

BEFORE THE
MISSOURI ETHICS COMMISSION

Filed
SEP 28 2020
Missouri Ethics
Commission

MISSOURI ETHICS COMMISSION,)
)
 Petitioner,)
)
v.)
)
KYLE ESTES,)
)
 Respondent.)

Case No. 20-0016-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 Respondent, Kyle Estes, acknowledges that he has received and reviewed a copy of the legal complaint filed by the Petitioner in this case, and he submits 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 130, RSMo.¹

2. On January 6, 2020, the Ozark Board of Alderman voted to place a use tax proposal on the ballot for the June 2, 2020 election. The ballot measure read:

Shall the City of Ozark, Missouri, impose a local use tax at the same rate as the local sales tax rate, currently 2.375 %, provided that if the local sales tax rate is reduced or raised by voter approval, the local use tax rate shall also be reduced or raised by the same action?

3. The above-mentioned ballot measure was unsuccessful in the June 2, 2020 election.

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.

5. 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.

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

COUNT I

Failure to provide a "paid for by" disclosure statement on printed campaign material

6. Respondent Estes purchased and placed ten or eleven yard signs opposing the above-mentioned local use tax ballot measure.

7. The yard signs did not contain a "paid for by" disclosure statement.

COUNT II

Failure to file a non-committee expenditure report

8. On May 13, 2020, Respondent Estes purchased two billboards, totaling \$576.00, in opposition to the above-mentioned local use tax ballot measure.

9. Respondent Estes did not file a Non-Committee Expenditure Report with Christian County City Clerk, Christian County Election Clerk, or with the Missouri Ethics Commission.

JOINT PROPOSED CONCLUSIONS OF LAW

COUNT I

Failure to provide a "paid for by" disclosure statement on printed campaign material

10. "Any person publishing, circulating, or distributing any printed matter relative to any candidate for public office or any ballot measure shall on the face of the printed matter identify in a clear and conspicuous manner the person who paid for the printed matter with the words "Paid for by" followed by the proper identification of the sponsor pursuant to this section." § 130.031.8, RSMo.

11. "[P]rinted matter" shall be defined to include any pamphlet, circular, handbill, sample ballot, advertisement, including advertisements in any newspaper or other periodical, sign, including signs for display on motor vehicles, or other imprinted or lettered material[.]" § 130.031.8, RSMo.

12. “In regard to any printed matter paid for by an individual or individuals, it shall be sufficient identification to print the name of the individual or individuals and the respective mailing address or addresses[.]” § 130.031.8(4), RSMo

13. There is probable cause to believe that Respondent violated Section 130.031.8, RSMo, by failing to include a “Paid for by” disclosure statement on political yard signs opposing a ballot measure.

COUNT II

Failure to file a non-committee expenditure report

14. Pursuant to Section 130.047, RSMo, “Any person who is not a defined committee who makes an expenditure or expenditures aggregating five hundred dollars or more in support of, or opposition to... passage of one or more ballot measures... shall file a report signed by the person making the expenditures[.]... Such report shall be filed with the appropriate officer having jurisdiction over the election of the... ballot measure in question as set forth in section 130.026 no later than fourteen days after the date of making an expenditure which by itself or when added to all other such expenditures during the same campaign equals five hundred dollars or more.”

15. There is probable cause to believe that Respondent violated Section 130.047, RSMo, by failing to file a Non-Committee Expenditure Report for the purchase of two billboards totaling \$576.00 in opposition to a ballot measure.

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. Respondent 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 Respondent in the amount of \$1,100.00, pursuant to Section 105.961.4(6), RSMo. However, if Respondent pays \$200.00 of that fee within forty-five days after the date of the 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 2.b above, if there is probable cause to believe that 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 Respondent will be required to pay the remainder of the fee. The fee will be due immediately upon final adjudication finding that there was probable cause to believe 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 legal 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,

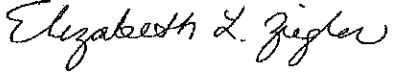
including but not limited to, a claim for attorney's fees whatsoever which Respondent or Respondent's attorney may now have or which they may hereafter have, which are based upon or arise out of this case.


SO AGREED:

RESPONDENT KYLE ESTES

By:  9/22/2020
Kyle Estes Date

PETITIONER MISSOURI ETHICS
COMMISSION

By:  9/28/20
Elizabeth L. Ziegler Date
Executive Director

E.  9/28/20
Brian Hamilton Date
Attorney for Petitioner

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MISSOURI ETHICS COMMISSION,)	
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Petitioner,)	
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v.)	
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KYLE ESTES,)	Case No. 20-0016-I
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Respondent.)	

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 130.031.8 and 130.047, 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 Respondent in the amount of \$1,100.00, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$200.00 of that fee within forty-five days after the date of the Order, the remainder 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 committed 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 will be required to pay the remainder of the fee. The fee will due immediately upon final adjudication that there was probable cause to believe Respondent has committed a violation.

SO ORDERED this 28th day of September, 2020

A handwritten signature in black ink, reading "Cheryl D. S. Walker". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Cheryl D. S. Walker, Chair
Missouri Ethics Commission