

**BEFORE THE
MISSOURI ETHICS COMMISSION**

Filed

OCT 18 2023

**Missouri Ethics
Commission**

MISSOURI ETHICS
COMMISSION,

Petitioner,

v.

JOE LUTZ,
Candidate,

and

COMMITTEE TO ELECT JOE
LUTZ,
Candidate Committee,

Respondents.

Case No. 22-0072-I

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

The Missouri Ethics Commission ("MEC"), together with Joe Lutz and Committee to Elect Joe Lutz ("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 enters into this agreement and agrees 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. Joe Lutz was a successful candidate in the August 2, 2022, primary election for Moniteau County Commission.
2. Committee to Elect Joe Lutz was a candidate committee registered with the MEC on September 22, 2022.

3. Pursuant to § 105.961, the MEC's staff investigated a complaint filed with the Commission and reported the investigation findings to the Commission.

4. The Commission determined there were reasonable grounds to believe a violation of the law occurred and authorized a hearing pursuant to § 105.961.3.

Count I – Failure to Timely File Statement of Committee

Organization

5. Respondent Lutz received contributions totaling \$1,200 as of May 24, 2022 and made expenditures totaling \$1,353.44 as of June 14, 2022.

6. Respondent filed a Statement of Committee Organization for the committee, Committee to Elect Joe Lutz on September 22, 2022.

Count II – Failure to Timely File Reports

7. Respondents failed to file the July 2022 Quarterly Report, the 8 Day Before Primary Election Report, and the 30 Day After Election Report for the August 2, 2022 election as required.

Count III – Failure to Timely Report Contributions

8. Between March, 2022 and June, 2022, Respondents received at least eight (8) contributions totaling \$2,630. These contributions should have been on the July 2022 Quarterly Report. Respondents did not file a July 2022 Quarterly Report.

9. In August 2022, Respondents received a \$500 contribution. This contribution should have been reported on the 30 Day After Primary Election Report. Respondents did not file a 30 Day After Primary Election Report.

10. These contributions were not reported until Respondents filed the October 2022 Quarterly Report on October 3, 2022.

Count IV – Failure to Timely Report Expenditures

11. Between April, 2022 and June, 2022, Respondents made at least eight (8) expenditures totaling \$1,668.37. These expenditures should have been on the July 2022 Quarterly Report. Respondents did not file a July 2022 Quarterly Report.

12. Between July 1, 2022 and July 21, 2022, Respondents made at least four (4) expenditures totaling \$307.95. These expenditures should have been on the 8 Day Before Primary Election Report for the August 2, 2022 election. Respondents did not file the 8 Day Before Primary Election Report for the August 2, 2022 election.

13. Between July 22, 2022 and August 11, 2022, Respondents made at least five (5) expenditures totaling \$1,138.38. These expenditures should have been on the 30 Day After Primary Election Report for the August 2, 2022 election. Respondents did not file the 30 Day After Primary Election Report for the August 2, 2022 election.

14. These expenditures were not reported until Respondents filed the October 2022 Quarterly Report on October 3, 2022.

CONCLUSIONS OF LAW

Count I – Failure to Timely File Statement of Committee

Organization

15. Section 130.011(7) defines a committee as:

a person or any combination of persons, who accepts contributions or makes expenditures for the primary or incidental purpose of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates.

16. The provision defining exemptions for certain candidates from filing requirements goes on to set threshold limits before activity by a candidate for county office requires they form a committee, § 130.016.6 excludes the following from the definition of committee:

No candidate for ... county office ... shall be required to file an exemption statement pursuant to this section in order to be exempted from forming a committee and filing disclosure reports required of committees pursuant to this chapter if the aggregate of contributions received or expenditures made by the candidate and any other person with the candidate's knowledge and consent in support of the person's candidacy does not exceed one thousand dollars and the aggregate of contributions from any single contributor does not exceed three hundred twenty-five dollars ...

17. In evaluating whether activity reaches the threshold of requiring a committee, the definition of contribution is probative, § 130.011(12) defines a contribution as any:

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[.]

18. The definition of expenditure is similarly relevant, defined in §130.011(16), as any:

payment, advance, conveyance, deposit, donation or contribution of money or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office[.]

19. Lastly, upon meeting the definition of a committee, §130.021(5) requires formation to be undertaken, stating, in relevant part:

any person or organization or group of persons which is a committee by virtue of the definitions of committee in section 130.011...shall file a statement of organization with the appropriate officer within twenty days after the person or organization becomes a committee but no later than the date for filing the first report required pursuant to the provisions of section 130.046.

20. Where Respondent Lutz was a candidate for Moniteau County Commission in the August 2, 2022 election, where Respondent exceeded \$1,000 in contributions received and expenditures made, and where Respondents failed to register a committee within the time limits prescribed by § 130.021,

there is probable cause to believe they violated §§ 130.016 & 130.021, giving this commission the power to act as permitted under § 105.961.

Count II – Failure to Timely File Reports

21. 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.

22. Section 130.046 lists the timing for the filing of reports required by § 130.041, stating, in part:

1. The disclosure reports required by section 130.041 for all committees shall be filed at the following times and for the following periods:

- (1) Not later than the eighth day before an election for the period closing on the twelfth day before the election if the committee has made any contribution or expenditure either in support or opposition to any candidate or ballot measure;
- (2) Not later than the thirtieth day after an election for a period closing on the twenty-fifth day after the election, if the committee has made any contribution or expenditure either in support of or opposition to any candidate or ballot measure; except that, a successful candidate who takes office prior to the twenty-fifth day after the election shall have complied with the report requirement of this subdivision if a disclosure report is filed by such candidate and any candidate committee under the candidate's control before such candidate takes office, and such report shall be for the period closing on the day before taking office; and

- (3) Not later than the fifteenth day following the close of each calendar quarter.

...

3. The candidate, if applicable, treasurer or deputy treasurer of a committee shall file disclosure reports pursuant to this section, except for any calendar quarter in which the contributions received by the committee or the expenditures or contributions made by the committee do not exceed five hundred dollars. The reporting dates and periods covered for such quarterly reports shall not be later than the fifteenth day of January, April, July and October for periods closing on the thirty-first day of December, the thirty-first day of March, the thirtieth day of June and the thirtieth day of September[.]

23. Where each of the three (3) reports were required to be filed by § 130.041, and where Respondents failed to do so timely, there is probable cause to believe Respondents violated said section, empowering this Commission to act, as permitted under § 105.961.

Count III – Failure to Timely Report Contributions

24. Section 130.041.1(3), RSMo requires committees to report receipts for each reporting period on all disclosure reports, requiring:

- (a) Total amount of all monetary contributions received which can be identified in the committee's records by name and address of each contributor...

...

- (e) A separate listing by name and address and employer, or occupation if self-employed or notation of retirement, of each person from whom the committee received contributions, in money or any other thing of value, aggregating more than one hundred dollars, together with the date and amount of each such contribution[.]

25. Where Respondents failed to timely report nine contributions, there is probable cause to believe they violated § 130.041.1(3), giving this Commission power to act, as permitted under § 105.961.

Count IV – Failure to Timely Report Expenditures

26. Section 130.041.1(4), RSMo lays out what is required of committees in disclosure reports, including:

(a) The total dollar amount of expenditures made by check drawn on the committee's depository;

...

(d) The full name and mailing address of each person to whom an expenditure of money or any other thing of value in the amount of more than one hundred dollars has been made, contracted for or incurred, together with the date, amount and purpose of each expenditure. Expenditures of one hundred dollars or less may be grouped and listed by categories of expenditure showing the total dollar amount of expenditures in each category, except that the report shall contain an itemized listing of each payment made to campaign workers by name, address, date, amount and purpose of each payment and the aggregate amount paid to each such worker[.]

27. Where Respondent's failed to timely report seventeen (17) expenditures, there is probable cause to believe Respondents violated § 130.041.1(4), giving this Commission the power to act, as permitted under § 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 §§ 130.016, 130.021, 130.041, 130.041.1(3), and 130.041.1(4), and pursuant to § 105.961.4, hereby **ORDERS**:

1. Prior to finalizing settlement, Respondents will be required to file and amend reports and statements with the Commission.
2. Respondents shall comply with all relevant sections of Chapter 130;
3. It is the order of the Missouri Ethics Commission that a fee is imposed against Respondents in the amount of \$8,244.00, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$824.00 within forty-five days after the date of the Consent Order, the remainder of the fee will be stayed. The fee will be paid by check or money order made payable to the Missouri Ethics Commission.
4. Regardless of the stay in paragraph 3 above, if there is probable cause to believe that any Respondent commits any further violation 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 fees. The fee will be due immediately upon final adjudication finding that there was probable cause to believe that such Respondent has committed such a violation.
5. 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.

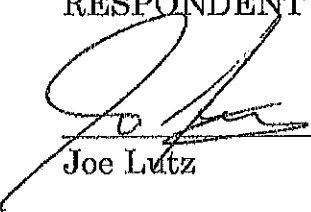
4. Respondents, together with their heirs, assigns, agents, representatives and attorneys, do hereby waive, release, acquit and forever discharge the Missouri Ethics Commission, the Commission's respective members, employees, agents and attorneys including former members, employees, agents and attorneys, 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:

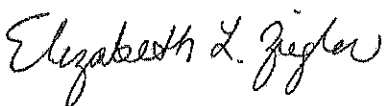
RESPONDENT JOE LUTZ


Joe Lutz

Date

10-11-2027

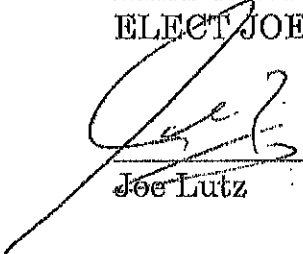
MISSOURI ETHICS COMMISSION


Elizabeth L. Ziegler
Executive Director

Date

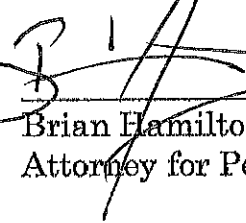
10/18/23

RESPONDENT COMMITTEE TO
ELECT JOE LUTZ


Joe Lutz

Date

10-11-2028


Brian Hamilton
Attorney for Petitioner

Date

10/18/23

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year period from the date of this order, then the Respondent who committed the violation will be required to pay the remainder of the fees. The fee will be due immediately upon final adjudication finding that there was probable cause to believe that 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 18th day of October, 2023

A handwritten signature in black ink, appearing to read "Robert C Cook", written over a horizontal line.

Robert Cook, Chair
Missouri Ethics Commission