



Missouri Ethics Commission

Elizabeth L. Ziegler
EXECUTIVE DIRECTOR

October 21, 2020

Re: Advisory Opinion No. 2020.10.CF.005

At the October 20, 2020 meeting of the Missouri Ethics Commission, your request for an opinion was discussed.

Opinion

Pursuant to section 105.955.16, RSMo, the Missouri Ethics Commission (MEC or Commission) may issue a written opinion regarding any issue on which the Commission may receive a complaint. Section 105.957.1(3), RSMo, authorizes the MEC to receive complaints alleging violations of “the campaign finance disclosure requirements contained in chapter 130.” The Commission issues this opinion within the context of Missouri’s laws governing such issues, assuming only the facts presented by you in your letter and other such facts that are generally available to the public.

The questions presented and the Commission’s opinion appear below.

I am in possession of signs that were purchased to advocate for my election to office in 2019. These signs were paid for by my candidate committee, and the expenditure for their purchase was timely disclosed on a campaign finance report. That candidate committee has since been terminated because I was not successful in 2019. It is, however, my intention to reuse these signs for another bid for the same office in the future.

- 1. Should I have disclosed the transfer of these assets from the 2019 candidate committee to a new candidate committee when I terminated the 2019 candidate committee?*
- 2. If I use these signs in the future, will I need to update the “paid for by” disclosure to show that they have been donated to my new candidate committee from the 2019 candidate committee?*
- 3. Will this transfer of signs from one candidate committee to the other violate the constitutional prohibition that says candidate committees shall not make contributions to, or accept contributions from, other candidate committees?*

Printed Campaign Materials

Section 130.031.8, RSMo, states:

Any person publishing, circulating or distributing any printed matter relative to any candidate for public office or any ballot measure shall on the face of the printed matter identify in a clear and conspicuous manner the person who paid for the printed matter with the words “Paid for by” followed by the proper identification of the sponsor pursuant to this section.

“Printed matter” includes “any pamphlet, circular, handbill, sample ballot, advertisement, including advertisements in any newspaper or other periodical, signs, including signs for display on motor vehicles, or other imprinted or lettered material[.]” *Id.*

Based upon the information contained in your question, the provisions in section 130.031.8, RSMo, are applicable to the signs you used in 2019 and plan to reuse in the future.

Committee Terminations

A candidate committee is defined by Section 130.011(9), RSMo, as “a committee which shall be formed by a candidate to receive contributions or make expenditures in behalf of the person’s candidacy[.]” This statute expressly requires candidate committees to “terminate the later of either thirty days after the general election for a candidate who was not elected or upon the satisfaction of all committee debt after the election[.]” *Id.*

When such committees terminate, they must file “a termination statement indicating dissolution” within 10 days. Section 130.021.8, RSMo. “The termination statement shall include: the distribution of any remaining surplus funds and the disposition of any deficits; and the name, mailing address and telephone number of the individual responsible for preserving the committee’s records and accounts as required in section 130.036.” *Id.* Notably, this statute does not require any disclosure with respect to the disposition of committee assets other than the contributions that are in a monetary form. Even so, the disposition of committee funds, and any other assets owned by the candidate committee, must be done in compliance with the provisions of Section 130.034, RSMo, which prohibit the conversion of contributions to personal use.

Accordingly, to answer your first question, you were not required to disclose the disposition of any signs held by your 2019 committee when it terminated.

“Paid for by” Disclosures

Because the signs at issue here were purchased by your 2019 candidate committee, the provisions of section 130.031.8(2), RSMo, would apply. That statutory provision provides:

In regard to any printed matter paid for by a committee, it shall be sufficient identification to print the name of the committee as required to be registered by

subsection 5 of section 130.021 and the name and title of the committee treasurer who was serving when the printed matter was paid for.

The Commission shall assume, for the purpose of offering this advisory opinion, that those signs contained the correct “Paid for by” disclosure.

Should you elect to reuse those signs in a future election, your new committee should document the transfer of those signs from the old committee by reporting the transaction on a campaign finance disclosure report. Transfers of funds between candidate committees controlled by the same candidate must be reported as follows:

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 transfer or contribution;

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

Section 130.041.1(8)-(9), RSMo (emphasis added).

For purposes of transparency, the Commission recommends that the transfer of other types of assets, such as campaign signs, should be similarly documented, even though this type of reporting is not necessarily required by statute. Because disclosure of campaign finance transactions is an important public interest, reporting these transfers would clearly show that the signs were originally purchased by your 2019 candidate committee and later conveyed to your new candidate committee. Under the MEC’s current campaign finance reporting system, transfers are reported as Miscellaneous Receipts. Because a transfer of signs does not involve “funds,” the amount of the transfer should be reported as \$0.

However, to answer your second question, you would not be required to update the “Paid for by” information that appears on the signs, because the existing disclosure complies with the statute. That statute requires the “Paid for by” information to identify the committee that paid for the signs and the name and title of the treasurer “who was serving when the printed matter was paid for.” Section 130.031.8(2), RSMo.

Constitutional Ban on Contributions between Candidate Committees

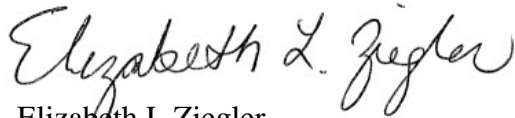
Article VIII, Section 23.3(4) of the Missouri Constitution states: “No candidate’s candidate committee shall accept contributions from, or make contributions to, another candidate committee[.]”

It is the Commission’s opinion that this prohibition was not intended to apply to transfers or contributions between candidate committees controlled by the same candidate. For one thing, the

constitutional definition of “contribution” expressly excludes “funds received by a candidate committee as a transfer of funds from another candidate committee controlled by the same candidate.” Section 23.3(7)(f). For another, the reporting statutes (cited above), which were not modified by the constitutional provisions adopted in 2016, clearly envision transfers between candidate committees controlled by the same candidate.

Because you would be the candidate in control of the 2019 candidate committee donating the signs, as well as the future candidate committee receiving the signs, this constitutional prohibition would not apply. Therefore, to answer your third question, this transfer would not be prohibited by the Missouri Constitution.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth L. Ziegler". The signature is written in black ink and is positioned above the typed name.

Elizabeth L Ziegler
Executive Director