

**BEFORE THE
MISSOURI ETHICS COMMISSION**

Filed

SEP 06 2023

Missouri Ethics
Commission

MISSOURI ETHICS)	
COMMISSION,)	
)	
Petitioner,)	
)	
v.)	Case No. 23-0013-I (A)
)	
DR. RICHARD SWARTZ,)	
Candidate,)	
)	
and)	
)	
COMMITTEE TO ELECT)	
RICHARD J. SWARTZ,)	
Candidate Committee,)	
)	
Respondents.)	

**JOINT FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER**

The Missouri Ethics Commission (“MEC”), together with Dr. Richard Swartz and Committee to Elect Richard J. Swartz (“Respondents”), collectively the “parties” jointly stipulate and consent to action as set forth here (the “agreement”).

Respondents acknowledge their right to have this agreement reviewed by counsel. Respondents further acknowledge they have received actual notice of the legal complaint filed by the MEC in this case, have reviewed the contents of the Complaint, and submit to the jurisdiction of the Missouri Ethics Commission.

Respondents further acknowledge 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 at a hearing before the MEC; the right to have all allegations against Respondents 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, Respondents knowingly and voluntarily waive each one of these rights and freely enter into this agreement and agree to abide by its terms.

I.

The parties mutually agree and stipulate, subject to adoption by the Missouri Ethics Commission, the following shall constitute the Findings of Fact and Conclusions of Law in this matter:

FINDINGS OF FACT

1. Dr. Richard Swartz was a candidate for board member of the Cape County Health Department, in Cape Girardeau, Missouri in the April 2023 election.

2. Committee to Elect Richard J. Swartz was a candidate committee registered with the Missouri Ethics Commission on January 5, 2023 and terminated on May 9, 2023.

3. Pursuant to § 105.961, the Commission's staff received a complaint against Respondents. Upon investigation of the allegations, a report was presented to the Commission.

4. The Commission determined there was reasonable grounds to believe violations of the Missouri Constitution occurred and authorized a hearing pursuant to § 105.961.3.

5. At all relevant times here, Committee to Elect William Lewis was a candidate committee registered with the MEC.

6. William Lewis was also a candidate for board member of the Girardeau County Health Department in the April 2023 election.

7. Beginning on March 7, 2023, an electronic billboard, coordinated by both Swartz and Lewis and their respective candidate committees, went live with an advertisement in support of the election of the two candidates and include a paid for by disclosure for each candidate, listing their committee's name and treasurer.

8. The two candidates each paid Drury Southwest Sign \$212.50 for the billboard, on March 3, 2023. This amounted to half the cost of the billboard, split evenly between the two committees.

9. Half the cost of renting space on an electronic billboard, a cost Respondent would have incurred in full otherwise, is something of value both given from and received by Committee to Elect William Lewis.

10. Immediately after speaking with Commission staff about the issue, the billboard was changed to come into compliance with relevant campaign finance laws.

CONCLUSIONS OF LAW

11. The Missouri Constitution places clear limitations on the acceptance of contributions, stating:

No candidate's candidate committee shall accept contributions from, or make contributions to, another candidate committee, including any candidate committee, or equivalent entity, established under federal law.

MO Const. Art. VIII, Sec. 23.3(4).

12. Missouri statute defines a contribution as:

(12) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office or the qualification, passage or defeat of any ballot measure, or for the support of any committee supporting or opposing candidates or ballot measures or for paying debts or obligations of any candidate or committee previously incurred for the above purposes. A contribution of anything of value shall be deemed to have a money value equivalent to the fair market value.

§ 130.011(12), RSMo.

13. Where Respondents accepted and made a contribution of something of value with another candidate committee, there is probable cause to believe they violated Article VIII, § 23.3(4) of the Missouri Constitution, giving this Commission the power to act as permitted by § 105.961.

II.

Based on the foregoing, the parties mutually agree and stipulate, subject to adoption by the Missouri Ethics Commission, the following shall constitute the Order issued by the Missouri Ethics Commission in this matter:

CONSENT ORDER

The Missouri Ethics Commission finds probable cause to believe Respondents violated Article VIII, Sec. 23.3(4) of the Missouri Constitution, and pursuant to § 105.961.4, hereby **ORDERS**:

1. Respondents shall comply with all relevant sections of the Missouri Constitution;
2. Respondents are assessed a fee in the amount of \$1,000, pursuant to Section 105.961.4(6), due by check or money order and payable to the Missouri Ethics Commission within sixty (60) days of the issuance of this Order;
3. If Respondents pay \$100 of the assessed fee within forty-five (45) days of the issuance of this Order, the remainder of the fee will be stayed for a period of two years. If Respondents do not commit any further violations of the Missouri Constitution, the remainder of the fee shall be dissolved. If there is probable cause to believe Respondents committed any further violations of the campaign finance laws under the Missouri Constitution within the two-year period, the remainder of the fee shall be due immediately upon such a finding.
4. Respondents shall be jointly and severally liable for all fees imposed under this Order.

III.

1. The parties understand the Missouri Ethics Commission will maintain this agreement as an open record of the Commission.

2. This agreement does not bind the Missouri Ethics Commission or restrict the remedies available concerning any violations not expressly detailed here, including any future violations.

3. Each party agrees to pay all of their own fees and expenses incurred as a result of this case, its litigation, and/or its disposition.

4. Respondents, together with their heirs, assigns, agents, representatives and attorneys, do hereby waive, release, acquit and forever discharge the Missouri Ethics Commission, the Commission's respective members, employees, agents and attorneys including former members, employees, agents and attorneys, of, or from any liability, claim, actions, causes of action, fees, costs, expenses and compensation, including, but not limited to, any claim for attorney's fees and expenses, whether or not now known or contemplated, including, but not limited to, any claims pursuant to Section 536.087, RSMo, as amended, or any claim arising under 42 U.S.C. § 1983, which now or in the future may be based upon, arise out of, or relate to any of the matters raised in this case or its litigation or from the negotiation or execution of this Joint Stipulation. The parties acknowledge that this paragraph is severable from the remaining portions of this agreement in that it survives in perpetuity even in the event that any court or administrative tribunal deems this agreement or any portion thereof void or unenforceable.

5. This agreement shall become effective immediately upon (1) the signature of all parties; (2) adoption of the Joint Proposed Findings of Fact, Conclusions of Law by the Missouri Ethics Commission; and (3) issuance of a Final Order by the Commission, without any further action of the parties.

SO AGREED:

RESPONDENTS

MISSOURI ETHICS COMMISSION

Richard Swartz 8-31-23
Richard Swartz Date
Respondent and Candidate

Elizabeth L. Ziegler 9/6/23
Elizabeth L. Ziegler Date
Executive Director

Brian Hamilton 9/6/23
Brian Hamilton Date
Attorney for Petitioner

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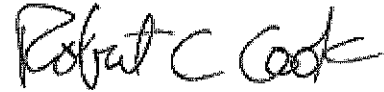
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be dissolved. If there is probable cause to believe Respondents committed any further violations of the campaign finance laws under the Missouri Constitution within the two-year period, the remainder of the fee shall be due immediately upon such a finding.

4. Respondents shall be jointly and severally liable for all fees imposed under this Order.

SO ORDERED this 6th day of September, 2023

By:



Robert Cook, Chair
Missouri Ethics Commission