

BEFORE THE  
MISSOURI ETHICS COMMISSION

**Filed**  
**AUG 30 2019**  
Missouri Ethics  
Commission

MISSOURI ETHICS COMMISSION,     )  
  )  
  Petitioner,     )  
  )  
v.    )  
  )  
ROGER LEABO,                                 )  
  )  
  Respondent.     )

Case No. 18-0104-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 Respondent, Roger Leabo, acknowledges that he has 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 Respondent further acknowledges that he is 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 Respondent be proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against Respondent; the right to present evidence on Respondent's behalf at the hearing; and the right to a decision upon the record of the hearing. Being aware of these rights provided to Respondent by operation of law, the undersigned Respondent knowingly and voluntarily waives each and every one of these rights and freely enters 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 agrees to abide by the terms of this document.

**I.**

Based upon the foregoing, the Petitioner and the undersigned Respondent jointly stipulate to the following and request that the Missouri Ethics Commission adopt as its own the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law, as follows:

**JOINT PROPOSED FINDINGS OF FACT**

1. The Missouri Ethics Commission is an agency of the State of Missouri established pursuant to Section 105.955, RSMo, in part for the purpose of enforcing the provisions of Chapter 105, RSMo.

2. The City of Norborne is a fourth class city governed by Chapter 79, RSMo.

3. Respondent Leabo is the Mayor of the City of Norborne and served in this capacity at all times relevant to this Complaint.

4. Pursuant to Section 79.110, RSMo, “The mayor and board of aldermen of each city governed by this chapter shall have the care, management and control of the city and its finances, and shall have power to enact and ordain any and all ordinances not repugnant to the constitution and laws of this state[.]”

5. Pursuant to Section 79.120, RSMo, The mayor of a fourth class city “shall exercise a general supervision over all the officers and affairs of the city, and shall take care that the ordinances of the city, and the state laws relating to such city, are complied with.”

6. Leabo Oil Co. is a business registered as a sole proprietorship with the Missouri Secretary of State on July 6, 1995. Respondent Leabo was listed as the 100 percent owner of Leabo Oil Co on the registration. This registration expired on October 16, 2009.

7. 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.

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

9. Between April 2017, and July 2018, the City of Norborne made three purchases from Leabo Oil Co. for diesel fuel, totaling \$1,982.82. Each transaction exceeded \$500.00. These transactions were not the result of a contract or sale after public notice or competitive bidding.

#### **JOINT PROPOSED CONCLUSIONS OF LAW**

10. Pursuant to Section 105.454.1(2), RSMo: no elected or appointed official or employee of the state or any political subdivision thereof, serving in an executive or administrative capacity, shall:

(2) Sell, rent or lease any property to any agency of the state, or to any political subdivision thereof in which he or she is an officer or employee or over which he or she has supervisory power and received consideration therefor in excess of five hundred dollars per transaction or five thousand dollars per year, unless the transaction is made pursuant to an award on a contract let or sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received[.]

11. Pursuant to Section 105.458.1(2), RSMo, no member of any legislative or governing body of any political subdivision of the state shall:

(2) Sell, rent or lease any property to the political subdivision or any agency of the political subdivision for consideration in excess of five hundred dollars per transaction or five thousand dollars per annum, or in the case of a school board five thousand dollars per annum, unless the transaction is made pursuant to an award on a contract let or a sale made after public notice and in the case of property other than

real property, competitive bidding, provided that the bid or offer accepted is the lowest received[.]

12. Pursuant to Section 105.458.2, RSMo, “no sole proprietorship, partnership, joint venture, or corporation in which any member of any legislative body of any political subdivision is the sole proprietor, a partner having more than a ten percent partnership interest, or a coparticipant or owner of in excess of ten percent of the outstanding shares of any class of stock, shall:

(1) Perform any service for the political subdivision or any agency of the political subdivision for any consideration in excess of five hundred dollars per transaction or five thousand dollars per annum, or in the case of a school board five thousand dollars per annum, unless the transaction is made pursuant to an award on a contract let after public notice and competitive bidding, provided that the bid or offer accepted is the lowest received[.]”

13. The City of Norborne has adopted an ordinance – Ordinance No. 555 – that incorporates these conflict of interest provisions in Chapter 105, RSMo.

14. Pursuant to the City of Norborne Ordinance No. 554, Procurement Policy: “The purchasing agency shall be appointed with the approval of the Chairman and Board of Aldermen. The purchasing agent, when authorized, shall procure for the City the bids for all supplies and contractual services needed by the City in accordance with the procedure prescribed by this ordinance.” Additionally, Section 6 of Ordinance No. 554 specifies, “The Chairman and Board of Aldermen must approve all purchases in excess of \$500.”

15. There is probable cause to believe that Respondent Leabo violated the City of Norborne Ordinance No. 554 and No. 555, and Sections 105.454.1(1)-(2), 105.458.1(1)-(2), and 105.458.2, RSMo, by selling goods to the City of Norborne that exceeded allowable amounts and without proper bidding or public notice.

## II.

Based on the foregoing, the parties 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. Respondent shall comply with all relevant sections of Chapter 105, RSMo.
  - b. It is the Order of the Missouri Ethics Commission that a fee is imposed against Respondent in the amount of \$1,982.00, pursuant to Section 105.961.4(6), RSMo. However, if Respondent pays \$396.00 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 there is probable cause to believe that Respondent commits any further violation of the conflict of interest laws under Chapter 105, RSMo, within the two-year period from the date of this order, then the Respondent will be required to pay the remainder of the fee. The fee will be due immediately upon final adjudication finding that there is probable cause to believe that the 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. Respondent, together with his heirs, successors, and assigns, does 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, which Respondent or Respondent's attorney may now have or hereafter have, based upon or arising out of the this case.

SO AGREED:

RESPONDENT ROGER LEABO

PETITIONER MISSOURI ETHICS  
COMMISSION

By: Roger Leabo 8-27-2019  
Roger Leabo Date

By: Elizabeth L. Ziegler 8/30/19  
Elizabeth L. Ziegler Date  
Executive Director

ATTORNEY FOR RESPONDENT

By: Robert Cowherd 8-27-2019  
Robert Cowherd Date

By: Brian Hamilton 8/30/19  
Brian Hamilton Date  
Attorney for Petitioner

**BEFORE THE  
MISSOURI ETHICS COMMISSION**

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  )  
  Petitioner,                    )  
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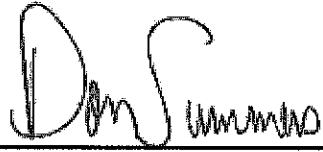
**CONSENT ORDER**

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 there is probable cause to believe that Respondent violated the City of Norborne Ordinance No. 554 and No. 555, and Sections 105.454.1(1)-(2), 105.458.1(1)-(2), and 105.458.2, RSMo.

The Commission directs that the Joint Stipulation be adopted.

1. Respondent shall comply with all relevant sections of Chapter 105, RSMo.
2. It is the Order of the Missouri Ethics Commission that a fee is imposed against Respondent in the amount of \$1,982, pursuant to Section 105.961.4(6), RSMo. However, if Respondent pays \$396 of that fee within forty-five days after the date of this 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 there is probable cause to believe that Respondent commits any further violation of the conflict of interest laws under Chapter 105, RSMo, within the two-year period from the date of this order, then the Respondent will be required to pay the remainder of the fee. The fee will be due immediately upon final adjudication finding that there is probable cause to believe that the Respondent has committed such a violation.

SO ORDERED this 30<sup>th</sup> day of August, 2019

By:   
Don Summers, Chair  
Missouri Ethics Commission