

BEFORE THE  
MISSOURI ETHICS COMMISSION

**Filed**  
**DEC 04 2021**  
Missouri Ethics  
Commission

MISSOURI ETHICS COMMISSION,            )  
  )  
  )            Petitioner,            )  
  )  
v.    )  
  )            Case No. 20-0035-I  
JEFFERSON CITY AREA                            )  
INDIVISIBLE,                                        )  
  )  
and    )  
  )  
TONY SMITH   )  
  )  
  )            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, Tony Smith and Jefferson City Area Indivisible, acknowledge that they have received and reviewed a copy of the legal complaint filed by the Petitioner in this case, and they 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.<sup>1</sup>
2. Jefferson City Area Indivisible is an unincorporated association of approximately forty individuals that participate in various political and social activities.
3. Tony Smith is a founding member of Jefferson City Area Indivisible and he is one of the individuals who decides what activities the group will participate in. One of the activities the group chose to participate in was to create and mail postcards supporting Amendment 2 – Medicaid Expansion.
4. Amendment 2 – Medicaid Expansion was a successful statewide ballot measure proposed by initiative petition, which appeared on the August 4, 2020 election ballot.

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

5. Pursuant to Section 105.961, RSMo, the Commission's staff received a complaint filed with the Commission. The Commission's staff investigated the complaint and reported the investigation findings to the Commission.

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

### **COUNT I**

#### *Failure to report expenditures on a campaign finance report with the Missouri Ethics Commission*

7. In July 2020, Respondents created and mailed approximately 1,800 postcards to Jefferson City residents. The postcards read, in part, "Vote YES on Amendment 2 August 4<sup>th</sup>."

8. Respondents' postage cost for the postcards was \$630.00 and the paper for printing was estimated to cost approximately \$30.00.

9. Respondents also rented an area at McClung Park in Jefferson City, MO, for an event used to address the postcards. Upon information and belief, the rental cost was approximately \$30.00.

10. Respondents did not report the cost of creating and mailing the postcards on any campaign finance disclosure report with the Missouri Ethics Commission.

### **COUNT II**

#### *Failure to provide a "Paid for by" disclosure statement on campaign related material*

11. The above-mentioned postcards showed "Jefferson City Area Indivisible" as the sender, with no return address.

12. The postcard did not include the words "Paid for by" before the group's name and failed to identify an entity principal and address.

## JOINT PROPOSED CONCLUSIONS OF LAW

### COUNT I

#### *Failure to report expenditures on a campaign finance report with the Missouri Ethics Commission*

13. “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, one or more candidates or in support of, or in opposition to, the qualification or passage of one or more ballot measures, other than a contribution made directly to a candidate or committee, shall file a report signed by the person making the expenditures, or that person's authorized agent.” § 130.047.1, RSMo.

14. “The report shall include the name and address of the person making the expenditure, the date and amount of the expenditure or expenditures, the name and address of the payee, and a description of the nature and purpose of each expenditure.” § 130.047.1, RSMo.

15. “Such report shall be filed with the appropriate officer having jurisdiction over the election of the candidate or 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.” § 130.047.1, RSMo.

16. Pursuant to Section 130.026.2(5)(a), RSMo, the appropriate officer for a statewide ballot measure is the Missouri Ethics Commission.

17. There is probable cause to believe that Respondents violated Section 130.047.1, RSMo, by failing to report the cost of creating and mailing postcards in support of a statewide ballot measure as the aggregate cost exceeded the monetary threshold of \$500.00.

## COUNT II

### *Failure to provide a "Paid for by" disclosure statement on campaign related material*

18. "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.

19. "[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.

20. "In regard to any printed matter paid for by a corporation or other business entity, labor organization, or any other organization not defined to be a committee by subdivision (7) of section 130.011 and not organized especially for influencing one or more elections, it shall be sufficient identification to print the name of the entity, the name of the principal officer of the entity, by whatever title known, and the mailing address of the entity, or if the entity has no mailing address, the mailing address of the principal officer." § 130.031.8(3), RSMo

21. There is probable cause to believe that Respondents violated Section 130.031.8, RSMo, by failing to include a "Paid for by" disclosure statement on campaign related postcards in support of a statewide ballot measure that appeared on the August 4, 2020 election ballot.

## 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. 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 \$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 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 any 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 that 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 such 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. 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 this case.

SO AGREED:

RESPONDENT TONY SMITH

By: Tony Smith 2 Dec 2020  
Tony Smith Date

RESPONDENT JEFFERSON CITY AREA  
INDIVISIBLE

By: Tony Smith 2 Dec 2020  
Tony Smith Date

PETITIONER MISSOURI ETHICS  
COMMISSION

By: \_\_\_\_\_  
Elizabeth L. Ziegler Date  
Executive Director

By: \_\_\_\_\_  
Brian Hamilton Date  
Attorney for Petitioner

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 this case.

SO AGREED:

RESPONDENT TONY SMITH

By: \_\_\_\_\_  
Tony Smith Date

RESPONDENT JEFFERSON CITY AREA  
INDIVISIBLE

By: \_\_\_\_\_  
Tony Smith Date

PETITIONER MISSOURI ETHICS  
COMMISSION

By: Elizabeth L. Ziegler  
Elizabeth L. Ziegler Date  
Executive Director

By: Brian Hamilton  
Brian Hamilton Date  
Attorney for Petitioner



**BEFORE THE  
MISSOURI ETHICS COMMISSION**

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 Petitioner, )  
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 v. ) Case No. 20-0035-I  
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 JEFFERSON CITY AREA )  
 INDIVISIBLE, )  
 )  
 and )  
 )  
 TONY SMITH, )  
 )  
 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 130.031.8 and 130.047.1, 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 \$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 this 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.
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 was 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 4th day of December, 2020

By:   
Cheryl D. S. Walker, Chair  
Missouri Ethics Commission