Filed
AUG 27 2015
Missouri Ethics Commission

**BEFORE THE**
**MISSOURI ETHICS COMMISSION**

| | | |
|---|---|---|
| MISSOURI ETHICS COMMISSION, | ) | |
| Petitioner, | ) | |
| v. | ) | |
| CHARLES "ANDY" ARNOLD, | ) | Case No. 14E252, 14E253, 14E254, 14E255, 14E256, 14E257, 14E258 |
| MICHAEL GIBBONS, | ) | |
| RICHARD MOORE, | ) | |
| SUSAN MOORE, | ) | |
| JORGEN SCHLEMEIER, | ) | |
| CATINA "TINA" SHANNON, | ) | |
| and | ) | |
| GREG SWARENS, | ) | |
| Respondents. | ) | |

**CONSENT ORDER**

The parties have filed a Joint Stipulation of Facts, Waiver of Hearing, and Proposed Consent Order with the Missouri Ethics Commission in this matter. Accordingly, the Missouri Ethics Commission accepts as true the facts stipulated and finds that Respondents violated Sections 105.473.3, RSMo.

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

1. Respondents shall comply with the lobbying provisions of Sections 105.470 through 105.477, RSMo.

2. It is the order of the Missouri Ethics Commission that a letter of concern be issued pursuant to Section 105.961.4(4), RSMo.

SO ORDERED this 27th day of August, 2015

By: C. E. Weedman, Jr.

Charles E. Weedman, Jr., 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

August 28, 2015

Susan Moore
PO Box 1069
Jefferson City, MO 65102

**RE: 14E252, 14E253, 14E254, 14E255, 14E256, 14E257, 14E258**

Dear Ms. Moore:

This Letter of Concern is being 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 proposed Joint Stipulation of Facts, and reached its Conclusions of Law and Order in this matter, a copy of which submission is marked as Exhibit A, attached hereto and incorporated by reference.

The Commission has found that Section 105.473.3, RSMo, required you to report expenditures for a dinner by individual recipient, rather than report as a group expenditure, on the August 2014 lobbyist expenditure disclosure report, filed in September 2014. The Commission acknowledges the amendments you made in October 2014 to correct that disclosure report.

The Commission advises that in the future, you obtain for your records a copy of any written invitation actually sent for a group event. Such documentation would be sufficient under Section 105.473, RSMo, to support the decision to report any expenditures on that event as a group expenditure.

The Commission hereby issues this Letter of Concern for not originally reporting this expenditure by individual recipient pursuant to Section 105.473.3, RSMo.

Sincerely,

C. E. Weedman, Jr.

Charles E. Weedman, Jr., Chair
Missouri Ethics Commission

Enclosure

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| 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, Arnold, Gibbons, Richard Moore, Susan Moore, Schlemeier, Shannon, and Swarens, 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 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.

This Joint Stipulation may be executed by the parties in counterparts which, taken together, shall constitute a single agreement and may not be altered or amended except in the manner provided herein.

**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 105, RSMo.

2. Respondent Arnold has been a lobbyist registered with the Missouri Ethics Commission since 1995.

3. Respondent Gibbons has been a lobbyist registered with the Missouri Ethics Commission since 2009.

4. Respondent Richard Moore has been a lobbyist registered with the Missouri Ethics Commission since 2010.

5. Respondent Susan Moore has been a lobbyist registered with the Missouri Ethics Commission since 2010.

6. Respondent Schlemeier has been a lobbyist registered with the Missouri Ethics Commission since 1994.

7. Respondent Shannon has been a lobbyist registered with the Missouri Ethics Commission since 2006.

8. Respondent Swarens has been a lobbyist registered with the Missouri Ethics Commission since 1997.

9. 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.

10. 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.

11. Between July 29 and August 2, 2014, the American Legislative Exchange Council, also known by its acronym ALEC, held its annual meeting in Dallas, Texas.

12. During the ALEC annual meeting, there is a "State Night" dinner for each state.

13. ALEC includes the State Night dinner on its annual meeting agenda, but provides no funding for the State Night dinner.

14. For approximately twenty (20) years, and at least from 2011 through 2013, written invitations to the State Night dinner were sent to every member of the Missouri General Assembly.

15. For reasons unknown to Petitioner or Respondents, a written invitation to the State Night dinner in 2014 was not sent to every member of the General Assembly.

16. The State Night dinner was included on an "Events Calendar" circulated to lobbyists and all members of the Missouri General Assembly by Mary Scruggs, Director Government Relations for the Association of Rural Electric Cooperatives, prior to the event.

17. On August 1, 2014, the Missouri State Night dinner was hosted at the Dallas Chop House, a restaurant in Dallas, Texas.

18. Approximately thirty-seven individuals attended the Missouri State Night dinner.

19. Five of the attendees were members of the Missouri General Assembly. Two of those five attendees' spouses were also in attendance.

20. Fifteen of the attendees were Missouri lobbyists registered as such with the Missouri Ethics Commission.

21. Another fifteen attendees were neither registered Missouri lobbyists nor public officials required to be reported on lobbyist expenditure reports.

22. The bill for the Missouri State Night dinner totaled $5,686.72.

23. Divided evenly among the thirty-seven individuals attending the State Night dinner, the total bill for each individual is $153.69.

24. The fifteen Missouri lobbyists divided the bill for the Missouri State Night dinner, with each lobbyist paying a one-fifteenth share totaling $379.11.

25. Divided evenly among the thirty-seven individual attendees, each of the fifteen Missouri lobbyists paid approximately $10.25 for each individual who attended the State Night dinner.

26. In September 2014, each Respondent reported their full share of the bill, $379.11, as a group expenditure made on behalf of the "Entire General Assembly."

27. Respondents reported the State Night dinner as a group expenditure based on Respondents' stated understanding that a written invitation had been sent to every member of the General Assembly in 2014.

28. On October 14, 2014, the Missouri Ethics Commission received a complaint against Respondents alleging that Respondents improperly reported the State Night dinner expenditure as a "group expenditure" to the entire General Assembly rather than reporting each individual recipient of the expenditure.

29. After further investigating whether a notice to the entire General Assembly was sent, and learning one had not been sent, each Respondent amended his or her respective disclosure report between October 15 and October 23 to reflect the individual recipients of the expenditure who were members of the Missouri General Assembly or family or staff of those members.

30. As amended, each Respondent reported $71.75 in lobbyist expenditures, which is $10.25 to each public official and spouse of a public official present at the Missouri State Night dinner.

## JOINT PROPOSED CONCLUSIONS OF LAW

31. Under Missouri law, lobbyists must file with the Missouri Ethics Commission disclosure reports detailing expenditures made on behalf of public officials. § 105.473.3, RSMo.

32. The reports must be filed by the tenth day of the month following the expenditures. § 105.473.3, RSMo.

33. The reports must include the following:

> (a) The total of all expenditures by the lobbyist or his or her lobbyist principals made on behalf of all public officials, their staffs and employees, and their spouses and dependent children . . .
>
> (c) An itemized listing of the name of the recipient and the nature and amount of each expenditure by the lobbyist or his or her lobbyist principal, including a service or anything of value, for all expenditures made during any reporting period, paid or provided to or for a public official or elected local government official, such official's staff, employees, spouse or dependent children;
>
> (d) The total of all expenditures made by a lobbyist or lobbyist principal for occasions and the identity of the

> group invited, the date and description of the occasion and the amount of the expenditure for each occasion when any of the following are invited in writing:
>
> a. All members of the senate;
>
> b. All members of the house of representatives;
>
> c. All members of a joint committee of the general assembly or a standing committee of either the house of representatives or senate; or
>
> d. All members of a caucus of the majority party of the house of representatives, minority party of the house of representatives, majority party of the senate, or minority party of the senate;
>
> . . . .

§ 105.473.3(2), RSMo.

34. The expenditure report should not include in the expenditure report "any amount expended by a lobbyist or lobbyist principal on himself or herself." § 105.473.3, RSMo.

35. An "expenditure" for purposes of these monthly reports is "any payment made or charge, expense, cost, debt or bill incurred; any gift, honorarium or item of value bestowed including any food or beverage; any price, charge or fee which is waived, forgiven, reduced or indefinitely delayed; any loan or debt which is cancelled, reduced or otherwise forgiven; the transfer of any item with a reasonably discernible cost or fair market value from one person to another or provision of any service or granting of any

opportunity for which a charge is customarily made, without charge or for a reduced charge." § 105.470(3), RSMo.

36. A "public official" for purposes of these monthly reports includes any member or member-elect of the General Assembly. § 105.470(8), RSMo.

37. Under Missouri law, a lobbyist should amend a monthly disclosure report if the lobbyist determines that information previously provided was incomplete or inaccurate.

38. The Commission concludes that there is probable cause to believe that Respondents violated Section 105.473.3, RSMo, by reporting the expenditure for the State Night dinner as a group expenditure to the entire General Assembly, when the expenditures were required to be reported on behalf of the public official and spouses of public officials attending the State Night dinner because not every member of the Missouri General Assembly was invited in writing to the State Night dinner.

39. Respondents agree that there is probable cause to believe that a violation of Section 105.473.3 occurred, but assert that they sufficiently complied with Section 105.473, RSMo, by relying reasonably and in good faith on past practice and conversation with the ALEC co-chair for Missouri to believe that invitations had been sent to the entire General Assembly, and by self-correcting with timely amendments to their reports as allowed by law promptly upon discovering that invitations had not in fact been sent to the entire General Assembly.

## 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 the lobbying provisions of Sections 105.470 through 105.477, RSMo.

   b. It is the Order of the Missouri Ethics Commission that a letter of concern be issued pursuant to Section 105.961.4(4), RSMo.

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 and to the termination of any further proceedings before the Commission based upon the reporting of the State Night dinner discussed above.

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 CHARLES "ANDY" ARNOLD

By: 8.13.15
Charles "Andy" Arnold Date

RESPONDENT MICHAEL GIBBONS

By: 8/11/15
Michael Gibbons Date

RESPONDENT RICHARD MOORE

By: 8/12/15
Richard Moore Date

By: 8/12/15
Becky Kilpatrick Date
Attorney for Respondent

RESPONDENT SUSAN MOORE

By: 8-12-15
Susan Moore Date

RESPONDENT JORGEN SCHLEMEIER

By: 8-13-15
Jorgen Schlemeier Date

PETITIONER MISSOURI ETHICS COMMISSION

By: 8/27/15
James Klahr Date
Executive Director

By: 8/26/2015
Curtis R. Stokes Date
Attorney for Petitioner

RESPONDENT CATINA "TINA" SHANNON

By: 8-19-15
Catina "Tina" Shannon Date

By: 8/25/15
Kevin G. Meeks Date
Attorney for Respondent

RESPONDENT GREG SWARENS

By: 8-14-15
For Greg Swarens Date

By: 8-14-15
Charles W. Hatfield Date
Attorney for Respondent