

BEFORE THE  
MISSOURI ETHICS COMMISSION

**Filed**  
**OCT 25 2017**  
Missouri Ethics  
Commission

MISSOURI ETHICS COMMISSION,	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	
COMMITTEE TO ELECT TRACY	)	Case No. 16-0006-A
GRITSENKO,	)	
Candidate Committee	)	
	)	
and	)	
	)	
TRACY GRITSENKO,	)	
Candidate	)	
	)	
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, Committee to Elect Tracy Gritsenko and Tracy Gritsenko, 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.<sup>1</sup>

2. Respondent Gritsenko was a successful candidate for the University City School Board in 2016.

3. Respondent Gritsenko registered Committee to Elect Tracy Gritsenko with the St. Louis County Board of Elections on March 3, 2016 for the April 2016 election and terminated the committee on September 26, 2016.

4. Pursuant to Sections 105.959 and 105.961, RSMo, the Commission's staff investigated the reports and statements filed with the Commission and reported the investigation findings to the Commission.

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<sup>1</sup> Unless noted otherwise, all statutory references are to the Revised Statutes of Missouri 2000 (Supp. 2016).

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 maintain an official fund depository account*

6. Respondent Gritsenko filed a Statement of Committee Organization on March 3, 2016 and listed Royal Bank, 7701 Delmar Blvd, St. Louis, MO 63130 with account number \*0434 as the official fund depository account.

7. Respondent Gritsenko never used the Royal Bank account as an official fund depository account for this committee.

8. The committee did not have an official fund depository account.

**COUNT II**

*Failure to deposit all contributions in the official fund depository account and exceeding the allowable cash expenditure limit*

9. The committee received a contribution check for \$100.00 in March 2016; it was cashed and used to reimburse Respondent Gritsenko for expenditures. Respondent Gritsenko did not deposit the check into the committee's official fund depository account.

10. The committee exceeded the \$50.00 allowable amount for a cash expenditure when it made a \$100.00 cash expenditure reimbursing Respondent Gritsenko in March 2016.

**COUNT III**

*Failure to timely and accurately file campaign finance disclosure reports*

11. Respondents failed to timely file one full disclosure report and one Limited Activity Statement as follows:

Report Name	Report Year	Due Date	Date Filed
8 Day Before General	2016	3/28/16	9/27/16
April Quarterly - Limited Activity	2016	4/15/16	9/27/16

12. Respondents failed to file a 30 After General Election Report - Limited Activity Statement and a July Quarterly Report - Limited Activity Statement as follows:

Report Name	Report Year	Start Date	End Date	Due Date
30 Day After General - Limited Activity	2016	4/1/16	4/30/16	5/5/16
July Quarterly - Limited Activity	2016	5/1/16	6/30/16	7/15/16

13. Respondents reported incorrect start and/or end dates on the cover of an 8 Day Before General Election report and also reported activity outside of the correct period.

Report Name	Report Year	Start Date	End Date	Correct Start Date	Correct End Date
8 Day Before General	2016	3/29/16	4/5/16	3/3/16	3/24/16

#### COUNT IV

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

14. Respondents inaccurately reported a \$100.00 contribution.

Report Name	Date Filed	Contributor Name	Amount
8 Day Before General	9/26/16	unknown	\$100.00

15. Respondents inaccurately reported a \$300.00 in-kind contribution.

Report Name	Date Filed	Contributor Name	Amount
8 Day Before General	9/26/16	Tracy Gritsenko	\$300.00

#### COUNT V

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

16. Respondents inaccurately reported five (5) non-itemized expenditures, totaling \$152.58 on the 8 Day Before General Election report.

Report Name	Expenditure Name	Amount
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8 Day Before General	FedEx Office	\$24.11
8 Day Before General	FedEx Office	\$24.11
8 Day Before General	Facebook	\$25.03
8 Day Before General	Facebook	\$29.28
8 Day Before General	Facebook	\$50.05
<b>Total</b>		<b>\$152.58</b>

**JOINT PROPOSED CONCLUSIONS OF LAW**

**COUNT I**

*Failure to maintain an official fund depository account*

17. Every committee must maintain a single "official fund depository within this state which shall be a federally or state-chartered bank, a federally or state-chartered savings and loan association, or a federally or state-chartered credit union in which the committee shall open and thereafter maintain at least one official depository account in its own name." § 130.021.4(1), RSMo.

18. There is probable cause to believe that Respondents violated Section 130.021.4(1), RSMo, by failing to maintain an official fund depository account and that Respondents did so knowingly.

**COUNT II**

*Failure to deposit all contributions in the official fund depository account and exceeding the allowable cash expenditure limit*

19. All contributions received by a candidate "and any of the candidate's own funds to be used in support of the person's candidacy shall be deposited in a candidate committee depository account established pursuant to the provisions of subsection 4 of this section." § 130.021.2, RSMo.

20. "All contributions which the committee receives in money, checks and other negotiable instruments shall be deposited in a committee's official depository account." § 130.021.4(1), RSMo.

21. "Contributions shall not be accepted and expenditures shall not be made by a committee except by or through an official depository account." § 130.021.4(1), RSMo.

22. For purposes of Chapter 130, RSMo, cash means "currency, coin, United States postage stamps, or any negotiable instrument which can be transferred from one person to another person without the signature or endorsement of the transferor." § 130.011(4), RSMo.

23. "Except for expenditures from a petty cash fund which is established and maintained by withdrawals of funds from the committee's depository account and with records maintained pursuant to the record-keeping requirements of section 130.036 to account for expenditures made from petty cash, each expenditure of more than fifty dollars, except an in-kind expenditure, shall be made by check drawn on the committee's depository and signed by the committee treasurer, deputy treasurer or candidate." § 130.031.2, RSMo.

24. There is probable cause to believe that Respondents violated Sections 130.021.2, 130.031.2, and 130.021.4(1), RSMo, by failing to deposit a \$100.00 contribution into the official fund depository account, and by making a cash expenditure that was in excess of the \$50.00 allowable limit, and that Respondents did so knowingly.

### COUNT III

#### *Failure to timely and accurately file campaign finance disclosure reports*

25. Candidate committees must file regular 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 if the

committee has made any contribution or expenditure either in support or opposition to any candidate or ballot measure;

(2) Not later than the thirtieth day after an election for a period closing on the twenty-fifth day after the election, if the committee has made any contribution or expenditure either in support of or opposition to any candidate or ballot measure; except that, a successful candidate who takes office prior to the twenty-fifth day after the election shall have complied with the report requirement of this subdivision if a disclosure report is filed by such candidate and any candidate committee under the candidate's control before such candidate takes office, and such report shall be for the period closing on the day before taking office; and

(3) Not later than the fifteenth day following the close of each calendar quarter.

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.

26. "The candidate, if applicable, 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.

27. "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 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.

28. "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 officer no later than twenty-four hours after receipt." § 130.050.3, RSMo.

29. For purposes of Section 130.050.3, the term "late contribution or loan" means "a contribution or loan received after the closing date of the last disclosure report required to be filed before an election but received prior to the date of the election itself." § 130.050.3, RSMo.

30. Pursuant to § 130.046.5(2), RSMo, no disclosure report needs to be filed for any reporting period if during that reporting period the committee has neither received contributions aggregating more than five hundred dollars nor made expenditure aggregating more than five hundred dollars and has not received contributions aggregating more than three hundred dollars from any single contributor and if the committee's treasurer files a statement with the appropriate



officer that the committee has not exceeded the identified thresholds in the reporting period. Any contributions received or expenditures made which are not reported because this statement is filed in lieu of a disclosure report shall be included in the next disclosure report filed by the committee.

31. There is probable cause to believe that Respondents violated Sections 130.041.1(2), 130.041.1(5), 130.046.1, 130.046.3, 130.046.5(2), 130.050.3, 130.046.1(3), 130.021.8 and 130.046.7, RSMo, by failing to timely file one report and one Limited Activity Statement, failing to file two Limited Activity Statements, and failing to report within proper periods, and that Respondents did so knowingly.

#### COUNT IV

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

32. Candidate committees are required to report receipts for each reporting period, including:

- (a) Total amount of all monetary contributions received which can be identified in the committee's records by name and address of each contributor. In addition, the candidate committee shall make a reasonable effort to obtain and report the employer, or occupation if self-employed or notation of retirement, of each person from whom the committee received one or more contributions which in the aggregate total in excess of one hundred dollars and shall make a reasonable effort to obtain and report a description of any contractual relationship over five hundred dollars between the contributor and the state if the candidate is

seeking election to a state office or between the contributor and any political subdivision of the state if the candidate is seeking election to another political subdivision of the state;

...

(d) Total dollar value of all in-kind contributions received;

(e) A separate listing by name and address and employer, or occupation if self-employed or notation of retirement, of each person from whom the committee received contributions, in money or any other thing of value, aggregating more than one hundred dollars, together with the date and amount of each such contribution;

§ 130.041.1(3), RSMo.

33. There is probable cause to believe that Respondents violated Section 130.041.1(3), RSMo, by failing to accurately report a \$100.00 monetary contribution and failing to accurately report a \$300.00 in-kind contribution, and that Respondents did so knowingly.

#### COUNT V

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

34. Candidate committees are required to report expenditures for each reporting period, including:

(a) The total dollar amount of expenditures made by check drawn on the committee's depository;

...

(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;

(e) A list of each loan made, by name and mailing address of the person receiving the loan, together with the amount, terms and date;

§ 130.041.1(4), RSMo.

35. There is probable cause to believe that Respondents violated Section 130.041.1(4), RSMo, by failing to accurately report \$152.58 in non-itemized 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 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 \$3,552.00, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$355.00 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 any Respondent has committed such a violation.

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 COMMITTEE TO ELECT  
TRACY GRITSENKO

PETITIONER MISSOURI ETHICS  
COMMISSION

By: Tracy Gritsenko 10-10-2017  
Tracy Gritsenko Date

By: James Klahr 10/24/17  
James Klahr Date  
Executive Director

RESPONDENT TRACY GRITSENKO

By: Tracy Gritsenko 10-10-2017  
Tracy Gritsenko Date

By: Brian Hamilton 10/25/17  
Brian Hamilton Date  
Attorney for Petitioner

**BEFORE THE  
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MISSOURI ETHICS COMMISSION,	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	
COMMITTEE TO ELECT TRACY	)	Case No. 16-0006-A
GRITSENKO,	)	
	)	
AND	)	
	)	
TRACY GRITSENKO,	)	
	)	
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 Committee to Elect Tracy Gritsenko and Tracy Gritsenko violated Sections 130.021.4(1), 130.021.2, 130.031.2, 130.041.1(2), 130.041.1(5), 130.046.1, 130.046.3, 130.046.5(2), 130.050.3, 130.021.8, 130.046.7, 130.041.1(3), and 130.041.1(4), RSMo.

The Commission directs that the Joint Stipulation be adopted.

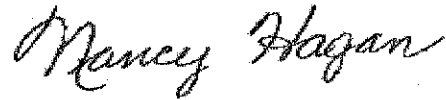
1. Respondents shall comply with all relevant sections of Chapter 130, RSMo.
2. It is the order of the Missouri Ethics Commission that a fee is imposed against Respondents in the amount of \$3,552.00, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$355.00 of that fee within forty-five (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 the Missouri Ethics Commission.

3. If any Respondent 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 any Respondent committed such a violation.

SO ORDERED this 25<sup>th</sup> day of October, 2017

By:



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Nancy Hagan, Chair  
Missouri Ethics Commission