expenditure reports, including:

The amount of expenditures for or against a candidate or ballot measure during the period covered and the cumulative amount of expenditures for or against that candidate or ballot measure, 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 reasonable among the candidates or ballot measure  
or both.

§130.041.1(7), RSMo.

29. There is probable cause to believe that Respondents Citizens for Progress and Wycuff violated Section 130.041.1(7), RSMo, by failing to file direct expenditure reports disclosing the candidates supported or opposed in the April 2016 election by expenditures totaling \$1,558.82, 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 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 \$4,900, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$490 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.
  - c. Regardless of the stay in paragraph 2.b above, if any Respondent commits any further violation of the campaign finance laws under Chapter 130, RSMo, within the two-year period from the date of this order, then Respondents will be required to pay the remainder of the fee. The fee will due immediately upon final adjudication finding that Respondents have committed such a violation.
  - d. 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 Complaint filed by the Petitioner in the above action.

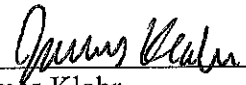
4. Respondents, together with their heirs, successors, and assigns, do hereby waive, release, acquit and forever discharge the Missouri Ethics Commission and its attorneys of or from any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited 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.

SO AGREED:

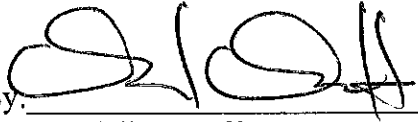
RESPONDENT WENDELL WYCUFF

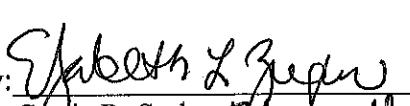

By:  7-27-16  
Wendell Wycuff Date

PETITIONER MISSOURI ETHICS COMMISSION

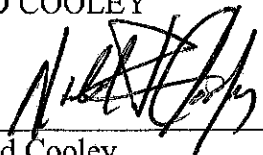
By:  10/5/16  
James Klahr Date  
Executive Director

RESPONDENT CITIZENS FOR PROGRESS

By:  7-27-16  
Wendell Wycuff Date  
Treasurer

By:  9/30/16  
Curtis R. Stokes Elizabeth Zegan Date  
Attorney for Petitioner 

DONALD COOLEY

By:  7-27-16  
Donald Cooley Date  
Attorney for Respondents

Filed  
SEP 30 2016  
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BEFORE THE  
MISSOURI ETHICS COMMISSION

MISSOURI ETHICS COMMISSION,	)	
	)	
Petitioner,	)	
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v.	)	
	)	
WENDELL WYCUFF,	)	Case No. 16-0011-I
	)	
AND	)	
	)	
CITIZENS FOR PROGRESS,	)	
	)	
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 Respondents Wendell Wycuff and Citizens for Progress violated Sections 130.026.5, 130.046.1, 130.046.3, 130.041.1(4), and 130.041.1(7), RSMo.

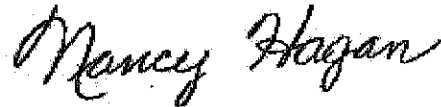
The Commission directs that the Joint Stipulation be adopted.

1. Respondents shall comply with all relevant sections of Chapter 130, RSMo.
2. It is the order of the Missouri Ethics Commission that a fee is imposed against Respondents in the amount of \$4,900 pursuant to Section 105.961.4(6), RSMo. However, if Respondent pay \$490 of that fee within forty-five (45) days after the date of this 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 and sent to the Missouri Ethics Commission.

3. Regardless of the stay in paragraph 2 above, if Respondents 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 will be required to pay the remainder of the fee. The fee will be due immediately upon final adjudication finding that Respondents committed such a violation.
4. Respondents shall be jointly and severally liable for all fees imposed under this order.

SO ORDERED this 30<sup>th</sup> day of September, 2016

By:



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Nancy Hagan, Chair  
Missouri Ethics Commission