

BEFORE THE
MISSOURI ETHICS COMMISSION

Filed

OCT 08 2024

Missouri Ethics
Commission

MISSOURI ETHICS)	
COMMISSION,)	
)	
Petitioner,)	
)	
v.)	Case No. 22-0042-I
)	
DENNIS NEWBERRY,)	
Mayor, City of Lake Ozark)	
)	
Respondent.)	

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

The Missouri Ethics Commission ("MEC"), together with Dennis Newberry ("Respondent"), collectively the "parties" jointly stipulate and consent to action as set forth here (the "agreement").

Respondent acknowledges his right to have this agreement reviewed by counsel. Respondent further acknowledges he has 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.

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

Respondent contends he sought legal advice from the City Attorney before using the official City of Lake Ozark letterhead to endorse candidates, believing he were permitted to do so as Mayor. Respondent also contends that he was unaware of the ordinance due to having an outdated statute booklet, but once he learned he could not endorse candidates on official letterhead, he promptly removed the post and recalled the letter.

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. In April 2021, Respondent Dennis Newberry was elected Mayor of the City of Lake Ozark, Missouri.
2. 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.
3. The Commission determined there was reasonable grounds to believe a violation of a local ordinance had occurred and authorized a hearing pursuant to § 105.961.3.

4. On or about January 1, 2022, Respondent submitted an endorsement letter to a candidate for the Camdenton Missouri School Board, using official City of Lake Ozark letterhead.

5. On or about April 2, 2022, Respondent posted a letter, on official City of Lake Ozark letterhead, to his personal Facebook page, endorsing four local school board candidates and three candidates for the City of Lake Ozark Board of Alderman.

CONCLUSIONS OF LAW

6. The City of Lake Ozark adopted an ordinance prohibiting the use of certain city resources by public officials, stating:

A public official shall not utilize the City's name, letterhead, logo or seal for the purpose of endorsing any political candidate, business, commercial product of service.

§116.120(C), Municipal Code of the City of Lake Ozark.

7. Where Respondent used the official letterhead of the City of Lake Ozark to endorse seven candidates for public office, there is probable cause to believe that Respondent violated §116.120(C), Lake Ozark Municipal Code, 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 §116.120(C), Municipal Code of the City of Lake Ozark and pursuant to § 105.961.4, hereby **ORDERS**:

1. Respondent shall comply with all relevant sections of the Lake Ozark Municipal Code.
2. Respondent is 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. However, if Respondent pays \$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 Respondent does not commit any further violations of the Lake Ozark Municipal Code, the remainder of the fee shall be dissolved. If there is probable cause to believe Respondent committed any further violations of the Lake Ozark Municipal Code within the two-year period, the remainder of the fee shall be due immediately upon such a finding.


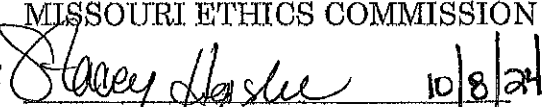
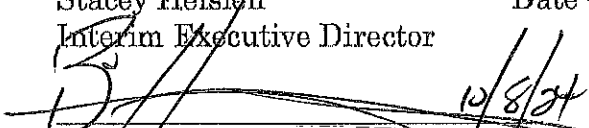
III.

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.

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	MISSOURI ETHICS COMMISSION
	
Dennis Newberry	Stacey Heislen
10/11/24	10/8/24
Date	Date
	Interim Executive Director
	
	Brian Hamilton
	10/8/24
	Date
	Attorney for Petitioner

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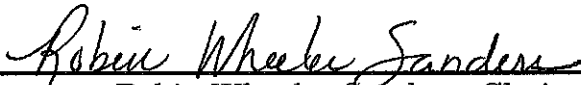
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SO ORDERED this 16th day of October, 2024



Robin Wheeler Sanders, Chair
Missouri Ethics Commission