

BEFORE THE
MISSOURI ETHICS COMMISSION

Filed
APR 25 2017
Missouri Ethics
Commission

MISSOURI ETHICS COMMISSION,)	
)	
Petitioner,)	
v.)	
)	Case No. 16-0135-I
CITY OF LEE'S SUMMIT,)	
)	
Respondent.)	

**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, City of Lee's Summit, 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 Respondent 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 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 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 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. 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 is a Home-Rule City which is governed by Chapter 82, RSMo and its own charter.

3. According to the City's charter, it has adopted a City Administrator form of government. Stephen Arbo is the City Manager.

4. Respondent spent a total of \$9,086.69 for printed material in regard to Question 1 on the 2016 August ballot. The material included a rack card and a mailer.

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

6. Based on the investigation report, the Commission determined that there were reasonable grounds to believe that a violation of law occurred, and it therefore authorized a hearing in this matter pursuant to Section 105.961.3, RSMo.

7. Respondent published, circulated and distributed a rack card and some mailers on behalf of the City of Lee's Summit regarding the Out-of-State Motor Vehicle Sales Tax Election ballot measure, also known as Question 1.

8. The printed material did not include the words "Paid for By" nor did they include the Principal Officer of the City.

9. The printed material should have contained a Paid for By Disclosure of "Paid for By the City of Lee's Summit," the name of the City Manager, and an address.

JOINT PROPOSED CONCLUSIONS OF LAW

10. "Any person publishing, circulating, or distributing any printed matter relative to ... 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.

11. Printed matter includes "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." § 130.031.8, RSMo.

12. "In regard to any printed matter paid for by a corporation or other business entity, labor organization, or any other organization not defined to be a committee by subdivision (7) of section 130.011 and not organized especially for influencing one or more elections, it shall be sufficient identification to print the name of the entity, the name of the principal officer of the entity, by whatever title known, and the mailing address of the entity, or if the entity has no mailing address, the mailing address of the principal officer." § 130.031.8(3), RSMo.

13. There is probable cause to believe that Respondents violated Section 130.031.8(3), RSMo, by publishing, circulating, and distributing rack card and mailers on behalf

of the City of Lee's Summit with an incorrect "paid for by" disclosure statement, 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:

14. The parties understand that the Petitioner will maintain this Joint Stipulation as an open and public record of the Missouri Ethics Commission.

15. The Commission shall issue its Consent Order in the form attached hereto as Exhibit A.

- a. Respondent shall comply with all relevant sections of Chapter 130, RSMo.
- b. It is the Order of the Missouri Ethics Commission that it issue a letter of reprimand to Respondent pursuant to §105.961.4(4), RSMo.

16. 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.

17. Respondent, 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 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.

SO AGREED:

RESPONDENT CITY OF LEE'S SUMMIT

PETITIONER MISSOURI ETHICS
COMMISSION

By: [Signature] 4/14/17
Stephen Arbo
City Manager

By: [Signature] 4/28/17
James Klahr
Executive Director

ATTORNEY FOR RESPONDENT CITY OF
LEE'S SUMMIT

By: [Signature] 4/14/17
Brian Head
Attorney for Respondent

By: [Signature] 4/24/17
Brian Hamilton
Attorney for Petitioner

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MISSOURI ETHICS COMMISSION,)
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CONSENT ORDER

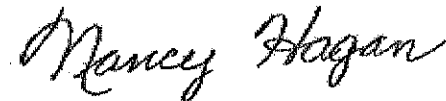
The parties having filed a Joint Stipulation of Facts, Waiver of Hearing, and Consent Order with Proposed Findings of Fact and Conclusions of Law ("Joint Stipulation") with the Missouri Ethics Commission in this matter, the Missouri Ethics Commission hereby accepts as true the facts stipulated and finds that Respondent City of Lee's Summit violated Section 130.031.8, RSMo, as stated in the Joint Stipulation.

The Commission directs that all terms and orders of the Joint Stipulation be adopted herein and implemented.

- a. Respondent shall comply with all relevant sections of Chapter 130, RSMo.
- b. It is the order of the Missouri Ethics Commission that it issue a letter of reprimand to Respondent City of Lee's Summit pursuant to §105.961.4(4), RSMo.

SO ORDERED this 25th day of April, 2017

By:



Nancy Hagan, Chair
Missouri Ethics Commission



MISSOURI ETHICS COMMISSION

P.O. Box 1370
Jefferson City, MO 65102
www.mec.mo.gov
(573) 751-2020 / (800) 392-8660

James Klahr
Executive Director

April 25, 2017

City of Lee's Summit
220 SE Green St.
Lee's Summit, MO 64063

RE: MEC Case No. 16-0135-I

To City of Lee's Summit:

A Letter of Reprimand is issued to you pursuant to the authority granted to the Missouri Ethics Commission in Section 105.961.4(4), RSMo.

The Commission has accepted the submission of the 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 in this matter, a copy of which is marked as Exhibit A, attached hereto and incorporated herein by reference.

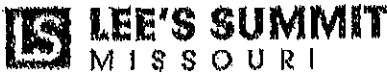
The Commission has found that you violated §130.031.8, RSMo, by publishing, circulating and distributing a rack card and some mailers on behalf of the City of Lee's Summit regarding the Out-of-State Motor Vehicle Sales Tax Election ballot measure, also known as Question 1, attached hereto as Exhibit B, without including the proper "paid for by" disclosure. The Commission hereby issues this Letter of Reprimand to you for violation of §130.031.8, RSMo.

The Commission also reminds City of Lee's Summit that to the extent it distributes informational materials regarding ballot measures in the future, Section 115.646, RSMo provides that "no contribution or expenditure of public funds shall be made directly by any officer, employee or agent of any political subdivision to advocate, support, or oppose any ballot measure or candidate for public office. This section shall not be construed to prohibit any public official of a political subdivision from making public appearances or from issuing press releases concerning any such ballot measure."

Sincerely,

A handwritten signature in cursive script that reads "Nancy Hagan".

Nancy Hagan, Chair
Missouri Ethics Commission



City of Lee's Summit
 220 SE Green Street
 Lee's Summit, MO 64063

Attachment 3

PRSRT STD
 U.S. POSTAGE

PAID
 Permit No. 79
 Lee's Summit, MO
 64063
 EDDM

Election day is August 2, 2016

Out-of-State Motor Vehicle Sales Tax Election

On Tuesday, August 2, Lee's Summit voters will be asked whether or not to discontinue the collection of the city's sales tax on motor vehicles, trailers, boats and outboard motors purchased from out-of-state car dealerships.

In 2012, the Missouri Supreme Court ruled that cities without a use tax (a tax similar to a sales tax that is imposed on out-of-state purchases) would be required to discontinue collecting local sales tax on out-of-state purchases of motor vehicles, trailers, boats and outboard motors unless an election is held allowing voters to decide whether or not to discontinue this tax.

Vote Tuesday, August 2, 2016

Question #1

"Shall the City of Lee's Summit, Missouri discontinue applying and collecting the local sales tax on the titling of motor vehicles, trailers, boats, and outboard motors that were purchased from a source other than a licensed Missouri dealer?"

Approval of this measure will result in a reduction of local revenue to provide for vital services for the City of Lee's Summit and it will place Missouri dealers of motor vehicles, outboard motors, boats, and trailers at a competitive disadvantage to non-Missouri dealers of motor vehicles, outboard motors, boats and trailers."

cityofls.net | Elections

EXHIBIT
 B