

Filed
JAN 02 2019
Missouri Ethics
Commission

**BEFORE THE
MISSOURI ETHICS COMMISSION**

MISSOURI ETHICS COMMISSION,)
)
 Petitioner,)
)
v.)
)
CITIZENS TO ELECT KIMBERLY)
GARDNER,)
Committee,)
)
KIMBERLY GARDNER,)
Candidate,)
)
and)
)
KIMBERLY STEVENS,)
Treasurer;)
)
 Respondents.)

Case No. 18-0006-A, 18-0016-I

**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, Kimberly Gardner, Citizens to Elect Kimberly Gardner, and Kimberly Stevens, 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 § 105.955, RSMo, in part for the purpose of enforcing the provisions of Chapter 130, RSMo.¹

2. Respondent Kimberly Gardner was a successful candidate for State Representative in 2012 and again in 2014.

3. Respondent Gardner was also a successful candidate for St. Louis Circuit Attorney and is currently up for reelection in 2020.

4. Respondent Citizens to Elect Kimberly Gardner is a candidate committee that filed a Statement of Committee Organization with the Missouri Ethics Commission on June 1, 2012.

¹ Unless noted otherwise, all statutory references are to the Revised Statutes of Missouri 2000 (Supp. 2017).

5. Respondent Kimberly Stevens was listed as the Treasurer on the Statement of Committee Organization.

6. The Statement of Committee Organization listed PNC Bank at 4323 North Grand Boulevard in St. Louis, MO 63107, with account number ending in *5107, as the official fund depository.

7. The Statement of Committee Organization was amended on December 27, 2012, December 1, 2014, January 21, 2016, and April 25, 2017, to change the office sought.

8. Pursuant to Sections 105.959 and 105.961, RSMo, the Commission's staff investigated a complaint, the reports and statements filed with the Commission, and initiated an audit, reporting the investigation findings to the Commission.

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

COUNT I

Unauthorized use of committee funds

10. On April 17, 2015, Respondents used committee funds to pay for a \$16.16 membership fee to Planet Fitness.

11. In June 2018, Respondent Gardner personally reimbursed the committee for this expenditure.

COUNT II

Using committee funds for expenditures reimbursed by the House of Representatives

12. Between April 2015 and July 2016, Respondents used committee funds to pay for ten expenditures totaling \$2,855.00 for housing.

13. During that same time period, Respondent Gardner was personally reimbursed by the Missouri House of Representatives for these same expenditures.

14. In June 2018, Respondent Gardner personally reimbursed the committee for these expenditures.

COUNT III

Cash contributions and expenditures in excess of limits

15. On May 23, 2016, Respondents deposited a single \$195.00 cash contribution into the official fund depository account. This amount exceeded \$100.00.

16. On August 2, 2016, Respondents made 131 cash expenditures to campaign workers, totaling \$13,100.00. Each cash expenditure exceeded \$50.00.

COUNT IV

Failure to timely and accurately file campaign finance disclosure reports with cumulative information from the date of the last report

17. Respondents inaccurately reported beginning money on hand on two reports in 2015, seven reports in 2016, two reports in 2017, and three reports in 2018.

18. Respondents inaccurately reported ending money on hand on two reports in 2015, seven reports in 2016, two reports in 2017, and two reports in 2018.

Report Name	From	To	Reported MOH		Actual MOH	
			Beginning of Period	End of Period	Beginning of Period	End of Period
2015						
Amended July Quarterly Report	4/1/15	6/30/15	\$27,940.34	\$27,280.34	\$27,086.28	\$26,404.12
October Quarterly Report	7/1/15	9/30/15	\$27,940.34	\$45,009.74	\$26,404.12	\$43,467.52
2016						
Amended January Quarterly Report	10/1/15	12/31/15	\$45,009.74	\$55,774.88	\$43,467.52	\$54,720.49

Amended April Quarterly Report	1/1/16	3/31/16	\$55,744.88	\$62,469.50	\$54,720.49	\$54,630.55
Amended July Quarterly Report	4/1/16	6/30/16	\$62,469.50	\$53,754.53	\$54,630.55	\$44,112.02
8 Day Before Primary Election	7/1/16	7/21/16	\$53,754.34	\$47,868.42	\$44,112.02	\$35,556.66
Amended 30 Day After Primary Election	7/22/16	8/27/16	\$47,868.42	\$19,930.59	\$34,356.66	\$5,699.89
Amended October Quarterly Report	8/28/16	9/30/16	\$19,930.59	\$19,972.85	\$5,699.89	\$10,846.65
30 Day After General Election	10/1/16	12/3/16	\$19,972.85	\$15,422.85	\$10,846.65	\$6,006.05
2017						
April Quarterly Report	12/4/16	3/31/17	\$15,422.85	\$15,747.85	\$6,006.05	\$1,589.25
July Quarterly Report	4/1/17	6/30/17	\$15,747.85	\$21,322.85	\$1,589.25	\$6,904.08
2018						
January Quarterly Report	7/1/17	12/31/17	\$21,332.85	\$21,332.85	\$6,904.08	\$4,751.43
April Quarterly Report	1/1/18	3/31/18	\$21,332.85	\$22,306.49	\$4,751.43	\$5,850.20
July Quarterly Report	4/1/18	6/30/18	\$22,306.49	\$26,791.49	\$5,850.20	

19. The 2018 April Quarterly Report was due on Monday, April 16, 2018. Respondents filed the 2018 April Quarterly Report on April 17, 2018, one day late.

20. Respondents failed to accurately document indebtedness on three reports in 2016 and one report in 2017.

Report Name	Date Filed	Reported Outstanding Debt		Actual Outstanding Debt	
		Beginning of Period	Close of Period	Beginning of Period	Close of Period
2016					
Amended July Quarterly Report	7/18/16	\$0.00	\$0.00	\$0.00	\$219.72
Amended October Quarterly Report	11/15/16	\$0.00	\$0.00	\$219.72	\$6,980.00
30 Day After General Election	12/8/16	\$0.00	\$0.00	\$6,980.00	\$3,980.00
2017					
April Quarterly Report	4/17/17	\$0.00	\$0.00	\$3,980.00	\$0.00

21. On July 26, 2018, Respondents made two expenditures, \$300.00 and \$600.00, for the August 2, 2016 primary election. Respondents failed to file a 24 Hour Expenditure Report.

22. On August 11, 2016, Respondents received a \$17,404.67 contribution from the Safety & Justice Committee. Respondents failed to file a 48 Hour Report of Contribution Received Over \$5,000 on or before August 13, 2016.

COUNT V

Failure to timely and accurately report contributions received

23. Respondents failed to report twenty-three non-itemized contributions received, totaling \$1,629.20.

Contributor Name	Amount	Date	Report Not Showing Contribution
Sheliah Heard	\$85.00	10/8/15	2015 October Quarterly Report
Peter Merideth	\$25.00	11/12/15	2016 January Quarterly Report
Kyna Iman	\$100.00	11/23/15	2016 January Quarterly Report
Pamela Merritt	\$100.00	4/15/16	2016 April Quarterly Report
Congressman William Lacy Clay, Jr.	\$100.00	6/26/16	2016 July Quarterly Report
Vincent Boden	\$100.00	7/11/16	8 Day Before Primary Election
Brandi Miller	\$75.00	7/11/16	8 Day Before Primary Election
Andre Stevens	\$20.00	7/11/16	8 Day Before Primary Election
Teresa Danielely	\$10.00	7/20/16	8 Day Before Primary Election
Julia Blackmon	\$100.00	7/20/16	8 Day Before Primary Election
Ronald Smith	\$25.00	7/25/16	30 Day After Primary Election
Mary Atwood	\$20.00	7/25/16	30 Day After Primary Election
US Postal Service	\$80.00	7/29/16	30 Day After Primary Election
Amy Hilgemann	\$100.00	8/2/16	30 Day After Primary Election
Delores Needham	\$100.00	8/2/16	30 Day After Primary Election
Ronald Hill	\$100.00	8/2/16	30 Day After Primary Election
Eugene Walker	\$10.00	9/7/16	2016 October Quarterly Report
Henrietta Parram	\$50.00	9/7/16	2016 October Quarterly Report
Dan Peterson	\$50.00	Unknown	30 Day After General Election
Kimberly Gardner	\$169.20*	Unknown	30 Day After General Election
Christian Roberts	\$50.00	10/11/16	2016 October Quarterly Report
US Postal Service	\$80.00	Unknown	Unknown
US Postal Service	\$80.00	3/31/18	2018 April Quarterly Report
Total	\$1,629.20		

* Respondent Gardner made several expenditures from personal account and reimbursed herself \$400. This amount includes many purchases of \$100 or less.

24. Respondents failed to report thirty itemized contributions received, totaling \$15,355.00.

Contributor Name	Amount	Date	Report Not Showing Contribution
Noranda Aluminum, Inc.	\$500.00	10/21/15	2016 January Quarterly Report
Building Trades Political Education Fund	\$500.00	10/21/15	2016 January Quarterly Report
Unknown	\$185.00	11/12/15	2016 January Quarterly Report
IUOE Local 513 Political & Educational Fund	\$500.00	11/23/15	2016 January Quarterly Report
Scott McClelland	\$250.00	11/23/15	2016 January Quarterly Report
Skylink Wireless	\$500.00	11/23/15	2016 April Quarterly Report
Anheuser Busch Companies	\$500.00	2/8/16	2016 April Quarterly Report
Linda Locke	\$250.00	4/15/16	2016 April Quarterly Report
Strategic Capitol Consulting	\$300.00	4/15/16	2016 July Quarterly Report
Luther Coyle	\$500.00	5/2/16	2016 July Quarterly Report
John Wright	\$250.00	5/23/16	2016 July Quarterly Report
Kimberly Gardner	\$195.00	5/23/16	2016 July Quarterly Report
St. Louis City Legislative	\$200.00	5/23/16	2016 July Quarterly Report
Leslie Kyser	\$250.00	7/11/16	8 Day Before Primary Election
David Glarner	\$500.00	7/29/16	30 Day After Primary Election
Robert Glarner, Jr.	\$500.00	7/29/16	30 Day After Primary Election
Rath Consulting, LLC	\$250.00	8/2/16	30 Day After Primary Election
Lakisha Warmack	\$150.00	8/2/16	30 Day After Primary Election
Baker for Missouri	\$225.00	8/2/16	30 Day After Primary Election
Salama Supermarket 5	\$250.00	8/2/16	30 Day After Primary Election
Mark Cusumano	\$500.00	9/7/16	30 Day After Primary Election
Robert Kraeger	\$250.00	9/7/16	30 Day After Primary Election
David Riedel	\$250.00	9/7/16	30 Day After Primary Election
Charles Stewart, Jr. CPA	\$250.00	9/7/16	2016 October Quarterly Report
Steven Cousins	\$250.00	9/7/16	30 Day After Primary Election
Civic Service, Inc.	\$5,000.00	9/7/16	2016 October Quarterly Report
Mark Stallion, Esq.	\$1,300.00	9/28/16	2016 October Quarterly Report
St. Louis Assn. of Realtors Political Action Committee	\$300.00	12/29/16	2017 April Quarterly Report
St. Louis Assn. of Retired Police Officers	\$250.00	12/29/16	2017 April Quarterly Report
Friends of Gregory F.X. Daly	\$250.00	6/28/17	2017 April Quarterly Report
Total	15,355.00		

25. Respondents failed to accurately report twelve non-itemized contributions, totaling \$975.00.

26. Respondents failed to accurately report thirty-one itemized contributions, totaling \$27,554.84.

27. Respondents failed to accurately report two in-kind contributions, totaling \$204,285.21.

28. Respondents failed to timely report a \$72,770.27 in-kind contribution received on July 28, 2016, from the Safety and Justice Committee on the 30 Day After Election Report for the August 2, 2016 primary election, which was due on September 1, 2016. Respondents did not report the contribution until September 23, 2016.

29. Respondents used ActBlue as a third party agent for receipt of contributions.

30. The Committee's ActBlue records show the receipt of two contributions totaling \$135.00 that were not reported nor found in the official fund depository account.

Contributor Name	Amount	Date
Sheliah Heard	\$85.00	10/8/15
Dan Peterson	\$50.00	10/2/16
Total	\$135.00	

31. Respondents reported three non-itemized contributions totaling \$205.00 that could not be found in the official fund depository account.

Report Name	Date Filed	Contributor Name	Date	Amount
2016 Amended April Quarterly Report	5/11/16	Unknown	Unknown	\$55.00
2016 Amended October Quarterly Report	11/15/16	Unknown	Unknown	\$25.00
2017 July Quarterly Report	7/16/17	Ignatius Yuan	6/14/17	\$125.00
Total				\$205.00

32. Respondents reported on the 2016 July Quarterly Report that they received a single anonymous contribution of \$45.00. This amount exceeded \$25.00.

COUNT VI

Failure to timely and accurately report expenditures made

33. Respondents failed to report eighty-two non-itemized expenditures totaling \$3,340.63.

Expenditure Name	Amount	Date	Report Not Showing Expenditure
PNC Bank	\$2.00	4/1/15	2015 July Quarterly Report
Planet Fitness	\$16.16	4/17/15	2015 July Quarterly Report
PNC Bank	\$2.00	5/1/15	2015 July Quarterly Report
PNC Bank	\$2.00	6/1/15	2015 July Quarterly Report
PNC Bank	\$2.00	7/1/15	2015 October Quarterly Report
PNC Bank	\$2.00	8/1/15	2015 October Quarterly Report
PNC Bank	\$2.00	9/1/15	2015 October Quarterly Report
ActBlue	\$3.36	10/8/15	2016 January Quarterly Report
ActBlue	\$9.88	10/19/15	2016 January Quarterly Report
ActBlue	\$39.50	10/23/15	2016 January Quarterly Report
ActBlue	\$39.50	10/30/15	2016 January Quarterly Report
ActBlue	\$9.88	11/4/15	2016 January Quarterly Report
ActBlue	\$3.95	11/10/15	2016 January Quarterly Report
Tim Person	\$50.00	11/10/15	2016 January Quarterly Report
ActBlue	\$19.75	11/19/15	2016 January Quarterly Report
St. John's United Church of Christ	\$20.00	1/17/16	2016 April Quarterly Report
ActBlue	\$19.75	3/12/16	2016 April Quarterly Report
ActBlue	\$9.88	3/17/16	2016 April Quarterly Report
Cecil Hughes	\$100.00	3/19/16	2016 April Quarterly Report
ActBlue	\$39.50	3/21/16	2016 April Quarterly Report
ActBlue	\$5.93	3/23/16	2016 April Quarterly Report
ActBlue	\$19.75	3/23/16	2016 April Quarterly Report
ActBlue	\$19.75	3/24/16	2016 April Quarterly Report
ActBlue	\$3.95	3/31/16	2016 April Quarterly Report
ActBlue	\$9.88	4/2/16	2016 July Quarterly Report
T-Mobile	\$85.42	4/4/16	2016 July Quarterly Report
ActBlue	\$3.95	4/6/16	2016 July Quarterly Report
Annie Malone Children and Family Service Center	\$60.00	4/22/16	2016 July Quarterly Report
ActBlue	\$9.88	4/23/16	2016 July Quarterly Report

ActBlue	\$9.88	4/28/16	2016 July Quarterly Report
ActBlue	\$1.98	5/19/16	2016 July Quarterly Report
ActBlue	\$0.99	5/31/16	2016 July Quarterly Report
ActBlue	\$3.95	6/17/16	2016 July Quarterly Report
ActBlue	\$3.95	6/18/16	2016 July Quarterly Report
ActBlue	\$0.99	6/20/16	2016 July Quarterly Report
ActBlue	\$0.40	7/6/16	8 Day Before Primary Election
ActBlue	\$9.88	7/8/16	8 Day Before Primary Election
ActBlue	\$9.88	7/10/16	8 Day Before Primary Election
ActBlue	\$9.88	7/11/16	8 Day Before Primary Election
ActBlue	\$1.98	7/12/16	8 Day Before Primary Election
ActBlue	\$1.98	7/15/16	8 Day Before Primary Election
ActBlue	\$9.88	7/16/16	8 Day Before Primary Election
ActBlue	\$19.75	7/19/16	8 Day Before Primary Election
ActBlue	\$3.95	7/20/16	8 Day Before Primary Election
ActBlue	\$7.90	7/21/16	8 Day Before Primary Election
ActBlue	\$19.75	7/25/16	30 Day After Primary Election
ActBlue	\$9.88	7/28/16	30 Day After Primary Election
ActBlue	\$9.88	7/30/16	30 Day After Primary Election
Cornell Crummer	\$100.00	8/2/16	30 Day After Primary Election
Laron Thomas	\$100.00	8/2/16	30 Day After Primary Election
Mark Elliott	\$100.00	8/2/16	30 Day After Primary Election
Donna Harris	\$100.00	8/2/16	30 Day After Primary Election
Derick Laney	\$100.00	8/2/16	30 Day After Primary Election
Mark Johnson	\$100.00	8/2/16	30 Day After Primary Election
James Massey	\$100.00	8/2/16	30 Day After Primary Election
Anthony Miller	\$100.00	8/2/16	30 Day After Primary Election
Lacynthia Sweniger	\$100.00	8/2/16	30 Day After Primary Election
Janice Holmes	\$100.00	8/2/16	30 Day After Primary Election
Monica Porter	\$100.00	8/2/16	30 Day After Primary Election
Lari Cynthia Swerngen	\$100.00	8/2/16	30 Day After Primary Election
Latricia Hennings	\$100.00	8/2/16	30 Day After Primary Election
Pedro Washington	\$100.00	8/2/16	30 Day After Primary Election
Tony Jones	\$100.00	8/2/16	30 Day After Primary Election
Jazell Williams	\$100.00	8/2/16	30 Day After Primary Election
Harrieta McNeal	\$100.00	8/2/16	30 Day After Primary Election
Toni Johnson	\$100.00	8/2/16	30 Day After Primary Election
Hasani Barr	\$100.00	8/2/16	30 Day After Primary Election
Musawir K. Shabazz	\$100.00	8/2/16	30 Day After Primary Election
ActBlue	\$9.88	8/5/16	30 Day After Primary Election
ActBlue	\$1.98	8/10/16	2016 October Quarterly Report
Phillip Freeman	\$100.00	8/21/16	30 Day After Primary Election
Home Depot	\$56.70	9/8/16	2016 October Quarterly Report
ActBlue	\$1.98	9/28/16	2016 October Quarterly Report
ActBlue	\$1.98	10/2/16	30 Day After General Election

ActBlue	\$19.75	10/17/16	30 Day After General Election
PNC Bank	\$12.00	5/1/17	2017 July Quarterly Report
PNC Bank	\$12.00	6/1/17	2017 July Quarterly Report
PNC Bank	\$12.00	7/3/17	2018 January Quarterly Report
T-Mobile	\$89.74	9/12/17	2018 January Quarterly Report
T-Mobile	\$89.74	10/12/17	2018 January Quarterly Report
T-Mobile	\$94.40	11/13/17	2018 January Quarterly Report
T-Mobile	\$90.13	12/12/17	2018 January Quarterly Report
Total	\$3,340.63		

34. Respondents failed to report forty-eight itemized expenditures totaling \$24,374.23.

Expenditure Name	Amount	Date	Report Not Showing Expenditure
St. Louis Central Democratic	\$160.00	10/10/15	2016 January Quarterly Report
Tim Person	\$500.00	12/11/15	2016 January Quarterly Report
T-Mobile	\$419.59	12/14/15	2016 January Quarterly Report
Bella Vista Apartments	\$250.00	1/6/16	2016 April Quarterly Report
The Solvency Group	\$1,500.00	1/28/16	2016 April Quarterly Report
Bella Vista Apartments	\$250.00	2/3/16	2016 April Quarterly Report
Bella Vista Apartments	\$250.00	3/3/16	2016 April Quarterly Report
Tim Person	\$186.00	3/5/16	2016 April Quarterly Report
T-Mobile	\$379.59	3/11/16	2016 April Quarterly Report
The Ink Spot	\$1,304.15	3/17/16	2016 April Quarterly Report
The Over/Under Bar & Grill	\$1,041.43	3/23/16	2016 April Quarterly Report
Bella Vista Apartments	\$250.00	4/5/16	2016 July Quarterly Report
Citizens United	\$500.00	4/24/16	2016 July Quarterly Report
Annie Malone Children and Family Service Center	\$180.00	5/2/16	2016 July Quarterly Report
T-Mobile	\$135.03	5/12/16	2016 July Quarterly Report
T-Mobile	\$192.14	5/31/16	2016 July Quarterly Report
Commworld	\$250.00	6/6/16	2016 July Quarterly Report
Lizzie Bastain	\$1,000.00	6/7/16	2016 July Quarterly Report
Kimberly Franks	\$200.00	6/21/16	2016 July Quarterly Report
5th Ward Democratic Organization	\$500.00	6/22/16	2016 July Quarterly Report
Port Arch	\$300.00	6/30/16	2016 July Quarterly Report
Port Arch	\$300.00	6/30/16	2016 July Quarterly Report
Bella Vista Apartments	\$250.00	7/15/16	8 Day Before Primary Election
Committee to Elect Anthony Bell	\$300.00	7/18/16	8 Day Before Primary Election
SAVEER Inc.	\$1,000.00	7/19/16	8 Day Before Primary Election
T-Mobile	\$106.95	7/20/16	8 Day Before Primary Election
Office Depot	\$124.97	7/27/16	30 Day After Primary Election

St. Louis American Newspaper	\$1,500.00	7/27/16	30 Day After Primary Election
Mark Elliott	\$1,500.00	8/4/16	30 Day After Primary Election
T-Mobile	\$144.64	8/10/16	30 Day After Primary Election
Kimberly Gardner	\$1,280.28	9/8/16	2016 October Quarterly Report
OR Pechman	\$163.02	9/8/16	2016 October Quarterly Report
Kimberly M. Gardner	\$400.00	10/10/16	30 Day After General Election
T-Mobile	\$126.83	11/14/16	30 Day After General Election
Communities First	\$175.00	12/5/16	2017 April Quarterly Report
SLACO	\$175.00	12/5/16	2017 April Quarterly Report
T-Mobile	\$121.83	12/12/16	2017 April Quarterly Report
Cynthia Head	\$500.00	1/6/17	2017 April Quarterly Report
T-Mobile	\$128.52	1/12/17	2017 April Quarterly Report
T-Mobile	\$121.12	2/13/17	2017 April Quarterly Report
Speakeasy Communications Consulting, LLC	\$3,950.00	3/5/17	2017 April Quarterly Report
T-Mobile	\$120.33	3/13/17	2017 April Quarterly Report
T-Mobile	\$120.33	4/12/17	2017 July Quarterly Report
T-Mobile	\$120.42	5/12/17	2017 July Quarterly Report
T-Mobile	\$120.42	6/12/17	2017 July Quarterly Report
T-Mobile	\$120.99	7/12/17	2018 January Quarterly Report
T-Mobile	\$100.65	8/14/17	2018 January Quarterly Report
Husch Blackwell LLP	\$1,555.00	11/9/17	2018 January Quarterly Report
Total	24,374.23		

35. Respondents failed to accurately report eight-three non-itemized expenditures totaling \$8,256.70.

36. Respondents failed to accurately report thirty-three itemized expenditures totaling \$42,178.21.

37. Respondents failed to timely report three itemized expenditures totaling \$700.00 on the 30 Day After Report for the August 2, 2016 primary election that was due on September 1, 2016. Respondents did not report these expenditures until September 23, 2016.

Expenditure Name	Amount	Date
Musawir K. Shabazz	\$200.00	7/30/16
27th Ward Regular Democrat	\$300.00	8/4/16
3rd Ward Democratic Organization	\$200.00	8/4/16
Total	\$700.00	

38. Respondents reported two expenditures totaling \$125.13 on the 2016 April Quarterly Report that were not found in the official fund depository account.

Expenditure Name	Amount
T-Mobile	\$92.13
PNC Bank	\$33.00
Total	\$125.13

39. Respondents failed to accurately report four expenditures totaling \$11,018.27 on Independent Contractor forms.

Report Name	Expenditure	Purpose	Amount	Date
2016 Amended July Quarterly Report	Maurice Foxworth	Political consulting	\$750.00	6/13/16
2016 Amended July Quarterly Report	Maurice Foxworth	Political consulting	\$1,000.00	7/20/16
2016 Amended 30 Day After Primary Election	Maurice Foxworth	Political consulting	\$6,000.00	8/17/16
2015 October Quarterly Report	The Solvency Group	The fundraisers	\$3,268.27	9/29/15
Total			\$11,018.27	

COUNT VII

Failure to maintain committee records in accordance with accepted normal bookkeeping procedures

40. Respondents did not maintain records in accordance with accepted normal bookkeeping procedures, including failure to maintain and provide records necessary to prepare and substantiate some of the contributions that Respondents received and expenditures that Respondents made, and Respondents did not provide requested records.

JOINT PROPOSED CONCLUSIONS OF LAW

COUNT I

Unauthorized use of committee funds

41. Contributions received by any committee shall not be converted to any personal use. § 130.034, RSMo.

42. Contributions may be used for any ordinary expenses incurred relating to a campaign. § 130.034.2, RSMo.

43. There is probable cause to believe that Respondents violated Section 130.034, RSMo, by using committee funds to pay for a \$16.16 membership fee to Planet Fitness from the official fund depository account.

COUNT II

Using committee funds for expenditures reimbursed by the House of Representatives

44. Committee funds may be used only for purposes allowed by law, and expenses incurred in connection with the duties of a holder of elective office must be “ordinary and necessary.” § 130.034.2(2), RSMo.

45. There is probable cause to believe that Respondents violated Section 130.034, RSMo, by making expenditures that were not allowed by law because they were not “ordinary and necessary” expenses incurred in connection with the duties of a holder of elective office.

COUNT III

Cash contributions and expenditures in excess of limits

46. 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.

47. “No contribution of cash in an amount of more than one hundred dollars shall be ... accepted from any single contributor for any election by a ... committee.” § 130.031.1, RSMo.

48. “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.

49. There is probable cause to believe that Respondents violated Sections 130.031.1 and 130.031.2, RSMo, by accepting and depositing a single cash contribution of \$195.00 and by making 131 cash expenditures totaling \$13,100.00, which exceeded the allowable limits for cash contributions and expenditures.

COUNT IV

Failure to timely and accurately file campaign finance disclosure reports with cumulative information from the date of the last report

50. The disclosure reports must contain the total amount of money on hand at the beginning and end of the reporting period, and the total amount of outstanding indebtedness as of the closing date of the reporting period. § 130.041.1, RSMo.

51. All 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;

...
(6) The total amount of outstanding indebtedness as of the closing date of the reporting period covered[.]

§130.046.1, RSMo.

52. Pursuant to Section 130.050.3, RSMo, the receipt of any late contribution or loan of more than two hundred fifty dollars by any committee shall be reported to the appropriate officer no later than twenty-four hours after receipt.

53. Pursuant to Section 130.044.1, RSMo, “all individuals and committees required to file disclosure reports under section 130.041 shall electronically report any contribution by any single contributor which exceeds five thousand dollars to the Missouri Ethics Commission within forty-eight hours of receiving the contribution.”

54. There is probable cause to believe that that Respondents violated Sections 130.041.1, 130.046.1, 130.050.3, and 130.044.1, RSMo, by failing to accurately report beginning money on hand on fourteen reports and ending money on hand on thirteen reports, by failing to timely file the 2018 April Quarterly Report, by failing to accurately document indebtedness on four reports, by failing to file a 24 Hour Expenditure Report, and by failing to file a 48 Hour Report of Contribution Received Over \$5,000.

COUNT V

Failure to timely and accurately report contributions received

55. All 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;

...
(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.

56. "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.

57. Pursuant to Section 130.031.4, RSMo, "no anonymous contribution of more than twenty-five dollars shall be made by any person, and no anonymous contribution of more than twenty-five dollars shall be accepted by any candidate or committee. If any anonymous contribution of more than twenty-five dollars is received, it shall be returned immediately to the contributor, if the contributor's identity can be ascertained, and if the contributor's identity cannot be ascertained, the candidate, committee treasurer or deputy treasurer shall immediately transmit that portion of the contribution which exceeds twenty-five dollars to the state treasurer and it shall escheat to the state."

58. There is probable cause to believe that Respondents violated Sections 130.041.1(3), 130.021.4(1) and 130.031.4, RSMo, by failing to report fifty-three contributions received totaling \$16,984.20, by failing to accurately report forty-five contributions totaling \$232,815.05, by failing to timely report a \$72,770.27 contribution, by failing to report and deposit a \$135.00 contribution from a third party agent into the committee's bank account, by reporting three contributions

totaling \$205.00 that could not be found in the official fund depository account, and by accepting a \$45.00 anonymous contribution that exceeded the allowable amount.

COUNT VI

Failure to timely and accurately report expenditures made

59. All 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;

(b) The total dollar amount of expenditures made in cash;

...

(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[.]

§ 130.041.1(4), RSMo.

60. “[E]xpenditures shall not be made by a committee except through an official depository account and the committee treasurer, deputy treasurer or candidate.” § 130.021.4(1), RSMo.

61. “The words ‘consulting or consulting services, fees, or expenses,’ or similar words, shall not be used to describe the purpose of a payment as required in this section. The reporting of any payment to such an independent contractor shall be on a form supplied by the appropriate officer, established by the ethics commission and shall include identification of the specific service or services provided including, but not limited to, public opinion polling, research on issues or opposition background, print or broadcast media production, print or broadcast media purchase,

computer programming or data entry, direct mail production, postage, rent, utilities, phone solicitation, or fund raising, and the dollar amount prorated for each service.” § 130.041.4, RSMo.

62. There is probable cause to believe that Respondents violated Sections 130.041.1(4), 130.021.4(1), and 130.041.4, RSMo, by failing to report one hundred thirty expenditures totaling \$27,714.86, by failing to accurately report one hundred sixteen expenditures totaling \$50,434.91, by failing to timely report three expenditures totaling \$700.00, by reporting two expenditures totaling \$125.13 that were not found in the official fund depository account, and by failing to accurately report four expenditures totaling \$11,018.27 on Independent Contractor forms.

COUNT VII

Failure to maintain committee records in accordance with accepted normal bookkeeping procedures

63. “The candidate, treasurer or deputy treasurer of a committee shall maintain accurate records and accounts on a current basis.” § 130.036.1, RSMo.

64. “The records and accounts shall be maintained in accordance with accepted normal bookkeeping procedures and shall contain the bills, receipts, deposit records, cancelled checks and other detailed information necessary to prepare and substantiate any statement or report required to be filed pursuant to this chapter.” § 130.036.1, RSMo.

65. “All records and accounts of receipts and expenditures shall be preserved for at least three years after the date of the election to which the records pertain. Records and accounts regarding supplemental disclosure reports or reports not required pursuant to an election shall be preserved for at least three years after the date of the report to which the records pertain. Such records shall be available for inspection by the campaign finance review board and its duly authorized representatives.” § 130.036.8, RSMo.

66. There is probable cause to believe that Respondents violated Section 130.036, RSMo, by failing to maintain committee finance records and accounts in accordance with accepted normal bookkeeping procedures, including bills, receipts, deposit records, cancelled checks and other detailed information necessary to prepare and substantiate any statement or report required under Chapter 130, RSMo.

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. Prior to finalizing settlement, Respondents will be required to file and amend reports and statements with the Commission.
3. 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 \$63,009, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$6,314 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 3.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 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.
 - d. Respondents shall be jointly and severally liable for all fees imposed under this order.
4. 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.

5. 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 CITIZENS TO ELECT
KIMBERLY GARDNER

By: Kimberly Gardner 12/28/18
Kimberly Gardner Date

PETITIONER MISSOURI ETHICS
COMMISSION

By: Elizabeth L. Ziegler 1/2/19
Elizabeth L. Ziegler Date
Executive Director

RESPONDENT KIMBERLY GARDNER

By: Kimberly Gardner 12/28/18
Kimberly Gardner Date

By: Brian Hamilton 1/2/19
Brian Hamilton Date
Attorney for Petitioner

RESPONDENT KIMBERLY STEVENS

By: Kimberly Stevens 12/28/18
Kimberly Stevens Date

ATTORNEY FOR RESPONDENTS

By: J. Andrew Hirth 1/2/19
J. Andrew Hirth Date

Filed
JAN 02 2019
Missouri Ethics
Commission

**BEFORE THE
MISSOURI ETHICS COMMISSION**

MISSOURI ETHICS COMMISSION,)
)
 Petitioner,)
)
v.)
)
CITIZENS TO ELECT KIMBERLY)
GARDNER,)
)
KIMBERLY GARDNER,)
)
and)
)
KIMBERLY STEVENS,)
)
 Respondents.)

Case No. 18-0006-A, 18-0016-I

CONSENT ORDER

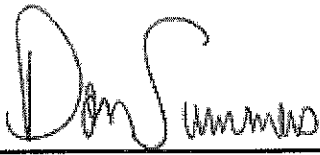
The parties have filed a Joint Stipulation of Facts, Waiver of Hearing, and Proposed Consent Order with the Missouri Ethics Commission. Accordingly, the Missouri Ethics Commission accepts as true the facts stipulated and finds that Respondents violated Sections 130.021.4(1), 130.031.1, 130.031.2, 130.031.4, 130.034, 130.036, 130.041.1, 130.041.1(3), and, 130.041.1(4), and 130.041.4, 130.044.1, 130.046.1, and 130.050.3, RSMo.

The Commission directs that the Joint Stipulation be adopted.

1. Respondent 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 \$63,009.00, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$6,314.00 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.

3. Regardless of the stay in paragraph 2 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 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.
4. Respondents shall be jointly and severally liable for all fees imposed under this order.

SO ORDERED this 2nd day of January, 2019

By: 

Don Summers, Chair
Missouri Ethics Commission