

**BEFORE THE
MISSOURI ETHICS COMMISSION**

Filed
FEB 27 2020
Missouri Ethics
Commission

MISSOURI ETHICS COMMISSION,)	
)	
Petitioner,)	
)	
v.)	
)	
NAN JOHNSTON,)	Case No. 19-0035-I
Candidate,)	
)	
and)	
)	
COMMITTEE TO ELECT NAN)	
JOHNSTON,)	
Candidate Committee,)	
)	
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, Nan Johnston and Committee to Elect Nan Johnston, 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.¹

2. Respondent Johnston was a successful mayoral candidate for Parkville, Missouri in the April 2, 2019 general election.

3. Respondent Johnston registered her candidate committee, Committee to Elect Nan Johnston, by filing a Statement of Committee Organization with the Missouri Ethics Commission on January 18, 2019.

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

¹ Unless noted otherwise, all statutory references are to the Revised Statutes of Missouri 2000 (Supp. 2019).

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

Filed a Statement of Limited Activity in lieu of a full campaign disclosure report

6. Respondents filed a Committee Statement of Limited Activity for the 30 Day After Election Report. The statement filed should have been a full disclosure report, since the reporting period included nine expenditures totaling \$7,265.80.

Date	Expenditure Name	Amount
4/5/2019	Wav Toto TV Productions	\$1,884.30
4/8/2019	Wav Toto TV Productions	\$1,685.84
4/17/2019	USPS	\$1,030.06
4/17/2019	Burdiss Lettershop	\$1,324.35
4/17/2019	Gunnan Slonka	\$245.00
4/18/2019	The National Golf Club	\$435.00
4/23/2019	CAS	\$150.00
4/24/2019	F&C Development	\$500.00
4/26/2019	MO Ethics Commission	\$11.25
Total		\$7,265.80

COUNT II

Failure to timely file two 24 hour notices of late contributions

7. On March 22, 2019, Respondents received two in-kind contributions, one from Don Julian for \$488.93 and another from Cheryl Rittman for \$398.82. Respondents reported these contributions on the 2019 July Quarterly Report; however, Respondents failed to file two 24 Hour Notice of Late Contributions and also failed to report them on the 2019 April Quarterly Report.

COUNT III

Failure to timely report contributions received

8. On March 25, 2019, Respondents accepted a \$50.00 contribution from Lance Loewenstein. Respondents failed to timely report this contribution on the 30 Day After General Election Report.

9. Respondents failed to timely report two contribution, each over \$100.00, totaling \$300.00.

Contributor Name	Amount	Date Received	Date Filed	Report Not Showing Contribution
Ryan Paulas	\$100.00	3/25/19	N/A	April Quarterly Report 2019
Lance Loewenstein	\$200.00	3/25/19	N/A	30 Day After General Election
Total	\$300.00			

10. Respondents accepted a \$5,000.00 contribution from Donald and Linda Julian received on April 3, 2019, and reported this contribution on the 2019 July Quarterly Report. Respondents should have reported this contribution on the 30 Day After General Election Report.

11. Respondents inaccurately reported four contributions on the 8 Day Before General Election Report.

Contributor	Date Received	Report showing Contribution	Inaccuracies
Car Counselors	3/4/19	8 Day Before General Election	Inaccurately reported contributor as Alan Moore
D&H Twin LLC	3/4/19	8 Day Before General Election	Inaccurately reported contributor as Henry Belfonte
North Star LLC	2/19/19	8 Day Before General Election	Inaccurately reported contributor as M. Gunn
Russ Jaye Wolfe, PC	3/25/19	8 Day Before General Election and 2019 April Quarterly	Should have only appeared on the 2019 April Quarterly (reported twice)

12. Respondents received a \$414.38 reimbursement from Toto TV Productions LLC on May 10, 2019. Respondents failed to timely report this \$414.38 as a miscellaneous receipt on the 2019 July Quarterly Report.

COUNT IV

Failure to timely report expenditures

13. Respondents failed to timely report ten expenditures of \$100.00 or less, totaling \$187.95.

Date Received	Expenditure	Amount	Date Reported	Report Expenditure Should Have Been On
3/06/19	Paypal Fee	\$8.46	N/A	8 Day Before General Election
3/13/19	Sonic	\$5.60	N/A	8 Day Before General Election
3/25/19	Paypal Fee	\$12.50	N/A	April Quarterly 2019
4/26/19	Mo. Ethics Commission	\$11.25	N/A	30 Day After General Election
4/30/19	Service Charge	\$5.00	N/A	July Quarterly 2019
4/30/19	FaceBook	\$82.14	N/A	July Quarterly 2019
5/27/19	Wav Toto TV Productions	\$51.75	N/A	July Quarterly 2019
5/31/19	Service Charge	\$5.00	N/A	July Quarterly 2019
6/03/19	Cashflow Complete Fee	\$1.25	N/A	July Quarterly 2019
6/28/19	Service Charge	\$5.00	N/A	July Quarterly 2019
Total		\$187.95		

14. Respondents failed to timely report four expenditures, each over \$100.00, totaling \$705.00.

Date Received	Expenditure	Amount	Date Reported	Report Expenditure Should Have Been On
3/01/19	Stone Canyon Pizza	\$200.00	N/A	8 Day Before General Election
4/17/19	Gunnan Slonka	\$245.00	N/A	30 Day After General Election
4/23/19	CAS	\$150.00	N/A	30 Day After General Election
5/01/19	USPS	\$110.00	N/A	July Quarterly 2019
Total		\$705.00		

15. Respondents inaccurately reported four expenditures by reporting each expenditure on more than one full disclosure report.

Date	Expenditure	Reported Periods	Correct Reporting Period
3/19/19	Hobby Lobby	8 Day Before Election & April Quarterly 2019	8 Day Before General Election Report
3/20/19	Facebook	8 Day Before Election & April Quarterly 2019	8 Day Before General Election Report
3/23/19	Facebook	8 Day Before Election & April Quarterly 2019	April Quarterly Report 2019
3/28/19	The Political Group	Reported twice on the April Quarterly 2019	April Quarterly Report 2019

16. Respondents reported two expenditures on the 2019 July Quarterly Report, totaling \$241.17, to Facebook on March 30, 2019 and on March 31, 2019. Respondents should have reported these expenditures on the 2019 April Quarterly Report.

17. Respondents reported that Committee to Elect Nan Johnston refunded four contributions and reported them as miscellaneous disbursements on the 2019 July Quarterly Report; however, these disbursements should have been reported on the 30 Day After General Election Report.

Date	Miscellaneous Disbursements	Amount
4/02/19	Don Julian-Don Julian Builders, Inc.	\$5,000.00
4/18/19	F&C Development	\$500.00
4/18/19	The National Golf Club	\$435.00
4/18/19	QuikTrip	\$64.55
Total		\$5,999.55

JOINT PROPOSED CONCLUSIONS OF LAW

COUNT I

Filed a Statement of Limited Activity in lieu of a full campaign disclosure report

18. Pursuant to Section 130.046.1, RSMo, candidate committees must file regular campaign finance disclosure reports at the following times and for the following periods:

(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[.]

19. Pursuant to Section 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 expenditures 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.

20. There is probable cause to believe that Respondents violated Sections 130.046.1 and 130.046.5(2), RSMo, by filing a Committee Statement of Limited Activity in lieu of a 30 Day After General Election report.

COUNT II

Failure to timely file two 24 hour notices of late contributions

21. Pursuant to Section 130.046.1(3), RSMo, candidate committees must file regular campaign finance disclosure reports at the following times and for the following periods... (3) Not later than the fifteenth day following the close of each calendar quarter.

22. "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. For purposes of this subsection 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.

23. There is probable cause to believe that Respondents violated Sections 130.046.1 and 130.050.3, RSMo, by failing to timely file two 24 Hour Notice of Late Contributions and by also failing to report those contributions on the 2019 April Quarterly Report.

COUNT III

Failure to timely report contributions received

24. Candidate committees are required to report receipts at the times and for the periods prescribed in section 130.046, 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.

25. There is probable cause to believe that Respondents violated Section 130.041.1(3), RSMo, by failing to timely report three contributions and a miscellaneous receipt, and by inaccurately reporting four contributions.

COUNT IV

Failure to timely report expenditures

26. Candidate committees are required to report expenditures at the times and for the periods prescribed in section 130.046, 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[.]

§ 130.041.1(4), RSMo.

27. There is probable cause to believe that Respondents violated Section 130.041.1(4), RSMo, by failing to timely report fourteen expenditures, by reporting four expenditures on more than one full disclosure report, and by reporting two expenditures and four miscellaneous disbursements on the wrong report.

II.

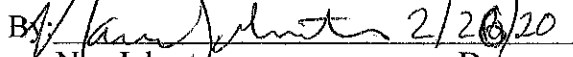
Based on the foregoing, the parties hereto mutually agree and stipulate that the following shall constitute the order entered by the Missouri Ethics Commission in this matter. This order will be effective immediately upon the issuance of the Consent Order of the Missouri Ethics Commission without further 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. Respondents shall 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 \$5,242.00, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$524.00 of that fee within forty-five days after the date of the Consent 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.
 - c. Regardless of the stay in paragraph 3.b above, if there is probable cause to believe that any Respondent commits any further violation or violations 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 be due immediately upon final adjudication finding that there is probable cause to believe 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.

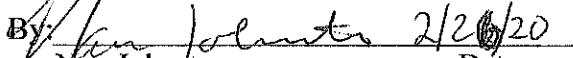
5. Respondents, together with their heirs, successors, and assigns, do hereby waive, release, acquit and forever discharge the Missouri Ethics Commission and its attorneys of or from any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited 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:

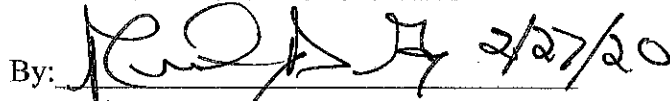
RESPONDENT COMMITTEE TO ELECT
NAN JOHNSTON

By:  2/26/20
Nan Johnston Date

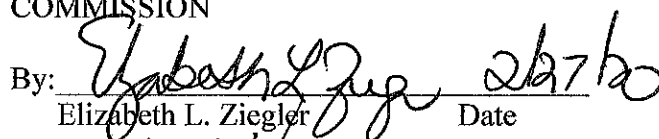
RESPONDENT NAN JOHNSTON

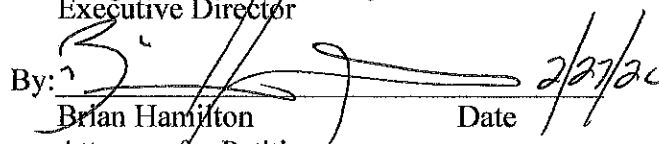
By:  2/26/20
Nan Johnston Date

ATTORNEY FOR RESPONDENT

By:  2/27/20
Rodney D. Gray Date

PETITIONER MISSOURI ETHICS
COMMISSION

By:  2/27/20
Elizabeth L. Ziegler Date
Executive Director

By:  2/27/20
Brian Hamilton Date
Attorney for Petitioner

Filed
FEB 27 2020
Missouri Ethics
Commission

**BEFORE THE
MISSOURI ETHICS COMMISSION**

MISSOURI ETHICS COMMISSION,)
)
) Petitioner,)
)
v.) Case No. 19-0035-I
)
NAN JOHNSTON,)
)
and)
)
COMMITTEE TO ELECT)
NAN JOHNSTON,)
)
) Respondents.)

CONSENT ORDER

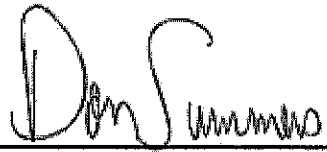
The parties have filed a Joint Stipulation of Facts, Waiver of Hearing, and Proposed Consent Order with the Missouri Ethics Commission. Accordingly, the Missouri Ethics Commission accepts as true the facts stipulated and finds that there is probable cause to believe that Respondents violated Sections 130.041.1(3), 130.041.1(4) 130.046.1, 130.046.5(2) and 130.050.3, 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 \$5,242.00, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$524.00 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 there is probable cause to believe that any Respondent commits any further violation or violations 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 be due immediately upon final adjudication finding that there is probable cause to believe 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 27th day of February, 2020

By: 

Don Summers, Chair
Missouri Ethics Commission