

Filed

DEC 17 2024

Missouri Ethics
Commission

BEFORE THE
MISSOURI ETHICS COMMISSION

MISSOURI ETHICS)	
COMMISSION,)	
)	
Petitioner,)	
)	
v.)	Case No. 24-0010-I (B)
)	
KELLY KOBYSLSKI)	
Candidate,)	
)	
and)	
)	
KELLY KOBYSLSKI FOR)	
MISSOURI)	
Candidate Committee,)	
)	
Respondents.)	

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

The Missouri Ethics Commission (“MEC”), together with Kelly Kobylski and Kelly Kobylski for Missouri (“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. Kelly Kobylski was a candidate for Alderwoman of Smithville in the April 2, 2024, election.
2. Kelly Kobylski for Missouri is a candidate committee registered with the MEC on December 11, 2023.
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 had occurred and authorized a hearing pursuant to § 105.961.3.

Count I – Failure to Report Contribution Made

5. Damien Boley was a candidate for Mayor of Smithville in the April 2024 election.

6. At all relevant times here, Damien Boley for Missouri was a candidate committee registered with the MEC.

7. On January 18, 2024, Respondents and Boley hosted a joint campaign event at Chop's BBQ and Catering in Smithville which was coordinated by Respondents and Damien Boley for Missouri.

8. Respondents paid \$118.99 for drinks and cookies at the joint event on behalf of Damien Boley for Missouri and Kelly Kobylski for Missouri, which was reported as an expenditure on their 40-Day Before April 2, 2024 Election Report.

9. The cost of drinks and cookies, a cost Damien Boley for Missouri would have incurred in full otherwise, is something of value given from Respondents.

10. Respondents should have reported the in-kind contribution made to Damien Boley for Missouri on their 40-Day After April 2, 2024 Election Report but did not.

Count II – Failure to Timely Report a Contribution

11. As previously discussed, Respondents and Damien Boley for Missouri held a joint campaign event at Chop's BBQ and Catering in Smithville.

12. Damien Boley for Missouri paid \$622.09 for food service at the joint event on behalf of Damien Boley for Missouri and Kelly Kobylski for Missouri, which was reported as an expenditure on their 40-Day Before April 2, 2024 Election Report.

13. The cost of food service, a cost Respondents would have incurred in full otherwise, is something of value given from Damien Boley for Missouri.

14. Respondents should have reported an in-kind contribution from Damien Boley for Missouri on their 40-Day Before April 2, 2024 Election Report but did not.

Count III – Acceptance of Contribution from Candidate Committee

15. As previously discussed, Respondent Kelly Kobylski for Missouri and Damien Boley for Missouri are both candidate committees registered with the MEC who held a joint campaign event.

16. The two candidate committees shared expenses for food and drinks served at the event. Respondents paid \$118.99 for drinks and cookies and Damien Boley for Missouri paid \$622.09 for food service at the joint event.

17. The cost of food and drinks, a cost Respondents would have incurred in full otherwise, is something of value both given from and received by Damien Boley for Missouri.

CONCLUSIONS OF LAW

Count I – Failure to Report Contribution Made

18. Section 130.011(12) defines a contribution to include anything of value for the purpose of supporting the election of a candidate for office.

19. Pursuant to § 130.011(19) a contribution in a form other than money, is an in-kind contribution.

20. Section 130.041.1(8) sets forth the requirements for committees to report receipts for each reporting period on all disclosure reports:

A separate listing by full name and address of any committee including a candidate committee controlled by the same candidate for which a transfer of funds or a contribution in any amount has been made during

the reporting period, together with the date and amount of each such transfer or contribution[.]

21. Where Respondents made a contribution of something of value to Damien Boley for Missouri and failed to report an in-kind contribution made to Damien Boley for Missouri, there is probable cause to believe Respondents violated § 130.041.1(8), giving this Commission power to act, as permitted under § 105.961.

Count II – Failure to Timely Report a Contribution

22. Section 130.041.1(9), RSMo requires committees to report receipts for each reporting period on all disclosure reports, requiring:

A separate listing by full name and address of any committee, including a candidate committee controlled by the same candidate from which a transfer of funds or a contribution in any amount has been received during the reporting period, together with the date and amount of each such transfer or contribution;

23. Where Respondents received a contribution of something of value from Damien Boley for Missouri and failed to report an in-kind contribution, there is probable cause to believe Respondents violated § 130.041.1(9), giving this Commission power to act, as permitted under § 105.961.

Count III – Acceptance of Contribution from Candidate Committee

24. Article VIII, § 23.3(4) of the Missouri Constitution details limits on 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.

25. The two candidate committees shared expenses for food and drinks served at the event. Respondents paid \$118.99 for drinks and cookies and Damien Boley for Missouri paid \$622.09 for food service at the joint event.

26. 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.

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 § 130.041.1, RSMo. and Article VIII, § 23.3(4) of the Missouri Constitution 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 and the Missouri Constitution.
3. It is the order of the Missouri Ethics Commission that a fee is imposed against Respondents in the amount of \$1,740, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$174 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 and the Missouri Constitution,

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 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 KELLY KOBYSKI

Kelly Kobylski 11/15/24
Kelly Kobylski Date

RESPONDENT KELLY KOBYSKI
FOR MISSOURI

Kelly Kobylski 11/15/24
Kelly Kobylski Date

MISSOURI ETHICS COMMISSION

Stacey Heislen 12/17/24
Stacey Heislen Date
Executive Director

Brian Hamilton 12/17/24
Brian Hamilton Date
Attorney for Petitioner

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CONSENT ORDER

The Missouri Ethics Commission finds probable cause to believe Respondents violated § 130.041.1, RSMo. and Article VIII, § 23.3(4) of the Missouri Constitution and pursuant to § 105.961.4, hereby **ORDERS**:

1. Respondents shall comply with all relevant sections of Chapter 130 and the Missouri Constitution.

2. It is the order of the Missouri Ethics Commission that a fee is imposed against Respondents in the amount of \$1,740, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$174 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.

3. Regardless of the stay in paragraph 2 above, if there is probable cause to believe that any Respondent commits any further violation of the campaign finance laws under Chapter 130, RSMo and the Missouri Constitution, 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.

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

SO ORDERED this 20th day of December, 2024

Robin Wheeler Sanders

Robin Wheeler Sanders, Chair
Missouri Ethics Commission