

**BEFORE THE  
MISSOURI ETHICS COMMISSION**

**Filed**

**NOV 3 2022**

**Missouri Ethics  
Commission**

MISSOURI ETHICS COMMISSION,     )  
  )  
  Petitioner,     )  
  )  
v.   )  
  )  
CITY OF BALLWIN,                             )  
  )  
  Respondent,     )

Case No. 22-0033-I & 22-0036-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, City of Ballwin, acknowledges it has 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 Respondent further acknowledges that it 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 stipulates to the following and requests 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 (“MEC”) is an agency of the State of Missouri established pursuant to § 105.955, RSMo, in part for the purpose of enforcing the provisions of Chapter 130, RSMo.<sup>1</sup>

2. Respondent City of Ballwin, Missouri, operates under a Mayor-Board of Alderman-City Administrator form of government with a mayor and eight aldermen.

3. Proposition U (Prop U) was a local ballot measure on the April 5, 2022, ballot for a use tax that would apply a 1% sales tax to purchases made online in the City of Ballwin.

4. Pursuant to § 105.961, RSMo, the Commission’s staff investigated complaints that have been filed with the Commission and reported the findings to the Commission.

5. Based upon the findings in the investigation reports, the Commission determined that there were reasonable grounds to believe that violations of the law had occurred and ordered that a hearing in this matter be conducted pursuant to § 105.961.3, RSMo.

6. The Alderman, City Administrator, Mayor, City Attorney, and City Marketing and Communications Specialist for the City of Ballwin participated in a meeting on February 14,

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<sup>1</sup> Unless noted otherwise, all statutory references are to the Revised Statutes of Missouri 2000 (Supp. 2020).

2022, in which they unanimously voted to distribute informational mailers on Prop U to the citizens of the City of Ballwin, Missouri for the April 5, 2022, election.

7. While the mailers contained the name and mailing address for the City of Ballwin the mailers did not identify the name of the principal officer.

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

8. “Any person publishing, circulating, or distributing any printed matter relative to any candidate for public office of 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.

9. “[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.

10. Section 130.031.8, RSMo. further states the following:

(3) 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.

11. There is probable cause to believe that Respondent violated § 130.031.8, RSMo, by failing to include an accurate “Paid for by” disclosure statement on mailers that Respondent

created, paid for, and distributed to the citizens of the City of Ballwin, Missouri for the April 5, 2022, election.

## II.

Based on the foregoing, the parties 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 \$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. 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. Respondent, together with its heirs, successors, and assigns, does hereby waives, releases, acquits and forever discharges 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, which Respondent or Respondent's attorney may now have or hereafter have, based upon or arising out of this case.

SO AGREED:

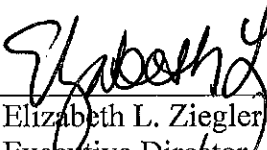
RESPONDENT CITY OF BALLWIN


By:  10/10/22  
Eric Stermann Date

ATTORNEY FOR RESPONDENT CITY OF BALLWIN

By:  10/10/22  
Robert B. Jones Date  
Curtis, Heinz, Garrett & O'Keefe

PETITIONER MISSOURI ETHICS COMMISSION

By:  11/3/22  
Elizabeth L. Ziegler Date  
Executive Director

By:  11/3/22  
Brian Hamilton Date  
Attorney for Petitioner

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**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 Respondent violated Section 130.031.8, 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 \$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.

SO ORDERED this 3<sup>RD</sup> day of November, 2022

By:



Robert Cook, Chair  
Missouri Ethics Commission