

BEFORE THE  
MISSOURI ETHICS COMMISSION

**Filed**  
OCT 14 2016  
Missouri Ethics  
Commission

MISSOURI ETHICS COMMISSION, )  
)  
Petitioner, )  
)  
v. )  
)  
TOM LEUTHER, Candidate ) Case No. 16-0038-I  
)  
LEUTHER FOR COLUMBIANS, )  
Candidate Committee )  
)  
RIGHT GOVERNMENT, )  
Continuing Committee )  
)  
BRIAN CUNNINGHAM, Treasurer )  
Right Government )  
)  
and )  
)  
CORBIN UMSTATTD, Deputy Treasurer )  
Right Government )  
)  
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, Leuther, Leuther for Columbians, Right Government, Cunningham, and Umstatt, 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.

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 130, RSMo.
2. Respondent Leuther was an unsuccessful candidate in the April 2016 election for Columbia 3rd Ward Councilman.

3. Respondent Leuther formed and registered his candidate committee, Respondent Leuther for Columbians, with the Missouri Ethics Commission in December 2015.

4. Respondent Leuther for Columbians converted to a debt service committee after the April 2016 election.

5. Respondent Right Government is a continuing committee registered with the Ethics Commission since October 2015.

6. Respondent Cunningham has been the treasurer of Respondent Right Government since its formation.

7. Respondent Umstattd has been the deputy treasurer of Respondent Right Government since its formation and prepared and filed campaign finance disclosure reports for Respondent Right Government.

8. Slate Strategies is a limited liability corporation registered with the Missouri Secretary of State in January 2015.

9. Respondent Umstattd is a registered agent and organizer for Slate Strategies.

10. 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.

11. 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 and accurately report contributions and expenditures*

12. In late March 2016, Respondents Leuther and Leuther for Columbians incurred \$13,576 in expenditures to Slate Strategies for media purchases.

13. Between March 28, 2016, and April 1, 2016, Respondent Right Government paid \$13,576 to Slate Strategies for Respondent Leuther for Columbians.

### *Respondent Leuther and Leuther for Columbians*

14. Respondents Leuther and Leuther for Columbians did not timely report the \$13,576 in incurred expenditures on the April 2016 Quarterly disclosure report.

15. Respondents Leuther and Leuther for Columbians incorrectly reported \$13,576 in in-kind contributions received from Slate Strategies, instead of Right Government, for the incurred expenditures that were paid to Slate Strategies by Right Government.

### *Respondents Right Government, Cunningham and Umstattd*

16. Respondents Right Government, Cunningham, and Umstattd did not timely report the \$13,576 paid to Slate Strategies as an in-kind contribution made to Respondents Leuther and Leuther for Columbians. Respondents did report expenditures to Slate Strategies.

## COUNT II

### *Failure to timely file reports*

### *Respondents Leuther and Leuther for Columbians*

17. Respondent Leuther for Columbians received the following in-kind contributions, in the form of payments to Slate Strategies by Respondent Right Government, between March 28 and April 1, 2016, with the following reporting deadlines:

Amount	Date Paid	24 Hour Notice Due
\$2,008	March 28, 2016	March 29, 2016

<b>Amount</b>	<b>Date Paid</b>	<b>24 Hour Notice Due</b>
\$2,068	March 28, 2016	March 29, 2016
\$2,500	March 28, 2016	March 29, 2016
\$3,500	March 31, 2016	April 1, 2016
\$3,500	April 1, 2016	April 2, 2016

18. Respondents Leuther and Leuther for Columbians reported each of the above in-kind contributions on a 24 hour notice filed on April 4, 2016.

*Respondents Right Government, Cunningham and Umstatt*

19. Between March 28 and April 5, 2016, Respondent Right Government made the following expenditures to Slate Strategies, which should have been disclosed on a 24 hour report due on the following dates:

<b>Amount</b>	<b>Date Paid</b>	<b>24 Hour Notice Due</b>
\$2,008	March 28, 2016	March 29, 2016
\$2,068	March 28, 2016	March 29, 2016
\$2,500	March 28, 2016	March 29, 2016
\$3,500	March 31, 2016	April 1, 2016
\$3,500	April 1, 2016	April 2, 2016

20. Respondents Right Government, Cunningham, and Umstatt filed a single 24-hour report on April 4, 2106.

21. Respondents Right Government, Cunningham, and Umstatt did not timely include a "direct expenditure" report showing \$13,576 in expenditures in support of Respondent Leuther.

**JOINT PROPOSED CONCLUSIONS OF LAW**

**COUNT I**

*Failure to timely and accurately report contributions and expenditures*

*Respondents Leuther and Leuther for Columbians*

22. Committees must report "[e]xpenditures for the period, including ... 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.” § 130.041.1(4)(d), RSMo.

23. Committees must report total receipts for the period, including the total dollar value of all in-kind contributions received. § 130.041.1(3)(d), RSMo.

24. There is probable cause to believe that Respondents Leuther and Leuther for Columbians violated Sections 130.041.1(4)(d) and 130.041.1(3)(d), RSMo, by not timely and accurately reporting incurred expenditures totaling \$13,576 to Slate Strategies, and by not timely and accurately reporting in-kind contributions received totaling \$13,576 after Respondent Right Government paid those \$13,576 in expenditures to Slate Strategies on behalf of Respondents Leuther and Leuther for Columbians.

*Respondents Right Government, Cunningham and Umstatted*

25. Committees must report “[e]xpenditures for the period, including ... the total dollar value of all in-kind expenditures made.” § 130.041.1(4)(c), RSMo.

26. There is probable cause to believe that Respondents Right Government, Cunningham, and Umstatted violated Section 130.041.1(4)(c), RSMo, by not timely and accurately reporting in-kind contributions made to Respondent Leuther for Columbians after paying \$13,576 to Slate Strategies on behalf of Respondent Leuther for Columbians.

**COUNT II**

*Failure to timely file reports*

*Respondents Leuther and Leuther for Columbians*

27. “The receipt of any late contribution or loan of more than two hundred fifty dollars by a candidate committee supporting a candidate for statewide office or by any other committee

shall be reported to the appropriate office no later than twenty-four hours after receipt.”  
§ 130.050.3, RSMo.

28. There is probable cause to believe that Respondents Leuther and Leuther for Columbians violated Section 130.050.3, RSMo, by not timely filing a 24-hour notice after receiving \$13,576 in in-kind contributions prior to the April 5, 2016, election.

*Respondents Right Government, Cunningham and Umstatt*

29. Continuing committees are required to file reports disclosing receipts and expenditures “[n]ot later than twenty-four hours after aggregate expenditures of two hundred fifty dollars or more are made after the twelfth day before the election.” § 130.046.3(2), RSMo.

30. If a continuing committee spends money supporting or opposing candidates or ballot measures, it must include on its regular campaign finance disclosure reports a “direct expenditure” report disclosing “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.” § 130.041.1(7), RSMo.

31. There is probable cause to believe that Respondents Right Government, Cunningham, and Umstatt violated Section 130.046.3(2), RSMo, by not timely filing 24-hour disclosure reports after making expenditures totaling \$13,576 to Slate Strategies prior to the April 5, 2016, election, and by not including a “direct expenditure” report showing \$13,576 in expenditures to support Respondent Leuther prior to the April 5, 2016, election.

## 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 Leuther and Leuther for Columbians in the amount of \$2,000, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$200 of that fee within forty-five (45) 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 Respondent Leuther or Leuther for Columbians 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 those Respondents will be required to pay the remainder of the fee. The fee will due immediately upon final adjudication finding that either Respondent Leuther or Leuther for Columbians has committed such a violation.



d. Respondents Leuther and Leuther for Columbians shall be jointly and severally liable for all fees imposed under this order, subject to the terms in subparagraph c above.

e. It is the Order of the Missouri Ethics Commission that a fee is imposed against Respondents Right Government, Cunningham, and Umstatted in the amount of \$2,000, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$200 of that fee within forty-five (45) 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.

f. Regardless of the stay in paragraph 2.e above, if Respondent Right Government, Leuther, or Umstatted 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 the Respondent who committed the violation will be required to pay the remainder of the fee. The fee will due immediately upon final adjudication finding that such Respondent has committed such a violation.

g. Respondents Right Government, Cunningham, and Umstatted shall be jointly and severally liable for all fees imposed under this order, subject to the terms in subparagraph f above.

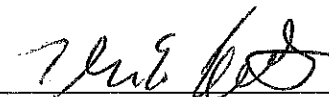
3. The parties consent to the entry of record and approval of this Joint Stipulation and to the termination of any further proceedings before the Commission based upon the Complaint filed by the Petitioner in the above action.

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

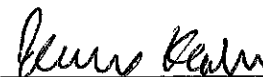
any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to, a claim for attorney's fees whatsoever which Respondents or Respondents' attorney may now have or which they may hereafter have, which are based upon or arise out of the above cases.

SO AGREED:

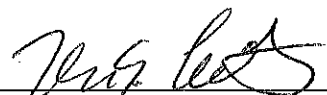
RESPONDENT TOM LEUTHER

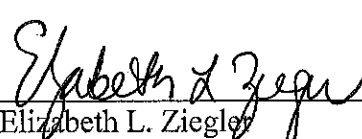
By:  9-30-16  
Tom Leuther Date

PETITIONER MISSOURI ETHICS COMMISSION


By:  10/24/16  
James Klahr Date  
Executive Director

RESPONDENT LEUTHER FOR COLUMBIANS

By:  9-30-16  
Tom Leuther Date  
Candidate

By:  10/18/16  
Elizabeth L. Ziegler Date  
Attorney for Petitioner

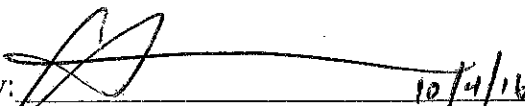
RESPONDENT RIGHT GOVERNMENT

By:  10/16/16  
Brian Cunningham Date  
Treasurer

RESPONDENT BRIAN CUNNINGHAM

By:  10/10/16  
Brian Cunningham Date

RESPONDENT CORBIN UMSTATTD

By:  10/4/16  
Corbin Umstatt Date

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MISSOURI ETHICS COMMISSION

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 TOM LEUTHER, ) Case No. 16-0038-I  
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 LEUTHER FOR COLUMBIANS, )  
 )  
 RIGHT GOVERNMENT, )  
 )  
 BRIAN CUNNINGHAM, )  
 )  
 AND )  
 )  
 CORBIN UMSTATTD )  
 )  
 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 Leuther and Leuther for Columbians violated Sections 130.041.1(4)(d), 130.041.1(3)(d), and 130.050.3, RSMo and that Respondents Right Government, Cunningham and Umstatttd violated Sections 130.041.1(4)(c) and 130.046.3(2), RSMo.

The Commission directs that the Joint Stipulation be adopted.

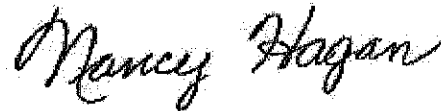
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4. If Respondents commits any further violation of the campaign finance laws pursuant to Chapter 130, RSMo, within the two-year period from the date of this order, then Respondents will be required to pay the remainder of the fee. The fee will be due immediately upon final adjudication finding that Respondents committed such a violation.

SO ORDERED this 14<sup>th</sup> day of October, 2016

By:



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Nancy Hagan, Chair  
Missouri Ethics Commission