

**BEFORE THE  
MISSOURI ETHICS COMMISSION**

**Filed**

SEP 07 2023

Missouri Ethics  
Commission

MISSOURI ETHICS	)	
COMMISSION,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. 22-0057-I
	)	
SWARINGIM FOR MISSOURI,	)	
Candidate Committee	)	
	)	
and	)	
	)	
MIKE SWARINGIM,	)	
Candidate,	)	
	)	
Respondents.	)	

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

The Missouri Ethics Commission (“MEC”), together with Swaringim for Missouri and Mike Swaringim (“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. Swaringim for Missouri was a candidate committee registered with the Missouri Ethics Commission on December 21, 2021.

2. Mike Swaringim was a candidate for the Missouri House of Representatives in the August 2, 2022, primary election for District 64.

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

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

5. Figure A details two (2) separate expenditures as filed by Respondents on their April 2022 Quarterly Report.

<b>Figure A – Expenditures</b>			
<b>Name of Recipient</b>	<b>Date</b>	<b>Purpose</b>	<b>Amount</b>
Melissa Wilson	1/6/2022	Campaign Management, Printed materials, Ads, Website	\$3,000.00
Melissa Wilson	3/8/2022	Printed Materials Campaign Management	\$1,302.00

6. Respondents failed to file an Independent Contractor form with their April 2022 Quarterly Report for campaign management services.

7. Respondents received a contribution on December 28, 2021, in the amount of \$2,046.00 from Thomas Emmons.

8. The contribution was reported on Respondents’ January 2022 Quarterly Report.

## CONCLUSIONS OF LAW

### Count 1: Failure to File an Independent Contractor From

9. Section 130.041 requires the candidate and/or treasurer or deputy treasurer of every committee to file disclosure reports of all receipts and expenditures, as prescribed in § 130.046.

10. Section 130.041.4 lays out the requirements of reporting payment to an independent contractor, stating:

The words "consulting or consulting services, fees, or expenses", or similar words, shall not be used to describe the purpose of a payment as required in this section. The reporting of any payment to such an independent contractor shall be on a form supplied by the appropriate officer, established by the ethics commission and shall include identification of the specific service or services provided including, but not limited to, public opinion polling, research on issues or opposition background, print or broadcast media production, print or broadcast media purchase, computer programming or data entry, direct mail production, postage, rent, utilities, phone solicitation, or fund raising, and the dollar amount prorated for each service.

11. Where each of the two (2) expenditures in Figure A were required to be filed on the independent contractor form by § 130.041.4 and where Respondents failed to do so accurately, there is probable cause to believe Respondents violated § 130.041.4, giving this Commission power to act, as permitted under § 105.961.

**Count II: Acceptance of Contribution in Excess of Limitation**

12. Article III, Section 2(c) of the Missouri Constitution, limits the amount of contributions a candidate committee can accept from a person to support the election of a state representative, stating in part:

The amount of contributions made to or accepted by any candidate or candidate committee from any person other than the candidate in any one election to the office of state representative or state senator shall not exceed the following:

...

(2) To elect an individual to the office of state representative, two thousand dollars.

13. Section 130.036.2 designates a contribution as accepted if not returned within ten (10) business days of receipt.

14. Where Respondents accepted a \$2,046 contribution from an individual, there is probable cause to believe Respondents violated MO Const. Art. III, Sec. 2(2), 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 § 130.041.4, RSMo. and MO Const. Art. III, Sec. 2(2), and pursuant to § 105.961.4, hereby **ORDERS**:

1. Respondents shall comply with all relevant sections of the Missouri Constitution and Chapter 130;
2. Respondents are assessed a fee in the amount of \$2,000, 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 \$200 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 or Chapter 130, 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 or Chapter 130 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 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.

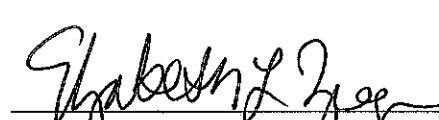
5. This agreement shall become effective immediately upon (1) the signature of all parties; (2) adoption of the Joint Findings of Fact, Conclusions of Law by the Missouri Ethics Commission; and (3) issuance of an Order by the Commission, without any further action of the parties.

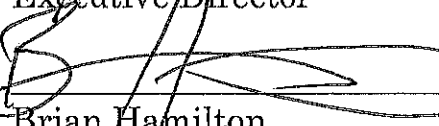
SO AGREED:

RESPONDENTS

MISSOURI ETHICS COMMISSION

  
\_\_\_\_\_  
Mike Swaringim      Date  
Respondent and Candidate

 9/7/23  
\_\_\_\_\_  
Elizabeth L. Ziegler      Date  
Executive Director

 9/7/23  
\_\_\_\_\_  
Brian Hamilton      Date  
Attorney for Petitioner



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**CONSENT ORDER**

The Missouri Ethics Commission finds probable cause to believe Respondents violated § 130.041.4, RSMo. and MO Const. Art. III, Sec. 2(2), and pursuant to § 105.961.4, hereby **ORDERS**:

1. Respondents shall comply with all relevant sections of the Missouri Constitution and Chapter 130;
2. Respondents are assessed a fee in the amount of \$2,000, 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 \$200 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 or Chapter 130, 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 or Chapter 130 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 11th day of September, 2023

By:



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Robert Cook, Chair  
Missouri Ethics Commission