

BEFORE THE  
MISSOURI ETHICS COMMISSION

**Filed**  
**DEC 07 2015**  
Missouri Ethics  
Commission

MISSOURI ETHICS COMMISSION, )  
)  
Petitioner, )  
)  
v. )  
)  
PROFESSIONAL FIREFIGHTERS OF ) Case No. 15-0031-I  
EASTERN MISSOURI 2665 PAC FUND, )  
Formerly PFEM PAC )  
)  
AND )  
)  
DAVID MARLO, TREASURER )  
)  
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 Professional Firefighters of Eastern Missouri 2665 PAC Fund and David Marlo violated Sections 130.031.8, 130.041.1(4)(d) and 130.046.1(1), RSMo.

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

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 \$1,200 pursuant to Section 105.961.4(6), RSMo. However, if either Respondent pays \$210 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 7<sup>th</sup> day of December, 2015

By:



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

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DAVID MARLO, 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, Professional Firefighters of Eastern Missouri 2665 PAC Fund and David Marlo, 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 Professional Firefighters of Eastern Missouri 2665 PAC Fund, formerly known as PFEM PAC, (collectively, "the committee") has been registered with the Commission as a continuing committee since November 19, 2003.
3. From 2004 through April 13, 2015 the name of the committee, as registered with the Commission, was PFEM PAC.
4. On April 13, 2015 Respondents filed an Amended Statement of Committee Organization changing the name of their committee from PFEM PAC to Professional Firefighters of Eastern Missouri Local 2665 PAC Fund.

5. Respondent Marlo was the Treasurer for the committee during all relevant times of this complaint.

6. 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.

7. 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.

### COUNT I

#### *"Paid for by" Disclosure*

8. Respondents published, circulated, and/or distributed the mailers, a true and accurate copy of which is attached hereto as Exhibit A, by mailing them to voters in the area.

9. Respondents PFEM PAC paid for the printed matter referred to in Exhibit A.

10. The printed matter referred to in Exhibit A relates to a ballot measure in the April 2015 election.

11. The order for the mailer was placed on March 19, 2015, finalized on March 25, 2015, and distributed on March 26, 2015.

12. Because the mailers were ordered, finalized, and distributed while the committee's name, as reflected in its filing with the Commission, was "PFEM PAC," the mailers referred to in Exhibit A should have contained a clear and conspicuous statement: "Paid for by PFEM PAC, David Marlo, Treasurer," but they did not contain such a clear and conspicuous statement.

## COUNT II

### *Failure to timely and accurately file reports*

13. On March 19, 2015 Respondents placed an order for 8,000 mailers with Mulligan Printing.
14. On March 24, 2105 Respondents issued a check to Mulligan Printing for \$1,738.98 for postage for the mailers.
15. Respondents incurred approximately \$300 for design of the mailers.
16. Respondents incurred \$869.43 for printing of the mailers.
17. Respondents filed their 8 Day Before Election Report on March 24, 2015 which included the \$1,738.09 expenditure to Mulligan Printing for postage.
18. Respondents requested, but did not receive, invoices for the design and printing costs for the mailer, prior to the 8 Day Before Election Report.
19. Respondents did not include the incurred expenditures for design and printing of the mailers on the original 8 Day Before Election Report using the fair market value of the design and printing for the cost.
20. Respondents filed a 30 Day After Election Report disclosing the expenditure for printing of the mailer.
21. Respondents amended their 8 Day Before Election Report on April 7, 2015, but they did not include the incurred cost of the mailers as part of their amendment.
22. The design and printing costs associated with the mailer were incurred on March 19, 2015 and should have been reported on Respondent's 8 Day Before Election Report filed on March 24, 2015.

## JOINT PROPOSED CONCLUSIONS OF LAW

### COUNT I

#### *"Paid for by" Disclosure*

23. "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.

24. "[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.

25. "In regard to any printed matter paid for by a committee, it shall be sufficient identification to print the name of the committee as required to be registered by subsection 5 of

section 130.021 and the name and title of the committee treasurer who was serving when the printed matter was paid for.” § 130.031.8(2), RSMo.

26. There is probable cause to believe that Respondents Professional Firefighters of Eastern Missouri 2665 PAC Fund and Marlo violated Section 130.031.8, RSMo, by publishing, circulating and distributing mailers in support of Proposition 8, a local ballot measure on the April 7, 2015 election without a complete, clear and conspicuous paid for by disclosure statement, and that Respondents did so knowingly.

## COUNT II

### *Failure to timely and accurately file reports*

27. Respondents were required to file legibly printed or typed disclosure reports of receipts and expenditures including:

(d) The full name and mailing address of each person to whom an expenditures 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)(d), RSMo.



28. Section 130.046.1(1), RSMo. requires that committees shall file disclosure reports “not later than the eighth date before an election for the period closing on the twelfth day before the election if the committee has made any contribution or expenditure either in support or opposition to any candidate or ballot measure.”

29. There is probable cause to believe that Respondents Professional Firefighters of Eastern Missouri 2665 PAC Fund and Marlo violated Sections 130.041.1(4)(d) and 130.046.1(1), RSMo, by failing to timely and accurately report incurred expenditures 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 B.

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 \$1,200, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$210 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, Respondents PFEM PAC and David Marlo shall be jointly and severally liable for all fees imposed under this order, subject to the terms in subparagraph b above..

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:

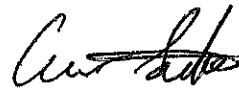
RESPONDENT PFEM PAC

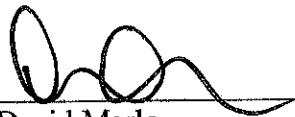
PETITIONER MISSOURI ETHICS  
COMMISSION

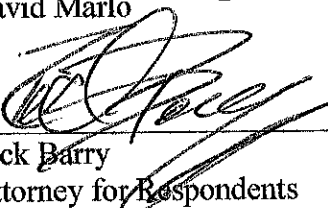
By:  11/23/15  
Date  
David Marlo  
Treasurer

By:  12/4/15  
Date  
James Klahr  
Executive Director

RESPONDENT DAVID MARLO

By:  12/7/15  
Date  
Curtis R. Stokes  
Attorney for Petitioner

By:  11/23/15  
Date  
David Marlo

By:  11/30/15  
Date  
Rick Barry  
Attorney for Respondents

**NO-TAX-RATE INCREASE**

**VOTER WANTS  
PROP. 5**



**EXHIBIT**

**A**

tabbles

# VOTE YES FOR S

## No-Tax-Rate Increase

On Tuesday, April 7 every vote will matter in protecting the quality of our emergency services by updating CCFR's equipment, facilities and training programs.

Remember to **Vote Yes for S**, and remind everyone in your house to vote yes too. The polls are open from 6 a.m. until 7 p.m.

For more information visit [www.YesforS.com](http://www.YesforS.com).



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