

**BEFORE THE  
MISSOURI ETHICS COMMISSION**

MISSOURI ETHICS COMMISSION,     )  
  )  
  )     Petitioner,     )  
  )  
v.   )  
  )     Case No. 20-0053-I  
CITY OF FLORISSANT,             )  
  )  
and                                     )  
  )  
TIMOTHY LOWERY,                 )  
  )  
  )     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, City of Florissant and Timothy Lowery, acknowledge that they have received and reviewed a copy of the legal 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.<sup>1</sup>

2. The City of Florissant is a Home Rule City which is governed under Chapter 82, RSMo, as well as its own charter.

3. Pursuant to the City of Florissant's City Charter, Section 2.1: "The Mayor shall be the chief executive officer of the City and shall have and exercise all of the executive power of the City. He shall devote his entire time to the duties of his office."

4. During all relevant times, Timothy Lowery was Mayor of the City of Florissant.

5. On May 11, 2020, ordinance number 8618 was passed by the Florissant City Council placing a measure on the August 4, 2020 ballot to enact a use tax in the City of Florissant. The measure was designated as Proposition 1.

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

6. 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.

7. 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.

8. Respondents created, purchased, and distributed signs containing information regarding Proposition 1.

9. The signs did not contain the name of the principal officer, in this case, the City of Florissant's Mayor.

10. The signs did not contain a proper "Paid for by" disclosure statement.

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

11. "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.

12. "[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.

13. "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.

14. There is probable cause to believe that Respondents violated Section 130.031.8, RSMo, by failing to include a proper "Paid for by" disclosure statement on signs containing information about a local ballot measure.

## II.

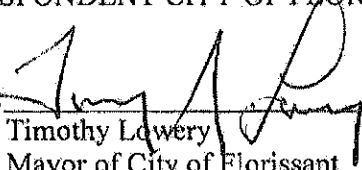
Based on the foregoing, the parties hereto mutually agree and stipulate that the following shall constitute the order entered by the Missouri Ethics Commission in this matter. This order will be effective immediately upon the issuance of the Consent Order of the Missouri Ethics Commission without further 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. 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 total amount of \$100.00, pursuant to Section 105.961.4(6), RSMo. The fee will be paid by check or money order made payable to the Missouri Ethics Commission.
  - c. Respondents shall be jointly and severally liable for all fees imposed under this order.
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 this 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:

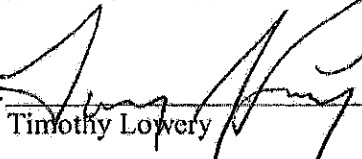
RESPONDENT CITY OF FLORISSANT

PETITIONER MISSOURI ETHICS  
COMMISSION

By:  11-17-2020  
Timothy Lowery Date  
Mayor of City of Florissant


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

RESPONDENT TIMOTHY LOWERY

By:  12-17-2020  
Timothy Lowery Date

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

ATTORNEY TO RESPONDENTS

By:  12-18-2020  
John Hessel Date  
Lewis Rice LLC



**Filed**  
**DEC 22 2020**  
Missouri Ethics  
Commission

**BEFORE THE  
MISSOURI ETHICS COMMISSION**

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  )  
                                  Respondents.     )

Case No. 20-0053-I


**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 Section 130.031.8, 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 \$100.00, pursuant to Section 105.961.4(6), RSMo. The fee will be paid by check or money order made payable to the Missouri Ethics Commission.
3. Respondents shall be jointly and severally liable for all fees imposed under this order.

SO ORDERED this 22nd day of December, 2020

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