



MISSOURI ETHICS COMMISSION

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Final Action: MEC No. 18-0064-I – A New Missouri, Inc. & MEC No. 18-0065-I – Greitens for Missouri

Date: February 13, 2020

At its February 13, 2020 meeting, the Missouri Ethics Commission took final consideration of the complaints filed against A New Missouri, Inc. and the Greitens for Missouri committee. The complaints were filed on July 10, 2018. The following individuals were also named by the Complainant: Michael Adams, Nick Ayers, Nicholas Britt, Austin Chambers, Meredith Gibbons, Eric Greitens, Mary Kate Johnson, Monu Joseph, Robert David Langdon, Richard Monsees, and Jeff Stuerman.

The complaints that were filed with the MEC included the following allegations.

- Greitens for Missouri failed to timely file a statement of committee organization;
- Greitens for Missouri concealed donors during the 2016 primary campaign by accepting contributions from SEALs for Truth, a Federal Political Action Committee;
- Greitens for Missouri concealed donors during the 2016 primary campaign by failing to disclose the actual sources of contributions to LG PAC, a Federal Political Action Committee;
- Greitens for Missouri concealed donors during the 2016 primary campaign by failing to disclose in-kind contributions from LG PAC;
- A New Missouri, Inc. failed to file a statement of committee organization as a Missouri political action committee;
- A New Missouri, Inc. accepted contributions in excess of allowable amounts set by Article VIII, Section 23 of the Missouri Constitution;
- A New Missouri, Inc. failed to file campaign finance disclosure reports required of Missouri political action committees;
- Greitens for Missouri concealed donors, and violated the campaign finance limits in Article VIII, Section 23 of the Missouri Constitution, by accepting contributions through A New Missouri, Inc., a nonprofit corporation – or – failed to disclose A New Missouri Inc.'s in-kind contributions.

As filed, the complaint included 235 pages of attached documentation, which the Complainant later supplemented with an additional 8,500 documents. The MEC's investigation included the issuance of 23 subpoenas seeking documents from the Respondents and others. The subpoena responses produced an additional 6,000 to 10,000 pages of documentation. MEC investigators conducted nearly 20 interviews and reviewed information accessible from the websites of the

Federal Election Commission, the Federal Communications Commission, and the Internal Revenue Service. As provided in Section 105.959.1, RSMo, all Commission investigations are confidential by law.

Because of the time needed to review all of this information and to conduct interviews, an additional 90 days to complete the investigation was requested by the Commission and approved by the Cole County Circuit Court as is authorized by Section 105.966, RSMo.

After reviewing the MEC's investigative report, the Commission determined there were reasonable grounds to believe that a violation existed as to some of these allegations. Specifically, the Commission found reasonable grounds to support the allegations that the Greitens for Missouri committee failed to disclose the receipt of some in-kind contributions received from LG PAC and likewise failed to disclose the receipt of some in-kind contributions received from A New Missouri, Inc. Those violations are detailed in the Joint Stipulation of Facts, Waiver of Hearing Before the Missouri Ethics Commission, and Consent Order with Joint Findings of Fact and Conclusions of Law filed on February 12, 2020.¹

As to the remainder of the complaint's allegations, discussed as follows in this final action document, the Commission determined there were no reasonable grounds to believe that a violation exists under existing Missouri law.

Allegation: The Greitens for Missouri committee failed to timely file a statement of committee organization. Greitens for Missouri (GFM) was the candidate committee for Eric Greitens who was the successful gubernatorial candidate in the 2016 general election. Upon receipt of the complaint, MEC staff determined that GFM had registered with the MEC on February 24, 2015. To the extent the complaint alleged that GFM should have filed a statement of committee organization prior to February 24, 2015, such an allegation concerns conduct that occurred more than two years prior to the receipt of the complaint on July 10, 2018, and investigations of such dated allegations are prohibited by Section 105.957.3, RSMo. Accordingly, the MEC did not investigate this allegation because it was outside of the Commission's subject matter jurisdiction.

Allegation: The Greitens for Missouri committee concealed donors during the 2016 primary campaign by accepting contributions from SEALs for Truth, which received all of its contributions from American Policy Coalition. The complaint alleged that GFM "funneled" potentially problematic donations through corporate entities in order to conceal the identities of the contributors.

Under Missouri's campaign finance law "No contribution shall be made or accepted . . . in a fictitious name, in the name of another person, or by or through another person in such a manner as to conceal the identity of the actual source of the contribution. . . ." Section 130.031.3, RSMo.² Section 130.011(12), RSMo, defines "contribution" as anything of value that has the

¹ These documents are available as Final Actions on the MEC website.

² The Missouri Constitution contains a very similar provision at Art. VIII, Section 23.3(7).

purpose of supporting or opposing the election of any candidate for public office.³ SEALs for Truth is a federal political action committee that registered with the Federal Election Commission (FEC) on or about June 15, 2016. Reports filed with the FEC, as relate to these allegations, reflect that its sole contribution of \$2 million came from American Policy Coalition (APC), and those same reports show that SEALs for Truth contributed \$1.975 million to GFM. American Policy Coalition is a 501(c)(4) nonprofit corporation, and because it is a nonprofit, it was not required to publicly disclose its donors.

Here, as was determined by the MEC in conjunction with a prior complaint⁴, SEALs for Truth disclosed receipt of the \$2 million contribution from APC and its own \$1.975 million contribution to GFM in filings with the FEC. Likewise, GFM disclosed receipt of the contribution from SEALs in filings with the MEC.

This latest complaint suggested new evidence may exist to support the allegation of concealment of contributions by directing contributors to a nonprofit corporation, including emails and witnesses. No witness was able to provide first-hand knowledge concerning the allegation of concealment. While there were email discussions in general terms about directing potential contributors to unnamed nonprofit corporations, no evidence produced in this investigation showed that GFM directed any contributors to APC.

The investigation did not find specific evidence to support a finding of reasonable grounds of a violation of Missouri campaign finance law as relates to this allegation.

Allegation: The Greitens for Missouri committee concealed donors during the 2016 primary campaign by failing to disclose the actual sources of contributions to LG PAC, which received its contributions from Freedom Frontier, a nonprofit corporation. The complaint alleged that GFM “funneled” politically problematic donations and restricted donors through Freedom Frontier in order to conceal the identities of those contributors.

As stated above, Section 130.031.3, RSMo states that “[n]o contribution shall be made or accepted . . . in a fictitious name, in the name of another person, or by or through another person in such a manner as to conceal the identity of the actual source of the contribution. . . .” However, Missouri’s campaign finance laws do not, in and of themselves, prohibit candidates from fundraising for other entities.⁵

Unlike the above finding concerning SEALs for Truth, the MEC’s investigation confirmed that GFM fundraisers referred some potential donors to Freedom Frontier (FF), a nonprofit corporation. Freedom Frontier made contributions to LG PAC, a federal committee, which later purchased and placed ads related to the 2016 Missouri gubernatorial primary.

GFM provided documentation showing what those potential donors were told, including the message used. The message identified FF as an entity that engaged in issue advocacy to advance

³ See also, Mo. Const. Art. VIII, Section 23.7(7).

⁴ File No. 16-0074-I, dismissed on November 2, 2016.

⁵ See MEC Advisory Opinion 2017.09.CF.018.

its policy positions, which were represented as consistent with those of Eric Greitens. Potential donors were asked if they would like to speak to a representative from FF, but GFM's fundraisers made it clear they did not know how donations to FF would be spent.

The investigation did not find reasonable grounds of a violation of Missouri campaign finance law given the legal framework that allows committees and candidates to fundraise for other entities and the methods employed by GFM and its fundraisers that were within this framework.

Allegation: The Greitens for Missouri Committee concealed donors during the 2016 primary campaign by failing to disclose LG PAC's in-kind contributions. This alleged violation is addressed in the Joint Stipulation and Consent Order referenced above.

Allegation: A New Missouri, Inc. failed to file a statement of committee organization, accepted excess contributions, and failed to file campaign finance disclosure reports. The complaint alleged that A New Missouri, Inc. (ANM) should have registered as a campaign finance committee, because it allegedly accepted contributions and made expenditures in support of a candidate and a ballot issue. Additionally, the complaint alleged that large contributions were directed to ANM to avoid the campaign finance limits established in 2018.⁶

ANM was established on February 5, 2017, as a Missouri nonprofit corporation and is recognized by the IRS as a 501(c)(4) social welfare organization. According to its Articles of Incorporation, it was organized for the purposes of, including but not limited to, "promoting ideas, policies, and/or legislation to create more jobs, higher pay, safer streets, better schools, and more, for all Missourians."⁷ Evidence obtained during the investigation included documents reflecting that ANM identified itself in a mission statement and to potential donors as an "issue advocacy organization established to promote Governor Eric Greitens' policies"

The Commission previously addressed nonprofit corporations in MEC Opinion No. 2018.05.CF.004, discussing that they may be organized for many purposes, including charitable, benevolent, political, religious, cultural, and social welfare. Under the relevant laws, nonprofit corporations are not prohibited from accepting large donations and are not required to publicly disclose the names of all donors.

Because a nonprofit corporation is a "person" under Missouri campaign finance disclosure law it can also constitute a campaign finance committee if it meets the definition of a committee under Section 130.011(7), RSMo, (in relevant part):⁸

[A] person or any combination of persons, who accepts contributions or makes expenditures for the primary or incidental purpose of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates...

⁶ See Mo. Const. Art. VIII, Section 23.3(1)(a).

⁷ This same language is contained in the bylaws for A New Missouri, Inc.

⁸ See also Mo. Const. Art. VIII, Section 23.7(5).

However, a nonprofit corporation is not considered a committee if:

- It is organized or operated for a primary or principal purpose other than influencing or attempting to influence the action of voters;
- It accepts no contributions; and
- It makes all expenditures from its own funds or property obtained in the usual course of business.

As the Commission explained in its 2018 opinion, a corporation can become a committee if it accepts contributions in excess of \$500 in a calendar year or in excess of \$250 from a single contributor. “Contribution” is defined in Section 130.011(12), RSMo,⁹ in relevant part:

A payment, gift, loan, advance, deposit, or donation of money or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office or the qualification, passage or defeat of any ballot measure...

The investigation included a review of ANM documents, including bank records, emails, fundraising solicitations, and donor lists. The investigation showed overlap between GFM and ANM. During 2017, the same advisors were responsible for the day-to-day operation of both ANM and the GFM committee. Both ANM and GFM used the same vendors and, for a time, were housed in the same office building.

Despite these overlaps, the investigation found that the fundraising activities of ANM were in fact separate from GFM’s fundraising activities, and no evidence was found to establish that donors to ANM were being solicited to make campaign contributions. Donations to ANM were solicited through fundraising events and by direct solicitation. Potential donors to ANM were told that ANM was created by the Governor’s supporters to help advocate for and promote his conservative agenda. MEC investigators interviewed a number of donors who confirmed that they knew they were being solicited by ANM and that they were donating to ANM for the purposes stated. Accordingly, the donations received by ANM did not meet the statutory definition of contribution.

Documentation obtained showed ANM made payments for administrative expenses including a real estate lease, consulting, surveys and polling, as well as media purchases related to: tax cuts, fiscal responsibility, Right to Work, and Missouri’s budget deficit. Some media purchases referenced Eric Greitens and members of the general assembly. Further, ANM made monetary contributions to two Missouri PACs.

Section 130.011(16), RSMo, defines expenditure as anything of value that supports or opposes the nomination or election of any candidate or a ballot measure.¹⁰ The Commission was guided by federal case law that further defines expenditures in terms of whether or not they meet the legal definition of express advocacy.¹¹ Unlike advertisements by LG PAC, addressed in the Joint Stipulation and Consent Order referenced above, these media purchases made by ANM did not

⁹ See also Mo. Const. Art. VIII Section 23.7(7).

¹⁰ See also Mo. Const. Art. VIII, Section 23.7(12).

¹¹ Missouri law does not contain a specific definition of express advocacy.

meet this legal definition. And, although Eric Greitens, as a future candidate, may have realized some benefit from the activities of ANM, those activities did not fit the express advocacy definition; therefore, they were not campaign finance expenditures under Missouri law.

In sum, the Commission did not find reasonable grounds to support the allegation that ANM was a campaign finance committee; therefore, it was not subject to campaign finance limits nor was it required to file campaign finance disclosure reports.

Allegation: The Greitens for Missouri committee concealed donors and violated the campaign finance limits in Article III, Section 23 of the Missouri Constitution by accepting contributions through A New Missouri, Inc., a nonprofit corporation. Alternatively: the Greitens for Missouri committee failed to disclose in-kind contributions from A New Missouri, Inc. The complaint alleged that Greitens for Missouri and its principals violated the Missouri Constitution by creating A New Missouri, Inc. as an entity through which to direct large contributions. The complaint alternatively alleged that those principals failed to report A New Missouri's expenses as in-kind-contributions.

Committees are required to report monetary contributions and the "total dollar value of all in-kind contributions received." Section 130.041.1(3)(d), RSMo. An in-kind contribution is a contribution "in a form other than money." Section 130.011(19), RSMo.¹²

The assertion that A New Missouri, Inc., (ANM) accepted contributions is addressed in the preceding allegation. The allegation that GFM failed to report in-kind contributions from ANM is addressed in the Joint Stipulation and Consent Order referenced above. Beyond the facts articulated in the Joint Stipulation document, the MEC investigation did not find reasonable grounds exist to support these alleged violations of Chapter 130, RSMo, and dismissed these allegations against these Respondents.

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¹² See also Mo. Const. Art. VIII, Section 23.7(16).