



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

TO: The Commission

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DATE: May 12, 2020

SUBJECT: MUR 7422 (Greitens for Missouri, *et al.*) – Supplement to First General Counsel's Report

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## I. INTRODUCTION

The Office of the General Counsel circulated the First General Counsel's Report ("FGCR") in this matter to the Commission on November 22, 2019. The FGCR recommended finding reason to believe that unknown persons made over \$6 million of contributions in the name of another to two federal independent expenditure only committees ("IEOPCs"), SEALs for Truth and Nicholas Britt in his official capacity as treasurer ("SFT") and LG PAC and Richard Monsees in his official capacity as treasurer ("LG PAC"), via transfers that the IEOPCs knowingly misreported as coming from two conduit 501(c)(4) organizations, American Policy Coalition ("APC") and Freedom Frontier. These conduit contributions were allegedly intended to conceal the identities of donors who sought to evade Missouri state disclosure requirements and contribution prohibitions, with the understanding that the federal IEOPCs would use the funds to support Eric Greitens, a 2016 candidate for Missouri governor. The FGCR recommended finding reason to believe APC and Freedom Frontier knowingly transmitted, and SFT and LG PAC knowingly accepted, contributions in the name of another, in violation of 52 U.S.C. § 30122; and that SFT and LG PAC knowingly submitted false disclosure reports to the Commission, in violation of 52 U.S.C. § 30104(b).

The FGCR noted that a state investigation conducted by the Missouri House of Representatives Special Investigative Committee on Oversight resulted in a July 10, 2018, complaint being filed with the Missouri Ethics Commission ("MEC"); that matter was still

pending when the FGCR was circulated.<sup>1</sup> On February 13, 2020, the MEC and Greitens for Missouri (“GFM”) entered into a Joint Stipulation of Facts and a Consent Order setting forth uncontested facts and violations of Missouri law by GFM, which are attached to this memorandum.<sup>2</sup>

This memorandum provides the Commission with a summary of the significant new information disclosed in the Joint Stipulation of Facts and Consent Order, and analyzes this new information with respect to the allegations raised in MUR 7422. Because the new information made available to the Commission after the circulation of the FGCR in MUR 7422 is consistent with and supports our analysis in that report, the new information does not change our pending recommendations as set forth therein, except that we recommend that the Commission direct the Office of the General Counsel to revise the Factual and Legal Analyses circulated with the FGCR on November 22, 2019.

## II. FACTUAL SUMMARY

The Complaint in MUR 7422 alleges that unknown persons contributed over \$6 million to the IEOPCs, SFT and LG PAC, using APC and Freedom Frontier, respectively, as intermediaries to conceal these persons’ identities. The Complaint alleges that these unknown individuals were Greitens supporters that may have been legally prohibited from donating directly to GFM, or that these persons wanted to avoid disclosing their support for Greitens’s candidacy. During the period leading up to Missouri’s 2016 primary election, SFT received a single \$2 million contribution from APC and made a \$1.975 million donation to GFM the same day; LG PAC received an aggregate total of \$4.395 from Freedom Frontier, and made \$4.36 million in disbursements for campaign communications supporting Greitens’s candidacy. SFT received no itemized contributions aside from the \$2 million that it received from APC, and LG PAC received no itemized contributions aside from the \$4.395 million that it received from Freedom Frontier. Aside from making disbursements for operating expenses, neither IEOPC reported making any disbursements in connection with any other candidate, federal or nonfederal.<sup>3</sup>

The MEC found that GFM failed to timely report in-kind contributions from LG PAC in the form of expenditures for communications supporting Greitens’s candidacy.<sup>4</sup> These expenditures by LG PAC were in-kind contributions to GFM, the MEC concluded, because they “were express advocacy or its functional equivalent,” and were “done in cooperation with the

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<sup>1</sup> See First Gen. Counsel’s Report at 6 n.19, MUR 7422 (Greitens for Missouri, *et al.*).

<sup>2</sup> Joint Stipulation of Facts, Waiver of Hearing Before the Missouri Ethics Comm’n, and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law, *MEC v. Greitens for Missouri* (Feb. 13, 2020), <https://mec.mo.gov/Scanned/CasedocsPDF/CMTS1474.pdf> (“MEC Findings”).

<sup>3</sup> See First Gen. Counsel’s Report at 3–6, MUR 7422.

<sup>4</sup> MEC Findings ¶ 67 (citing Section 130.041.1(3), RSMo). GFM admitted this violation, for which it agreed to pay a \$98,417 civil penalty and amend the relevant disclosure reports. *Id.* at 16.

GFM committee.”<sup>5</sup> However, while the MEC found that GFM had violated its reporting obligations under Missouri law, it noted that the contributions themselves did not violate Missouri law because Missouri, at the time, did not limit contributions by a PAC to a candidate for state office.<sup>6</sup>

The MEC conducted an extensive factual inquiry that uncovered information pertinent to MUR 7422. Specifically, the MEC found:<sup>7</sup>

- In the spring of 2015, GFM began working with political consultants Nick Ayers and Austin Chambers of C5 Consulting, Inc. Chambers left C5 Consulting in October 2015 to become GFM's campaign manager.<sup>8</sup>
- In the latter half of 2015, GFM's finance director, Meredith Gibbons, and a national fundraising consultant composed a list of potential donors that either could not or elected not to contribute directly to GFM. In 2015 and 2016, Ayers directed Gibbons to refer those potential donors to Tom Norris, who worked for Freedom Frontier, the 501(c)(4).<sup>9</sup>
- Ayers also emailed Gibbons, Chambers, and the national fundraising consultant a list of “donors who have an interest in an outside group” and suggested getting on a conference call with Norris and David Langdon, an officer for APC, to discuss talking points to use “as we direct people their way.”<sup>10</sup>
- Ayers terminated C5 Consulting's contract to work for GFM in March or April of 2016, but remained in contact with Chambers regarding the Greitens campaign.<sup>11</sup>
- When LG PAC started making disbursements supporting Greitens's campaign with media buys, Chambers was alerted by one of GFM's vendors via email, and Chambers

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<sup>5</sup> *Id.* ¶ 67.

<sup>6</sup> *Id.* ¶ 66. GFM did report the receipt of the \$1.975 million contribution from SFT. *See* Greitens for Missouri, 2016 8 Days Before Primary Election Report at 20 (July 25, 2016), <https://www.mec.mo.gov/CampaignFinanceReports/Generator.aspx?Keys=B2G41dEVPKgI8cDcdGFsgJsm99XwPL2Gatv0Pkn%2bUkdbB855Bp0yeiBbLMDMAB5loc%2fEKCjLMP2kd9wjdB9F35%2fNJHivqBWH>.

<sup>7</sup> The MEC's findings did not identify Ayers, Chambers, and Gibbons by name, but their identities were disclosed in the MEC Complaint, as well as in the FEC Complaint in MUR 7422.

<sup>8</sup> MEC Findings ¶¶ 10–11.

<sup>9</sup> *Id.* ¶¶ 13–14.

<sup>10</sup> *Id.* ¶ 15.

<sup>11</sup> *Id.* ¶¶ 37–38.

responded, “This should be them then.” Later that day, he wrote, “Hoping this is NA.” The latter comment was a specific reference to Nick Ayers.<sup>12</sup>

- The following day, another GFM vendor on the same email thread wrote “Pretty boy to the rescue . . . .” This was also a reference to Ayers.<sup>13</sup>
- In July 2016, Ayers and Chambers had a phone call in which Chambers expressed concern about the Springfield, MO market. LG PAC subsequently disbursed \$98,417 for advertisements in the Springfield, MO market. On July 28, 2016, a GFM vendor alerted Chambers to the LG PAC disbursements and Chambers replied, “Well at least he listened when I told him we were worried about Brunner in Springfield.”<sup>14</sup>

### III. ANALYSIS

The MEC’s findings, which are not contested by GFM, are consistent with and support the recommendations set forth in the FGCR in MUR 7422. GFM admits that its staff and consultants were planning and discussing referring potential donors — people that elected not to give, or were legally prohibited from giving, to GFM directly — to two 501(c)(4) organizations, Freedom Frontier and APC. GFM also admits that its outside consultant, Ayers, discussed organizing a conference call with the 501(c)(4)s to craft talking points to use in sending potential donors to these “outside groups.” Disclosure reports indicate that APC, in turn, provided all of SFT’s funds, \$2 million, almost all of which SFT then donated directly to GFM. LG PAC, which received all of its funds from Freedom Frontier, made at least some of its disbursements in coordination with GFM’s campaign manager, Chambers, who attributed LG PAC’s nonfederal spending to Nick Ayers, with whom Chambers was in communication regarding the campaign.

The newly available information indicates that the 501(c)(4)s and federal IEOPCs were all aware of the overall scheme to funnel the funds of certain donors, who could not or would not publicly support Greitens, through the 501(c)(4)s to the federal committees, which would then use the funds to support Greitens’s candidacy. The factual record described in the FGCR included emails between GFM staffers and consultants that discussed directing potential donors to 501(c)(4) organizations to avoid public disclosure of donors’ identities.<sup>15</sup> The MEC’s findings now provide further clarity and detail, specifically indicating that Ayers, Chambers, and Gibbons had created a list of potential donors that could not give, or had elected not to give publicly, to GFM, and had directed those donors to Freedom Frontier and APC. The MEC’s findings further indicate that as LG PAC received funds from Freedom Frontier, Ayers, in coordination with GFM’s campaign manager, Chambers, directed the federal committee to make disbursements for campaign communications supporting Greitens. The new information thus further supports the

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<sup>12</sup> *Id.* ¶ 35.

<sup>13</sup> *Id.* ¶ 36.

<sup>14</sup> *Id.* ¶¶ 37–40.

<sup>15</sup> See First Gen. Counsel’s Report at notes 23–26 and associated text, MUR 7422.

conclusion that the specific purpose of directing donors to provide funds to the 501(c)(4)s, APC and Freedom Fund, was for those organizations to knowingly transfer the funds in their own names to the federal IEOPCs, SFT and LG PAC, and that the IEOPCs accepted the funds knowing that the true contributors were Greitens supporters seeking to avoid public disclosure, not the 501(c)(4)s that purported to make the contributions.

As such, the MEC's findings provide additional support for the FGCR's recommendations that Freedom Fund and APC knowingly transmitted, and LG PAC and SFT knowingly accepted, federal contributions in the name of another, in violation of 52 U.S.C. § 30122;<sup>16</sup> and that SFT and LG PAC knowingly filed inaccurate disclosure reports naming APC and Freedom Fund, respectively, as the contributors, when in fact the recipient political committees were aware that other persons were the true contributors.<sup>17</sup>

#### IV. RECOMMENDATIONS

1. Approve recommendations 1, 2, 3, 4, 5, 6, 7, 8, and 9 in the First General Counsel's Report in MUR 7422 circulated on November 22, 2019.
2. Direct the Office of the General Counsel to revise the Factual and Legal Analyses circulated on November 22, 2019.

Attachment: Joint Stipulation of Facts, Waiver of Hearing Before the Missouri Ethics Commission and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law

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<sup>16</sup> First Gen. Counsel's Report at 10–19, MUR 7422.

<sup>17</sup> *Id.* at 21–22.

**BEFORE THE  
MISSOURI ETHICS COMMISSION**

**Filed**  
**FEB 13 2020**  
Missouri Ethics  
Commission

MISSOURI ETHICS COMMISSION,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. 18-0064-I &
	)	18-0065-I
GREITENS FOR MISSOURI,	)	
	)	
Respondent.	)	

**JOINT STIPULATION OF FACTS,  
WAIVER OF HEARING BEFORE THE MISSOURI ETHICS COMMISSION,  
AND CONSENT ORDER WITH JOINT PROPOSED FINDINGS OF FACT  
AND CONCLUSIONS OF LAW**

The undersigned parties jointly stipulate to the facts and consent to the action set forth below.

The undersigned Respondent acknowledges that it has received and reviewed a copy of the Complaint filed by the Petitioner in this case and submits to the jurisdiction of the Missouri Ethics Commission.

The undersigned Respondent further acknowledges that it 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; the right to have all allegations against Respondent be 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 provided to Respondent by operation of law, the undersigned Respondent knowingly and voluntarily waives each and every one of these rights and freely enters into this Joint Stipulation of Facts, Waiver of

Hearing before the Missouri Ethics Commission, and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law, and agrees to abide by the terms of this document.

The undersigned parties jointly agree that nothing in this document is intended to nor shall it be interpreted to limit the civil or criminal remedies that may be available to Governor Greitens, his heirs, successors, assignees; Greitens for Missouri; Greitens for Missouri staff; and other affected parties.

The undersigned parties jointly agree that § 130.058, RSMo, requires that Mr. Greitens accept responsibility for all reporting violations by Greitens for Missouri, even where the MEC investigation found no evidence that Mr. Greitens knew of the violations.

After a review of the complaint, 235 pages of supporting documentation; the issuance of 23 subpoenas, which resulted in the production of roughly 8,000 multi-page documents, emails, and videos; approximately 20 interviews conducted by Commission investigators, and a review of publicly available documents provided on the Internet by the Federal Election Commission, the Internal Revenue Service, and the Federal Communications Commission, the MEC found no evidence of any wrongdoing on the part of Eric Greitens, individually, and no evidence that Governor Greitens knew of the two reporting violations below.

The undersigned Respondent cooperated with the MEC's investigation, producing thousands of pages of documents and every employee, former employee, or consultant the Commission sought to interview. The undersigned Respondent maintains that it has reported spending over half-a-million dollars in legal fees since the complaint was filed with the MEC on July 10, 2018.

## I.

Based upon the foregoing, the Petitioner and the undersigned Respondent jointly stipulate to the following and request that the Missouri Ethics Commission adopt as its own the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law, as follows:

### **JOINT PROPOSED FINDINGS OF FACT**

1. The Missouri Ethics Commission (“the Commission” or “the MEC”) is an agency of the State of Missouri established pursuant to Section 105.955, RSMo, in part for the purpose of enforcing the provisions of Chapter 130, RSMo.

2. Eric Greitens first established a candidate committee with the MEC on or about February 24, 2015.

3. Greitens was the successful candidate in the 2016 Republican primary for the office of Governor and was successful in the general election.

4. Greitens for Missouri (“GFM”) is and was at all relevant times the candidate committee formed by Eric Greitens to support his candidacy.

5. GFM’s campaign manager was formally retained in the fall of 2015.

6. A political consultant was retained by the GFM committee during its formation and then later during the general election campaign. Throughout the campaign, Greitens for Missouri relied on the advice of counsel.

7. Pursuant to Section 105.961, RSMo, the Commission’s staff investigated a complaint that was filed with the Commission on July 10, 2018. Because of the time needed to review materials and conduct interviews, the Commission requested and received additional time in which to conduct the investigation from the Cole County Circuit Court, as is authorized by § 105.966.2, RSMo, to investigate the complaint.



8. The complaint that was filed with the Commission included 235 pages of supporting documentation, which was later supplemented by another 8,500 documents. The complaint included allegations which occurred more than two years before the filing of the complaint, and other allegations that the Commission failed to find reasonable grounds of a violation of law. For the sake of thoroughness and accuracy, the investigation necessarily entailed facts occurring more than two years prior to the initial filing of the complaint with the Commission, facts which relate to the violations agreed upon in this joint stipulation of fact and law.

9. Based-on the report of the Commission's staff, the Commission determined that there were reasonable grounds to believe that two reporting violations did occur, and it therefore authorized a hearing in this matter pursuant to § 105.961.3, RSMo. The Commission did not find reasonable grounds to support the remaining allegations contained in the complaint filed with the Commission.

### **COUNT I**

#### *Failure to Report In-Kind Contributions from LG PAC*

10. In the spring of 2015, the GFM committee began working with C5 Creative Consulting, Inc. ("C5") and two of its consultants.

11. In October of 2015, one of the consultants left C5 to become Greitens' campaign manager.

12. On or about October 12, 2015, the campaign manager sent an email to Greitens summarizing a list of campaign objectives that the campaign manager and the political consultant had created together. The email included the following information under the topic of "Policy/Research":

We will have proposals this week for research on [primary election opponents] Brunner and Hanaway. This is a potential outside expense. The goal this week is to determine what research we want to gain for each, and to finalize the vendor/timeline. We have the choice of doing just electronic research, or electronic and field. Depending on pricing, we will probably do electronic on Hanaway, and both on Brunner. It's our belief that we don't need to pay for a Kinder book because there is enough public information available on him. We can have a research intern compile information on his votes, lobbyist gifts, trips, and more. Once we have that research, we can begin the planning to use it next year.

13. In the latter half of 2015, GFM's Finance Director and a GFM national fundraising consultant assembled a list of potential contributors who either could not give, or elected not to give, directly to the GFM committee.

14. In 2015 and 2016, the political consultant directed the GFM Finance Director and a GFM national fundraising consultant to refer these potential contributors to Tom Norris, who was working on behalf of Freedom Frontier, a non-profit entity based in Texas.

15. The political consultant provided the Finance Director, the national fundraising consultant, and the campaign manager with a Freedom Frontier donor sheet attached to an email that read:

This is what we'll send to donors who have an interest in an outside group (see attached). Please send me the list of people we plan on calling so I can prep Tom [Norris] for their follow up calls. The four of us should do a call with David Langdon and Tom [Norris] to discuss what talking points they are comfortable with us using as we direct people their way.

16. David Langdon is an Ohio based attorney. He was at all relevant times an officer of American Policy Coalition, which identified itself in IRS documents as being associated with

Freedom Frontier as a “related tax-exempt organization.”

17. Between June 1, 2016 and July 29, 2016, Freedom Frontier contributed \$4,370,000.00 to LG PAC, a federal political action committee that registered with the Federal Election Commission (“FEC”) on or about May 16, 2016.

18. Freedom Frontier was the only contributor to LG PAC in 2016.

19. Between June 1, 2016, and July 7, 2016, LG PAC reported expenditures for “media buy for state race” totaling \$2,515,644.50.<sup>1</sup>

20. Between July 13, 2016 and July 29, 2016, LG PAC reported expenditures for “media buy for state race” totaling \$1,804,683.00.

21. The contributions from Freedom Frontier to LG PAC appear to correlate to LG PAC’s media buys.

<b>Contributions from Freedom Frontier</b>		<b>LG PAC Media Buys</b>	
6/1/2016	\$1,500,000.00	6/2/2016	\$964,964.00
		6/15/2016	\$375,552.50
6/22/2016	\$300,000.00	6/23/2016	\$414,681.50
6/29/2016	\$500,000.00	6/30/2016	\$459,336.50
7/7/2016	\$250,000.00	7/7/2016	\$301,110.00
7/13/2016	\$1,005,000.00	7/14/2016	\$1,003,623.00
7/20/2016	\$210,000.00	7/20/2016	\$200,550.00
7/28/2016	\$155,000.00	7/28/2016	\$150,110.00
7/29/2016	\$450,000.00	7/29/2016	\$450,400.00
Total	\$4,370,000.00	Total	\$4,320,327.50

22. LG PAC made these payments to a media buyer who purchased television and radio air time on LG PAC’s behalf.

23. Four of the video advertisements that were placed by the media buyer on behalf of LG PAC were identified as: “Carry,” “Stadium,” “Don’t Think So,” and “Trust.”

<sup>1</sup> The Commission has no jurisdiction over violations that occurred more than two years prior to the filing of the complaint on July 10, 2018. § 105.957.3, RSMo.

24. “Carry” opens with a picture of Catherine Hanaway, who was a candidate for Governor in the 2016 primary election, with the following script: {male voiceover} “As a legislator, Catherine Hanaway strongly opposed concealed carry laws. Her position would have stopped you from carrying a firearm. Hanaway for Governor? Nah, don’t think so.” The final scene shows a mark out of a graphic that read “Catherine Hanaway for Governor.”

25. “Stadium” also shows Catherine Hanaway’s image and includes the following script: {female voiceover} “Catherine Hanaway led the fight to get taxpayers to pay hundreds of millions for a new Cardinals’ stadium. Hanaway for Governor? Hmm . . . I don’t think so.” This ad also closes with a marking out of the graphic “Catherine Hanaway for Governor.”

26. “Don’t Think So” is a combined spot that includes “Carry” and a modified version of “Stadium.” {male voiceover} “As a legislator, Catherine Hanaway strongly opposed concealed carry laws. Her position would have stopped you from carrying a firearm. Hanaway for Governor? Nah, don’t think so.” {female voiceover} “Catherine Hanaway and taxpayer rip-offs. Career politician Catherine Hanaway tried to force taxpayers to pay hundreds of millions for a new baseball stadium. Hanaway for Governor? Don’t think so.” Both spots conclude with the image of the graphic “Catherine Hanaway for Governor” being marked through or struck out.

27. “Trust” opens with a picture of John Brunner, who was also a candidate in the 2016 Republican primary. The script goes as follows: {male voiceover} “What is it with John Brunner and taxes? Brunner didn’t pay his taxes on time. Had to be slapped with multiple liens to get him to pay up. Brunner set up overseas accounts, avoiding Missouri taxes. He even refused to show his tax returns. What’s John Brunner hiding? And why would we ever trust a guy like that?”

28. The other ads placed for LG PAC were referred to as “Dishonest,” “Insider,” “Final 15,” and “Final 30.”

29. The script for “Dishonest” includes the following: “With political insider John Brunner, there’s a pattern of dishonesty. Didn’t pay his taxes on time. Hit with multiple tax liens. Hundreds of thousands in state government insider deals. But it gets worse. Brunner’s allies launched a smear campaign against war hero Eric Greitens that’s so outrageous it’s under investigation. Brunner’s false attacks say more about him than about Greitens. John Brunner: too dishonest to be Governor.”

30. The script for “Insider” includes the following: “We know John Brunner didn’t pay his taxes on time and set up overseas tax shelters. But there’s more. Brunner’s business took about a half million dollars in tax money from state government. And over a million more in insider tax credits. Pretty sweet deal for a political insider like John Brunner. Terrible deal for Missouri taxpayers.”

31. The script for “Final 15” includes the following: “Politicians and insiders. Hanaway and Brunner have been in Missouri politics for decades, wasting tax dollars, doing sweetheart deals. We don’t need more of that. Eric Greitens: the conservative leader who will shake up Jeff City.”

32. The script for “Final 30” includes the following: “In the end, it comes down to this: politicians and insiders, or bold new leadership. Catherine Hanaway and John Brunner have been in Missouri politics for decades, running for one office after another, ripping off taxpayers, doing sweetheart deals for themselves. Eric Greitens is different. Decorated Navy SEAL, veterans’ supporter, family man, never run for office before. Eric Greitens is the new conservative leader who will shake things up.”

33. In addition to media placement, the media buyer also tracked publicly available information regarding the money being spent for media in Missouri’s gubernatorial primary and

regularly prepared reports that included all media spending by John Brunner, Eric Greitens, Catherine Hanaway, Peter Kinder, and LG PAC.

34. GFM's vendors also tracked publicly available information regarding media spending for the gubernatorial primary and provided reports to GFM's campaign manager. That tracking included LG PAC and other outside organization spending along with the candidates' campaign expenditures.

35. When LG PAC began placing media buys, the campaign manager received an email alert from one of GFM's vendors. The campaign manager responded, "This should be them then." Later that day, in another email that was part of this same discussion, he said, "Hoping this is NA." "NA" was a reference to the political consultant.

36. The next day, another GFM vendor who was part of the same email discussion with the campaign manager said, "Pretty boy to the rescue. . ." This was another reference to the political consultant.

37. During the time leading up to the primary, the political consultant was ostensibly disconnected from the GFM campaign since he terminated C5's contract in March or April of 2016. C5 and the political consultant did resume a formal working relationship with Greitens and GFM after the 2016 primary.

38. In late July of 2016, the campaign manager and the political consultant spoke by telephone, and the campaign manager expressed a concern about the Springfield market during that conversation.

39. Subsequent to the conversation regarding the Springfield market, LG PAC expended \$98,417.00 on advertisements in the Springfield market.

40. On July 28, 2016, one of GFM's vendors alerted the campaign manager by email to

the fact that LG PAC was adding spending in the Springfield market. The campaign manager replied, "Well at least he listened when I told him we were worried about Brunner in Springfield."

41. Missouri law did not limit what a PAC could contribute to a candidate for statewide office at the time these expenditures were made. Thus, GFM did not violate any campaign finance contribution limitations related to the contributions themselves

42. The campaign manager did not notify Eric Greitens or the campaign treasurer of the receipt of this in-kind contribution from LG PAC.

43. Respondent GFM failed to disclose the LG PAC advertisements as in-kind contributions on GFM's campaign finance disclosure reports.

## COUNT II

### *Failure to Report In-Kind Contributions from A New Missouri*

#### *The Relationship between A New Missouri and the Greitens for Missouri Committee*

44. A New Missouri (ANM) is a Missouri non-profit corporation with the following stated purpose: "the advancement of social welfare by promoting ideas, policies and/or legislation to create more jobs, higher pay, safe streets, better schools, and more, for all Missourians."

45. ANM was established on or about February 5, 2017, by then-Governor Greitens' senior campaign advisors to promote his conservative agenda.

46. Both ANM and the GFM committee employed or retained as consultants many of the same vendors to provide the same services: political consulting, fundraising, accounting and finance, polling, ad creation, media placement, and digital media.

47. For at least part of 2017, both ANM and the GFM committee were housed in the same office building in Jefferson City.

48. During 2017, the same advisors were responsible for the day-to-day operation of both ANM and the GFM committee; including, political consultant, finance director, national

fundraiser, attorney, and treasurer.

49. The finance director and the national fundraising consultant had both ANM and GFM as clients and steered smaller contributors (those giving \$5,000 or less) to the GFM committee and larger donors (those giving more than \$10,000) to ANM.

50. During its first year of operation, ANM was funded by a network of approximately 100 in-state and national donors, though roughly 65 percent of its donations came from the same six supporters.

#### *Timing of Surveys*

51. In 2015, the Greitens for Missouri committee engaged the Tarrance Group to conduct a voter opinion survey. Between May and August of 2016, the Tarrance Group conducted five more surveys for GFM.

52. On August 2, 2016, Greitens was the successful candidate in Missouri's Republican primary for Governor.

53. Between the primary and the general election, the Tarrance Group conducted nine more surveys for GFM.

54. On November 8, 2016, Greitens was the successful gubernatorial candidate in Missouri's general election.

55. On or about November 28, 2016, Respondent Eric Greitens filed an amended Statement of Committee Organization indicating his intent to run for Governor in 2020.

56. After the general election in November of 2016, the Tarrance Group conducted voter opinion surveys both for GFM and for A New Missouri. During 2017, there were two surveys, another survey was conducted in early 2018.

57. The questions in the last 2017 survey, directed and delivered to A New Missouri,



were identical to the questions in the 2018 survey, which was directed and delivered to the GFM committee. The contents of the 2017 voter surveys were made available to and shared with the GFM committee.

*Payments to the Tarrance Group*

58. During 2015, the GFM committee reported paying the Tarrance Group \$33,598.00 for research. During 2016, GFM reported paying the Tarrance Group \$356,350.00. GFM did not report a single expenditure to the Tarrance Group in all of 2017, the year after the 2016 election had concluded.

59. ANM made three payments to the Tarrance Group during 2017.

<b>Polling Dates</b>	<b>Directed and Delivered to</b>	<b>Paid for by</b>	<b>Amount</b>
June 6-8, 2015	GFM	GFM	\$33,598.00
May 31-June 2, 2016	GFM	GFM	\$33,334.00
July 5-7, 2016	GFM	GFM	\$20,374.00
July 17-19, 2016	GFM	GFM	\$25,270.00
July 23-25, 2016	GFM	GFM	\$22,864.00
July 26-28, 2016	GFM	GFM	\$24,036.00
September 10-12, 2016	GFM	GFM	\$39,727.00
September 19-22, 2016	GFM	GFM	\$49,830.00
October 1-3, 2016	GFM	GFM	
October 8-10, 2016	GFM	GFM	\$46,344.00
October 15-17, 2016	GFM	GFM	
October 22-24, 2016	GFM	GFM	\$23,172.00
October 25-27, 2016	GFM	GFM	\$46,344.00
October 29-31, 2016	GFM	GFM	
November 1-3, 2016	GFM	GFM	\$23,172.00
<b>January 28-30, 2017</b>	<b>GFM</b>	<b>ANM</b>	<b>\$40,452.00</b>
<b>May 20-22, 2017</b>	<b>GFM</b>	<b>ANM</b>	<b>\$39,218.00</b>
<b>August 7-9, 2017</b>	<b>ANM</b>	<b>ANM</b>	<b>\$24,098.00</b>
February 17-20, 2018	GFM	GFM	\$35,207.00

60. Two of the polls in 2017 were directed and delivered by the Tarrance Group to Respondent GFM. The Tarrance Group later signed a sworn affidavit stating that the polling data

was paid for by, and should have been directed and delivered to, A New Missouri.

61. GFM did not disclose the value of any of the 2017 Tarrance Group polling data paid for by A New Missouri as in-kind contributions on GFM's campaign finance disclosure reports.

## **JOINT PROPOSED CONCLUSIONS OF LAW**

### **COUNT I**

#### *Failure to Report In-Kind Contributions from LG PAC*

62. Committees are required to file campaign finance disclosure reports that set forth receipts for the period, including the:

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

...

(d) Total dollar value of all in-kind contributions received;

(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.

§ 130.041.1(3), RSMo.

63. A "contribution" is "a 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. . . ." § 130.011(12), RSMo.

64. "The candidate or the committee treasurer of any committee except a candidate committee is ultimately responsible for all reporting requirements pursuant to this chapter."

§ 130.058, RSMo.

65. An advertisement that contains express advocacy or its functional equivalent is a contribution if the expenditure was made in cooperation with the candidate or with the candidate's express or implied consent. *See FEC v. Wisconsin Right to Life, Inc.*, 551 U.S. 449, 452 (2007) (with reference to *Buckley v. Valeo*, 424 US 1 (1976)).

66. At the time of this in-kind contribution, Missouri law did not limit the amount of campaign contributions LG PAC could have made to Respondent.

67. There is probable cause to believe that violations of § 130.041.1(3), RSMo, occurred when Respondent Greitens for Missouri failed to timely report certain LG PAC advertisements as in-kind contributions, because the LG PAC advertisements were express advocacy or its functional equivalent, and the advertising was done in cooperation with the GFM committee after a conversation regarding GFM's needs in the Springfield market. The MEC investigation did not find that Eric Greitens had personal knowledge of any coordination between the campaign and the consultant; however, candidates are ultimately responsible for all reporting requirements. § 130.058, RSMo.

## COUNT II

### *Failure to Report In-Kind Contributions from A New Missouri*

68. Committees are required to file campaign finance disclosure reports that set forth receipts for the period, including the:

- (b) Total amount of all monetary contributions received which can be identified in the committee's records by name and address of each contributor.
- ...
- (d) Total dollar value of all in-kind contributions received;
- (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.

§ 130.041.1(3), RSMo.

69. The statutory definition of “contribution” includes “a payment, gift, loan, advance, deposit, or donation of money or anything of value . . . for the support of any committee supporting or opposing candidates . . .” § 130.011(12), RSMo.

70. “[T]he amount of contributions made by or accepted from any person other than the candidate in any one election shall not exceed the following: To elect an individual to the office of governor . . . , two thousand six hundred dollars.” Mo. Const. Art. VIII Section 23.3(1)(a).

71. “The candidate or the committee treasurer of any committee except a candidate committee is ultimately responsible for all reporting requirements pursuant to this chapter.” § 130.058, RSMo.

72. There is probable cause to believe that violations of Mo. Const. Art. VII Section 23.3(1)(a) and § 130.041.1(3), RSMo, occurred when Respondent functionally accepted two in-kind contributions that exceeded \$2,600.00, and when Respondent failed to timely disclose the receipt of the Tarrance Group polling data from A New Missouri as in-kind contributions, because those survey results were made available to and not rejected by the GFM committee. The MEC investigation did not find that Eric Greitens had personal knowledge of which entity paid for the 2017 polling; however, candidates are ultimately responsible for all reporting requirements. § 130.058, RSMo.

## II.

I. Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the order entered by the Missouri Ethics Commission in this matter. This order will be effective immediately upon the issuance of the Consent Order of the Missouri Ethics Commission without further action by any party.

II. The parties understand that the Petitioner will maintain this Joint Stipulation as an open and public record of the Missouri Ethics Commission.

III. The Commission shall issue its Consent Order in the form attached hereto as Exhibit A.

- a. Respondent shall comply with all relevant sections of Chapter 130, RSMo.
- b. Respondent shall amend and file all reports and statements with the Commission.
- c. For the violation in Count I, and pursuant to Section 105.961.4(6), RSMo, it is the order of the Missouri Ethics Commission that a fee in the amount of \$98,417.00 is imposed against Respondent Greitens for Missouri.
- d. For the violation in Count II, and pursuant to Section 105.961.4(6), RSMo, it is the order of the Missouri Ethics Commission that a fee in the amount of \$79,670.00 is imposed against Respondent Greitens for Missouri.
- e. If Respondent pays \$38,000.00 of the total fees within 45 days after the date of the Consent Order, the remainder will be stayed.
- f. Regardless of the stay in the preceding paragraph, if the Commission finds there is probable cause to believe that Respondent committed any further violation of the campaign finance laws under Chapter 130, RSMo, within the two-year period after the date of the Consent Order, then Respondent will be required to pay the remainder of those fees. The remainder will be due immediately upon a final probable cause finding that Respondent has committed a violation.
- g. The Greitens for Missouri candidate committee agrees not to transfer funds to any other candidate committee during the two-year period after the date of the Consent Order.

IV. The parties consent to the entry of record and approval of this Joint Stipulation and to the termination of any further proceedings before the Commission based upon the Legal Complaint filed by the Petitioner in the above action.

V. Respondent, together with its heirs, successors, and assigns, does hereby waive, release, acquit and forever discharge the Missouri Ethics Commission and its attorneys of or from any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to, a claim for attorney's fees, which Respondent or Respondent's attorney may now have or hereafter have, based upon or arising out of this matter.

SO AGREED;

RESPONDENT GREITENS FOR  
MISSOURI

*11 FEB 2020*

By: *[Signature]*  
Eric Greitens Date

PETITIONER MISSOURI ETHICS  
COMMISSION

By: *[Signature]* *2/13/20*  
Elizabeth L. Ziegler Date  
Executive Director

ATTORNEYS FOR RESPONDENT

By: *[Signature]* *2/10/2020*  
Catherine L. Hanaway Date  
Partner, Husch Blackwell LLP

By: *[Signature]* *2/13/2020*  
Laura E. Elsbury Date  
General Counsel  
Attorney for Petitioner

By: \_\_\_\_\_  
Charles R. Spies Date  
Member, Dickinson Wright PLLC

SO AGREED:

RESPONDENT GREITENS FOR  
MISSOURI

By: \_\_\_\_\_  
Eric Greitens Date

ATTORNEYS FOR RESPONDENT

By: \_\_\_\_\_  
Catherine L. Hanaway Date  
Partner, Husch Blackwell LLP

By: Charles R. Spies 02/12/2020  
Charles R. Spies Date  
Member, Dickinson Wright PLLC

PETITIONER MISSOURI ETHICS  
COMMISSION

By: Elizabeth L. Ziegler 2/13/20  
Elizabeth L. Ziegler Date  
Executive Director

By: Laura E. Elsbury 2/13/2020  
Laura E. Elsbury Date  
General Counsel  
Attorney for Petitioner



**BEFORE THE  
MISSOURI ETHICS COMMISSION**

**Filed**  
**FEB 13 2020**  
Missouri Ethics  
Commission

MISSOURI ETHICS COMMISSION,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. 18-0064-I & 18-0065-I
	)	
GREITENS FOR MISSOURI,	)	
	)	
Respondent.	)	
	)	

**CONSENT ORDER**

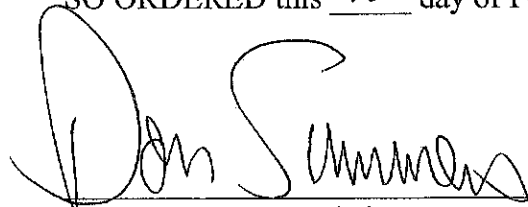
The parties have filed a Joint Stipulation of Facts, Waiver of Hearing, and Proposed Consent Order with the Missouri Ethics Commission. Accordingly, the Missouri Ethics Commission accepts as true the facts stipulated and finds that there is probable cause to believe that Respondent violated Sections 130.021.4(1) and 130.031.2, RSMo. The Commission directs that the Joint Stipulation be adopted.

1. Respondent shall comply with all relevant sections of Chapter 130, RSMo.
2. Respondent shall amend and file all reports and statement with the Commission.
3. It is the order of the Missouri Ethics Commission that a fee is imposed against Respondent in the amount of \$178,087.00. The fee will be paid by check or money order made payable to the Missouri Ethics Commission.
4. If Respondent pays \$38,000.00 of the total fee within 45 days after the date of this Consent Order, the remainder will be stayed.
5. Regardless of the stay in the preceding paragraph, if the Commission finds there is probable cause to believe that Respondent committed any further violation of the campaign finance laws under Chapter 130, RSMo, within the two-year period after the date of this Consent Order, then Respondent will be required to pay the remainder of those fees. The remainder

will be due immediately upon a final probable cause finding that Respondent has committed a violation.

6. Respondent shall not transfer funds to any other candidate committee during the two-year period after the date of this Consent Order.

SO ORDERED this 13<sup>th</sup> day of February, 2020

  
By Don Summers, Chair