

IN THE ADMINISTRATIVE HEARING COMMISSION

RON CALZONE,)
Petitioner,)
vs.) Case No. 15-1450
MISSOURI ETHICS COMMISSION,)
Respondent.)
_____)

PETITIONER’S MOTION FOR SUMMARY DECISION

Introduction

Only three facts are required to resolve this case. None are seriously disputed.

First, the complaint initiating the Missouri Ethics Commission’s (“MEC’s”) investigation of Ron Calzone (“the Complaint”) was explicitly filed by an attorney on behalf of a corporate client. This is apparent from the face of the Complaint itself, and it is supported by testimony below proving that the Missouri Society of Governmental Consultants, having been approached by members of the General Assembly hostile to Mr. Calzone, voted to authorize the Complaint, determined when it would be filed, and secured an attorney to file it.

Second, the MEC has not produced *any* evidence that Missouri First, Inc. (“Missouri First”) has taken action to designate Mr. Calzone as its lobbyist, even though the MEC’s sole theory of this case is that Mr. Calzone has been “designated as a lobbyist by Missouri First, Inc.” Ans. at 2, ¶ 6. The MEC argues that this lack of evidence is irrelevant, since (the MEC claims) Mr. Calzone “self-designated.” This literally unprecedented theory lacks either legal or evidentiary support, as noted below. Mr.

Calzone has consistently asked the MEC to point to the single action constituting designation, and the MEC has consistently failed to do so.

Third, Mr. Calzone has never been compensated in any way, by Missouri First or by anyone else, for his efforts to engage with our representative government.

Each of these realities has been clear for some time. The MEC has known from the outset that the initiating Complaint was filed by a corporation, and that the MEC consequently lacked jurisdiction to proceed. It nevertheless conducted a full investigation that failed to uncover any evidence that Mr. Calzone had been designated or compensated as a lobbyist. At that point, certainly, the MEC should have dropped the matter.

Instead, the MEC found probable cause based solely on allegations rather than actual evidence and, when challenged before this Commission to justify its substantial violations of Mr. Calzone's statutory and constitutional rights, it manufactured a number of strained, implausible statutory theories to accommodate its dearth of evidence. Lacking any proof that Missouri First ever designated Mr. Calzone as is lobbyist, the MEC has created from whole cloth a theory of "self-designation." Lacking any proof that anyone compensates Mr. Calzone for discussing public policy, the MEC adopted—again, without citation to any authority or existing practice—a breathtakingly expansive theory of the statute that would severely burden and penalize Missourians' constitutionally-protected freedoms of speech, association, and petition.

None of this abuse of the MEC's governing statute and the rights of Missourians is necessary. As soon as it became clear that its attorneys' legal theory was fundamentally flawed, the MEC should have granted Mr. Calzone's Motion to Dismiss, but it did not.

Consequently, this Commission has the responsibility to reach a summary decision repudiating the MEC's lawless overreach and restoring Mr. Calzone's good name.

Statement of the Case

A. Procedural History

On September 28, 2015, Petitioner Ron Calzone filed a Petition for Administrative Review with this body, pursuant to § 105.961, RSMo., and the Missouri Supreme Court's *en banc* decision in *Impey v. Missouri Ethics Commission*, 442 S.W.3d 42 (Mo. banc 2014), which together require that this body hear appeals from findings of probable cause by the Ethics Commission. Pet. at 1, ¶ 3.

This matter began when the Board for the Missouri Society of Governmental Consultants ("Society") voted to authorize an attorney to file a Complaint against Mr. Calzone.¹ Ex. D at 75, l 2-13. It did so because a number of incumbent officeholders who personally disagreed with Mr. Calzone's views specifically asked the Society to file a complaint. Ex. D at 66, l 6-25. The Society's Complaint alleged that Mr. Calzone had acted as a lobbyist while failing to properly register with and report to the State. Ex. A; Ex. B.

The Society was forced to secure a lawyer because, "[i]n legal matters," corporations "must act, *if at all*, through licensed attorneys." *Naylor Senior Citizens Hous., LP v. Sides Constr. Co.*, 423 S.W.3d 238, 243 (Mo. banc 2014) (citation and quotation marks omitted) (emphasis partially removed). But Missouri law is clear that

¹ This enormously salient fact was never disclosed to Mr. Calzone by the MEC, which nevertheless had to have been aware of it when choosing to call the Society's secretary as one of its chief witnesses.

complaints may not be brought by non-natural persons. § 105.957(2), RSMo. The Society’s lawyer, Michael A. Dallmeyer of Carver & Michael, LLC, attached a cover letter to the Complaint to emphasize that he was acting as a functionary for the Society. Ex. A at 1. Nonetheless, the MEC failed to provide the cover letter to either Mr. Calzone or the MEC’s Special Investigator, Della Luaders, until January 2015—the same month that the investigation concluded and recommended finding probable cause. Ex. D at 121, *l* 10-11; *id.* at 122, *l* 18-20; Pet. at 9, ¶ 55 (“Ms. Luaders completed her report in January 2015”); Ans. at 8, ¶ 23 (admitting same).

The MEC then held a hearing, at which the attorney for the Ethics Commission based his case against Mr. Calzone almost entirely on evidence that Mr. Calzone engaged in activity—testifying in front of committees of the Missouri General Assembly—that is expressly exempted from the definition of legislative lobbying. In particular, the Commission’s counsel noted that when testifying Mr. Calzone has often acknowledged his affiliation with Missouri First and “that act alone shows designation.” Ex. D at 18, *l* 12-21. The Commission presented no testimony that demonstrated any actual designation of Mr. Calzone as a lobbyist. Pet. at 15, ¶ 103; *id.* at 16, ¶ 120; *id.* at 19, ¶ 145.

Oddly, the Ethics Commission *did* introduce evidence, which it also appended to its Answer before this body,² demonstrating that a majority vote of Missouri First’s board of directors would be necessary to designate a legislative lobbyist, and that, as a matter of the corporation’s governing structure, Mr. Calzone could not have “self-designated” as a

² Mr. Calzone stipulates to the admissibility of certain portions of the MEC’s exhibits, attached hereto as Exhibits A-C.

lobbyist. Ex. C at 3 (“Missouri First will be governed by the Board of Directors within the constraints of this charter . . . Normal operational decisions will be decided upon by a simple majority vote”). Although neither Missouri’s statutes nor Missouri First’s charter contemplate or permit a person to designate himself as a lobbyist for a corporate entity, the MEC nevertheless found probable cause that Mr. Calzone had been designated as a lobbyist for Missouri First.

Similarly, the MEC failed to provide evidence that Missouri First compensated Mr. Calzone, which is a necessary element of a charge for failure to register as a designated legislative lobbyist. Pet. at 15, ¶ 104; *id.* at 16, ¶ 118; *id.* at 19, ¶ 142. Nor could the Ethics Commission have proffered any such evidence, because it does not exist. Counsel for Mr. Calzone argued that the most natural reading of the statute was that the General Assembly meant to require only reporting and registration from compensated persons. *E.g.* Ex. D at 168, l 19-21. The MEC’s counsel argued the opposite—defending a reading of the statute allowing for the registration and reporting of persons who neither receive nor expend money to influence legislation.

Nevertheless, the MEC “overruled” Mr. Calzone’s motion to dismiss, Ex. D at 10, l 2-5, and voted to find probable cause that he had violated the law, *id.* at 172 l 23-25, 173. That ruling also levied a fine of \$1,000 and prohibited Mr. Calzone from “acting to attempt to influence any pending or potential legislation on behalf of Missouri First, or any other person, until filing an annual lobbyist registration report and filing all necessary lobbyist expenditure disclosure reports pursuant” to state law. Ex. E at 10. The MEC issued Findings of Fact, Conclusions of Law, and an Order (“Findings”) on September

11, 2015, which is attached here as Exhibit E. Those Findings did not explain the mechanism by which Mr. Calzone was designated as a lobbyist by Missouri First, and relied on evidence of exempted activity—Mr. Calzone’s testimony before the Missouri General Assembly—as indicative of his alleged lobbying activity. Ex. E at 5, ¶¶ 16-20. The MEC published the finding on its website, and it may enforce its order at any point by “initiat[ing] formal judicial proceedings.” § 105.961(5), RSMo. Only Mr. Calzone’s Petition here has prevented the MEC from taking further action against him. § 105.961(3), RSMo.

On December 18, 2015, Petitioner moved for judgment on the pleadings. Mr. Calzone noted the manifold procedural and constitutional errors below, as well as the MEC’s failure in its Answer to respond substantively to Mr. Calzone’s Petition for Review. The Parties briefed the motion.

This Commission held a hearing on February 3, 2016, but it “kept the record open” temporarily for the MEC to submit the initiating “complaint filed with the MEC” so that there would be a proper record for any appeal. Order of the Administrative Hearing Commission (Feb. 3, 2015) at 2 (“AHC Order”); *id.* at n.2. The MEC, however, exploited the Commission’s leave to file the Complaint by filing a sur-reply and an amended answer with extra exhibits—exhibits beyond the Complaint the Commission requested. *Id.* at 2. Petitioner responded on February 4. *Id.*

Because “the parties continue[d] to provide exhibits and arguments,” Petitioner’s motion for judgment on the pleadings was denied. *Id.* Observing that “a hearing may not be necessary,” this Commission provided “a scheduling order for the parties to submit

motions for summary decision.” *Id.* The Commission also ordered the briefing to be narrow, and confined “to the three areas of relief Calzone requested in his complaint[:]
... a) declaration that § 105.470 is unconstitutional ... b) reversal of MEC’s finding of probable cause; and c) award of reasonable attorney fees.” *Id.* The Commission also requested that the Parties brief whether “probable cause should be reversed based on Calzone’s three legal arguments in his motion for decision on the pleadings.” *Id.* at 3.

B. Missouri’s Legislative Lobbyist Statute and Reporting Requirements

Before addressing the merits, Petitioner provides a brief overview of Missouri’s scheme for regulating lobbyists. Missouri regulates several categories of lobbyist, depending upon the branch or form of government a person seeks to influence. *E.g.* §§ 105.470(1), RSMo., (defining “[e]lected local government official lobbyist”) and 105.470(4), RSMo., (defining “[j]udicial lobbyist”). Mr. Calzone is accused of being a “legislative lobbyist.”

Pursuant to § 105.470(5), RSMo., a legislative lobbyist is:

any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, resolution, amendment, nomination, appointment, report or any other action or any other matter pending or proposed in a legislative committee in either house of the general assembly, or in any matter which may be the subject of action by the general assembly and in connection with such activity, meets the requirements of any one or more of the following:

(a) Is acting in the ordinary course of employment, which primary purpose is to influence legislation on a regular basis, on behalf of or for the benefit of such person’s employer, except that this shall not apply to any person who engages in lobbying on an occasional basis only and not as a regular pattern of conduct; or

(b) Is engaged for pay or for any valuable consideration for the

purpose of performing such activity; or

(c) Is designated to act as a lobbyist by any person, business entity, governmental entity, religious organization, nonprofit corporation, association or other entity; or

(d) Makes total expenditures of fifty dollars or more during the twelve-month period beginning January first and ending December thirty-first for the benefit of one or more public officials or one or more employees of the legislative branch of state government in connection with such activity.

Missouri law also includes a number of relevant exceptions protecting common civic engagement from triggering lobbying registration. A member of the general assembly or an elected state official may not be converted into a “legislative lobbyist.” § 105.470(5)(d), RSMo. Nor may “any other person” be converted into a lobbyist “solely due to such person’s participation in . . . [p]reparing or publication of an editorial, newsletter, newspaper, magazine, radio or television broadcast, or similar news medium, whether print or electronic . . . [or in t]estifying as a witness before the general assembly or any committee thereof.” § 105.470(5)(d)(b), (d), RSMo.

Lobbyist registration requires a written declaration under penalty of perjury, the payment of a \$10 fee, and the publication of “the lobbyist’s name and business address, the name and address of all persons such lobbyist employs for lobbying purposes, the name and address of each lobbyist principal by whom such lobbyist is employed or in whose interest such lobbyist appears or works.” § 105.473(1), RSMo. These files “shall be open to the public.” *Id.*

Lobbyist reports are monthly filings, also made under penalty of perjury. § 105.473(3)(1)-(2), RSMo. These reports must itemize any expenditures made on behalf

of public officials and their families and staffs, and they must detail “any direct business relationship or association or partnership the lobbyist has with any public official or elected local governmental official.” § 105.472(3)(2), RSMo. The information in these reports must “be kept available by the executive director of the commission at all times open to the public for inspection and copying . . . for a period of five years.” § 105.473(6), RSMo. Lobbyists must inform the MEC of their lobbyist principals. § 105.473(1), RSMo.; Missouri law also forces lobbyists to describe twice a year “the proposed legislation or action” that they or their principals “supported or opposed.” § 105.473(12). Such filings would undoubtedly be lengthy for Mr. Calzone, given that the MEC has attributed all his personal activities as lobbying on behalf of Missouri First. Ans. at 2, ¶ 8.³

Even though the MEC’s Findings never explicitly state such a theory, the MEC now claims that its case against Mr. Calzone was predicated on the theory that he “designated” himself as Missouri First’s lobbyist under § 105.470(5)(c), RSMo. Ans. at 2, ¶ 7 (“In 2013 and 2014, Calzone, as the President and Founder of Missouri First, was authorized to, and did, designate himself as the lobbyist for Missouri First, Inc. and went to the Missouri Capitol to attempt to influence potential and pending legislation on behalf of Missouri First, Inc., and its members”).

³ Moreover, while not necessary to the resolution of this case, the fact remains that the Commission has failed to show any relevant information that will be made available to the public as a result of forcing Mr. Calzone to register as a lobbyist. The burdens to Mr. Calzone, accordingly, would result in no public benefit whatsoever.

No other provision is at issue, and it is undisputed that Mr. Calzone does not meet any of the other definitions of “legislative lobbyist.”

Standard of Review

“Summary decision is proper if a party establishes facts that entitle any party to a favorable decision and . . . that there is no genuine dispute as to those material facts upon which the claimant would have had the burden of persuasion at a hearing.” *New Garden Rest., Inc. v. Dir. of Revenue*, 471 S.W.3d 314, 317 (Mo. banc 2015) (citation omitted) (internal quotation marks omitted).

Argument

I. The Ethics Commission’s Probable Cause Finding Was Error, And Merits Summary Decision.

As the Commission requested, Mr. Calzone addresses “whether the MEC’s finding of probable cause should be reversed based on Calzone’s three legal arguments in his motion for decision on the pleadings.” AHC Order at 2-3.⁴

A. The MEC lacked jurisdiction to make a probable cause finding because a non-natural person filed the Complaint against Mr. Calzone.

The Missouri Ethics Commission only holds jurisdiction over complaints filed by natural persons. § 105.957(2), RSMo. (“Complaints filed with the commission *shall* be in writing and filed *only* by a natural person” (emphasis supplied)); *Bauer v. Missouri Ethics Comm’n*, 2008 Mo. Admin. Hearings LEXIS 287 at 6 (Mo. Admin. Hearings

⁴ In doing so, Mr. Calzone does not waive any other arguments, including without limitation the arguments that the MEC improperly denied Mr. Calzone’s Motion to Dismiss, Ex. A at 1-12, or that it improperly relied upon a Fifth Amendment adverse inference in finding probable cause, *Johnson v. Mo. Bd. of Nursing Administrators*, 130 S.W.3d 619, 631 (Mo. App. W.D. 2004).

2008) (“‘Shall’ signifies a mandate and means ‘must’ in the present tense”). If the Ethics Commission has not “shown that the complaint it received met the conditions of the statute,” neither the MEC nor this body “ha[s] . . . jurisdiction to sanction” Mr. Calzone, and dismissal is mandatory. *Bauer*, 2008 Mo. Admin. Hearings LEXIS 287 at 3-4; Ex. A at 1 (“Enclosed herewith for filing and action is the complaint....I am submitting on behalf of our client, Missouri Society of Governmental Consultants”).

The Complaint was filed by a corporation, the Missouri Society of Governmental Consultants, and not by a natural person. Ex. A at 1. The Society’s Complaint was generated by a unanimous vote of the corporation’s board of directors, and the Society’s board of directors set the timing of that filing. Ex. D at 63, *l* 13-22, *id.* at 70, *l* 22-25, 71 *l* 1-24; *id.* at 75, *l* 2-13. To file the Complaint against Mr. Calzone, the Society contracted for *pro bono* legal counsel from Mr. Michael A. Dallmeyer of the Carver & Michael law firm. *Id.* at 63, *l* 13-16 (Testimony of Randy Scherr) (“Q. You understood the [S]ociety to be the complainant in this case? A. The [S]ociety motivated the complaint and had it filed by Mr. Dallmeyer”); *id.* at 74, *l* 23-24.

Mr. Dallmeyer appended his name to the MEC’s Official Complaint Form as “Mr. Michael A. Dallmeyer, *Attorney*.” Ex. B at 1 (emphasis supplied). Moreover, he attached a cover letter to the Complaint, which explicitly noted that the Complaint was filed by the Society.⁵ Ex. A at 1 (“Enclosed herewith for filing and action by MEC is the

⁵ Although required by law, the MEC did not initially provide this portion of the Complaint to Mr. Calzone. § 105.957(2), RSMo. (“Within five days after receipt of a complaint by the commission, a copy of the complaint, including the name of the complainant, shall be delivered to the alleged violator”); Ex. D at 122, *l* 18-20 (“Q. Now,

complaint. . . I am submitting *on behalf of our client*, Missouri Society of Governmental Consultants” (emphasis supplied)). None of these facts are contested or in material dispute.

Moreover, the MEC was aware of these jurisdiction-denying facts when it chose to proceed against Mr. Calzone. The cover letter accompanied the Society’s Complaint and it is stamped as “hand delivered” to the MEC on the day the Complaint was filed, November 4, 2014. Ex. A at 1. In fact, it is the *only* stamped page, strongly implying that it was the first piece of paper in the Complaint. *See also* Ex. D at 121, *l* 22-25; *id.* at 122, *l* 1-3 (Ms. Luaders testifying that Mr. Dallmeyer referred her to the cover letter and told her “that his client was the Missouri Society of Governmental Consultants, and he had referenced that in his letter”).

During the probable cause hearing below, the MEC’s investigator into this matter testified that Mr. Dallmeyer directed her to members of the Society as to the truth of the matters asserted in the Society’s Complaint, which she proceeded to do. Ex. D at 121 *l* 10-25, 122 *l* 1-17. Perhaps recognizing that the Complaint was improper and that Mr. Dallmeyer lacked personal knowledge as to Mr. Calzone’s activities or the allegations in the Complaint, the Ethics Commission did not call Mr. Dallmeyer as a witness at its evidentiary hearing, instead relying on testimony by the Society’s secretary. *E.g.* Ex. D at 67, *l* 21-25, 68 at 1-4 (“Q. How often are you in the Capitol? A. Every day. Q. And at no point during any of those daily visits did you see Mr. Dallmeyer for the last two years? A. what time was this letter first provided to Mr. Calzone? A. January 21st, 2015”). The MEC also failed to initially provide it to the Commission employee tasked with reviewing the Complaint, Della Luaders. Ex. D at 121, *l* 10-11.

No, not – I don't think so. Q. So you never saw Mr. Dallmeyer in a conversation with Mr. Calzone with any legislator in the last two years? A. I didn't.”).

That the Ethics Commission proceeded and acted as if it assumed that the Society was the true complainant—particularly by calling the Society's secretary who had intimate knowledge of the Society's decision of how and when to file—is no surprise. Ex. D at 63, l 13-22 (“Q. Was the official action taken by the [S]ociety to bring about the filing of the Complaint? A. Yes, sir. Q. Were you involved in those deliberations? A. I was the secretary, sir, and took the record”). As a matter of black letter, longstanding law, corporations may only act in legal matters through licensed attorneys. *Naylor Senior Citizens Hous., LP*, 423 S.W.3d at 243 (“A corporation is not a natural person. . . . In legal matters, it must act, if at all, through licensed attorneys” (emphasis removed) (citations omitted) (internal quotation marks omitted)). Because the Society was the party filing the Complaint, it acted here through legal counsel. Missouri law prohibits corporations, however, from making complaints to the Ethics Commission.

The point is intuitive and obvious. When a corporation files a lawsuit through counsel, no court believes that the individual attorney representing the corporation is actually the plaintiff in the matter. The same principle works here. There is no reason to entertain the fiction that the Society's attorney, and not the Society itself, filed the Complaint against Mr. Calzone. The MEC has provided no serious rejoinder to this argument.

Indeed, the MEC complaint process was clearly, and statutorily, designed to ensure that complaints were brought only by those with actual knowledge of potential

violations. § 105.957(2), RSMo. (“The complaint shall contain all facts known by the complainant that have given rise to the complaint and the complaint shall be sworn to, under penalty of perjury, by the complainant”). Adopting the MEC’s strained understanding of the statute, then, would effectively read the “natural person” requirement out of existence. That is precisely what happened here: a complaint was filed on behalf of a corporation, and the filing attorney then personally swore to facts about which he had no personal knowledge, as indicated by the fact that the MEC never bothered to call Mr. Dallmeyer during its probable cause hearing.

That the Society filed the Complaint against Mr. Calzone cannot be disputed. The Commission has known about the cover letter, and by extension Mr. Dallmeyer’s role as a functionary acting on behalf of a client, from the beginning. Ex. A at 1. Nevertheless, the Commission chose to proceed with its investigation, charge Petitioner, and convene an evidentiary hearing—wasting taxpayer resources and forcing Mr. Calzone to defend himself in a process that would be prohibitively expensive were he not represented by *pro bono* counsel.

The MEC compounded its jurisdictional errors by failing to dismiss the Society’s Complaint, contrary to the requirements of Missouri law. *See* § 105.957(4), RSMo. (“If the commission finds that any complaint is frivolous in nature . . . the commission *shall* dismiss the case . . . ‘frivolous’ *shall* mean a complaint clearly lacking any basis in . . . law” (emphasis supplied)); *Bauer*, 2008 Mo. Admin. Hearings LEXIS 287 at 6 (“‘Shall’ signifies a mandate and means ‘must’”).

“When a statute sets conditions for an agency’s jurisdiction, the agency’s jurisdiction does not exist until the fulfillment of all such conditions. The conditions for Ethics’ jurisdiction, and therefore our jurisdiction, include ‘a complaint as described by section 105.957.’” *Bauer*, 2008 Mo. Admin. Hearings LEXIS 287 at 3 (quoting § 105.961(1), RSMo). Given these facts, unless the MEC can provide authority for the proposition that nonprofit corporations are natural persons, this body ought to enter judgment for Mr. Calzone. *J.C. Nichols Co. v. Director of Revenue*, 796 S.W.2d 16, 20 (Mo. 1990) (“the [Administrative Hearing] Commission is simply a hearing officer who exercises the same role as any administrative hearing officer authorized to hear contested cases within an agency”) (citation omitted).

Jurisdiction cannot spring into existence now, at this late date, where the MEC chose to proceed based on a plainly improper complaint. If the MEC never had jurisdiction over the Society’s Complaint, then this Commission also has no jurisdiction, and summary decision ought to issue. *Bauer*, 2008 Mo. Admin. Hearings LEXIS 287 at 3-4; *U.S. Catholic Conf. v. Abortion Rights Mobilization*, 487 U.S. 72, 77 (1988) (“[S]ubject-matter jurisdiction . . . rests . . . on the central principle of a free society that courts have finite bounds of authority, . . . which exist to protect citizens from . . . the excessive use of judicial power. The courts, no less than the political branches of the government, must respect the limits of their authority”).

B. Petitioner did not, and could not, designate himself as a lobbyist for Missouri First, a nonprofit corporation with its own board of directors and charter.

From 2013 to 2014, Missouri First was governed by a Charter stating “that ‘Missouri First will be governed by the Board of Directors and that ‘[n]ormal operational decisions will be decided upon by a simple majority vote.’” Ex. C at 3. That Charter is relied upon as a “Fact[] Supporting Missouri Ethics Commission’s Action” in the MEC’s Answer. Ans. at 1, ¶¶ 2-3. To date, the MEC has never explained the act by which Missouri First designated Mr. Calzone as a lobbyist, and it has never demonstrated probable cause that such a designation ever occurred. Pet. at 15, ¶ 104; *id.* at 16, ¶ 120; *id.* at 19, ¶ 145.

Even though it knew of the Charter and that it lacked any evidence of designation by Missouri First’s board before charging Mr. Calzone, the Ethics Commission found that there was probable cause that Mr. Calzone was “designated to act as a lobbyist.” § 105.470(5)(c), RSMo. The MEC’s decision is particularly erroneous given that it presented no evidence of “the mechanism by which Missouri First, Inc. designated Mr. Calzone as a legislative lobbyist.” *E.g.* Pet. at 15, ¶ 103.

As this Commission recognized in ordering that the Parties brief the “[d]ispute of Calzone’s self-designation,” AHC Order at 3, the Ethics Commission resolved its evidentiary problem after the fact by asserting that Mr. Calzone “self-designated” himself as a legislative lobbyist for Missouri First. *But see* § 355.316 (1-2), RSMo. (“Each corporation *shall* have a board of directors . . . Except as provided in this chapter, all

corporate powers *shall* be exercised by or under the authority of, and the affairs of the corporation managed under the direction of, its board” (emphasis supplied)).

While this argument has afforded the MEC the benefit of being able to argue that it needs no evidence of designation to find probable cause—as the act of designation is concealed in Mr. Calzone’s own mental processes—it is a serious misreading of Missouri law. The law requires a corporation to designate a person as its lobbyist, and not the other way around. *Bauer*, 2008 Mo. Admin. LEXIS at 3 (“We cannot rewrite the statute. We must not add words into the statute.”). There is no basis in the plain text of the statute for the MEC to insist that, in the context of legislative lobbying, the tail can wag the dog.

Missouri provides that a legislative lobbyist is “designated to act as a lobbyist by . . . [a] nonprofit corporation,” § 105.470(5)(c), RSMo., not that a legislative lobbyist designates himself to act as a nonprofit corporation’s lobbyist. *See Conn. Nat’l Bank v. Germain*, 503 U.S. 249, 253-254 (1992) (We “must presume that a legislature says in a statute what it means and means in a statute what it says there. When the words of a statute are unambiguous . . . inquiry is complete”) (citations omitted) (internal quotation marks omitted). This makes sense. It would be an unusual reading of Missouri corporate law for a single officer to bind a corporation to a certain status with the state government—here, as a lobbyist principal—solely because that officer mentions his status with that corporation publicly at a legislative hearing. § 105.473.12.⁶

⁶ The Ethics Commission’s reading also suggests a bizarre set of follow-on questions: Once self-designated, may that same person self-*undesign*ate? What objective signs of “self-undesignation” would be available as a defense in a probable cause hearing?

Of course, even if the MEC's understanding of the statute were plausible—and it is not—it remains an uncontested fact that Missouri First governs itself through its board of directors, just as the Missouri Society of Governmental Consultants apparently does, and there is no evidence the board of directors ever granted Mr. Calzone the power to “self-designate” as Missouri First's legislative lobbyist. No officer may unilaterally bind Missouri First according to the terms of its own governing document, a document familiar to—and relied upon by—the Ethics Commission.⁷

The MEC's reading of the statute to allow for self-designation, then, is entirely unworkable, contrary to Missouri corporate law, and defeated by the MEC's own introduced evidence—both below and before this body. There is no limiting principle to the MEC's theory of “self-designation.” If permitted to stand, any person may be hauled before the Commission on the slimmest pretext (and possibly based upon an improper complaint) and forced to prove a *lack* of self-designation by virtue of internal mental processes. Many, rather than bear the financial and reputational costs involved, will simply acquiesce to charges brought under the State's imprimatur.

There is no indication the General Assembly intended this outcome. The statute requires that a lobbyist be “designated” by another party, and that requirement should be enforced. No material fact suggests otherwise, and the Parties have stipulated that Missouri First governs itself via its board of directors. Accordingly, summary decision is appropriate.

⁷ Even if the Ethics Commission's theory of “self designation” were plausible, it has never so much as identified the action *by which* Mr. Calzone “self-designated.”

C. Mr. Calzone cannot be a legislative lobbyist because he is neither compensated nor spends money for the benefit of legislators or legislative staff.

Missouri law does not regulate uncompensated persons as lobbyists unless they spend money on legislators and legislative staff to influence legislation.⁸ § 105.470(5)(d), RSMo. It is an undisputed fact that Mr. Calzone is not compensated by Missouri First, and as such the issue here is purely a matter of law. *See, e.g.*, Pet. at 16, ¶ 118.

A person becomes a legislative lobbyist under Missouri law when he or she seeks to influence legislative action, not including testimony before legislative committees, after either having been designated as a lobbyist by a particular organization or else having spent sufficient money on legislators and their staffs. There are three ways in which such a lobbyist may be designated—but in no case does one become a lobbyist simply by acting as a concerned and engaged citizen. Simply put, an uncompensated person like Mr. Calzone cannot be a lobbyist under any of the statute’s four provisions.

The first category encompasses those persons “acting in the ordinary course of employment, which primary purpose is to influence legislation on a regular basis, on behalf of and for the benefit of such person’s employer,” with the exception that “this shall not apply to any person who engages in lobbying on an occasional basis only and not as a regular pattern of conduct.” § 105.470(5)(a), RSMo. This provision covers those persons whose primary employment duties are, explicitly, to act as a lobbyist on behalf of a specific employer. There is no evidence that Mr. Calzone is employed by Missouri

⁸ This Commission requested that we brief “whether monetary expenditure[s] must be made solely to legislators.” AHC Order at 3. Mr. Calzone understands this to refer to his contention that the statute does not reach uncompensated persons who do not spend money on legislators and legislative staff.

First, much less with the primary purpose of regularly influencing legislation for the benefit of Missouri First, and the MEC has not claimed that this category applies here.

The second category encompasses those “engaged for pay or for valuable consideration for the purpose” of lobbying. § 105.470(5)(b), RSMo. This involves the hiring of a professional lobbyist on a contractual basis, a person who may also lobby on behalf of a range of other groups. There is no evidence that Mr. Calzone was paid by or received valuable consideration from Missouri first, nor does the MEC rely upon this provision.

The third category involves those that are “designated” “to act as a lobbyist by any person, business entity, governmental entity, religious organization, nonprofit corporation, association or other entity.” § 105.470(5)(c), RSMo. This is the provision under which the MEC has proceeded in this case. But the statute’s purpose is clear: it regulates those who regularly—but not primarily—lobby for pay on behalf a lobbyist principal.

That is, § 105.470(c) addresses situations not covered by § 105.470(a). Section 105.470(a) regulates those whose primary and regular purpose is lobbying—situations where an organization has hired a full-time, in-house lobbyist. Section 105.470(c)’s provision for “designated” lobbyists covers compensated persons whose primary purpose is not to lobby but who do so regularly. This example would include, for instance, a corporate vice president that spends 10 percent of her working hours lobbying and 90 percent on other business matters; such a person lobbies “regularly” but not as the “primary purpose” of her employment. This understanding gives clear meaning to the

statute, and is certainly a more natural reading than the “self-designation” theory posited by the MEC.

There is no evidence that Missouri First ever designated Mr. Calzone as a lobbyist or that Mr. Calzone lobbies for pay regularly on behalf of Missouri First.

The fourth category captures lobbyists who, in the course of influencing legislative action, spend more than fifty dollars “for the benefit of . . . public officials or one or more employees of the legislative branch of state government in connection with such activity.” § 105.470(5)(d), RSMo. It may well be that this category may cover persons who wine and dine legislators and staff on their own initiative. Petitioner has conceded there is a governmental interest in regulating the direct payment of cash, the buying of steak dinners, or the delivery of gifts to legislators and their staff in connection with legislation. Indeed, Petitioner believes such laws are likely constitutional and an example of good government. *See United States v. Harriss*, 347 U.S. 617, 625 (1954) (government has an appropriate interest in knowing “who is putting up the money, and how much”). In any event, Mr. Calzone has not provided such gifts.

Thus, subsection (a) covers persons hired primarily as lobbyists for a specific employer, in the ordinary course of their employment; subsection (b) covers contractual, hired gun lobbying; subsection (c) covers the use of a corporation or other entity’s employees to regularly, but not primarily, influence the legislature; and subsection (d) covers those who expend money directly to benefit legislators or staff.

The MEC has been unable to meet its burden of producing any evidence that Mr. Calzone was a designated lobbyist under the plain language of any of the provisions of

§ 105.470. Thus, the MEC has erroneously reinterpreted the third category of legislative lobbyist—those “designated to act as a lobbyist by any person, business entity . . . or other entity”—to create a new category of lobbyist, volunteers who are not paid in any way to influence legislators. Ans. at 7, ¶¶ 20-21, Ex. E at 8, ¶ 32. This was error.

That designated lobbyists must be paid, contrary to the MEC’s reinterpretation, is made especially clear by the definition of “lobbyist principal,” § 105.470(7), RSMo., which must be harmonized with the definition of a “designated” lobbyist, § 105.470(5)(c), RSMo. *See Crum v. Vincent*, 493 F.3d 988, 996 (8th Cir. 2007) (“Missouri law requires courts to read statutes *in pari materia*, harmonizing sections covering the same subject matter if possible”).

To be a designated lobbyist, there must be someone or something designating the lobbyist. That is, there must be a lobbyist principal. To argue otherwise would be absurd, and that there must be a designating person or entity is required by the plain language of the statute: a “designated” lobbyist is someone designated by a “person, business entity, governmental entity, religious organization, nonprofit corporation, association or other entity”, § 105.470(5)(c), RSMo. But, that same designating person or entity is also defined and regulated by the statute: a “lobbyist principal” is as “any person, business entity, governmental entity, religious organization, nonprofit corporation or association who employs, contracts for pay or otherwise compensates a lobbyist.” § 105.470(7), RSMo. But, as the statute states, a person or entity is only a lobbyist principal if is “employs, contracts for pay or otherwise compensates a lobbyist.” *Id.* This requires, then, that the person designated be employed, paid, or otherwise compensated. To argue

otherwise would be to argue that a person could be designated without anyone designating him or her, since there is no other definition of a designating person or entity. *See Crum*, 493 F.3d at 996 (“ . . . are not to interpret statutes in a hyper-technical manner, but rather in a manner that is reasonable, logical, and gives meaning to the statutes”) (citations omitted, punctuation altered).

Consequently, an individual may only be designated as a legislative lobbyist by an entity that “employs, contracts for pay or otherwise compensates” that person. § 105.470(7), RSMo. “[C]ontext is important ‘in determining the scope and extent of more general words.’” *Circuit City Stores, Inc. v. Director of Revenue*, 438 S.W.3d 397, 401 (Mo. banc 2014) (quoting *Standard Operations, Inc. v. Montague*, 758 S.W.2d 442, 444 (Mo. banc 1988); *see also Jarecki v. G.D. Searle & Co.*, 367 U.S. 303, 307 (1961) (“The maxim *noscitur a sociis*, that a word is known by the company it keeps, while not an inescapable rule, is often wisely applied where a word is capable of many meanings in order to avoid the giving of unintended breadth to the Acts of” a legislature). Here, the key phrase is “employs, contracts for pay or otherwise compensates.” § 105.470(7), RSMo. “Contracts for pay” plainly indicates a transfer of money, as does the general catch-all term “or otherwise compensates.” “When the legislature placed the words ‘or otherwise’ in the statute it must have had a purpose for doing so.” *State ex rel. Schwab v. Riley*, 417 S.W.2d 1, 5 (Mo. banc 1967). Here, “or otherwise” obviously means that the previous terms, “contracts for pay” and “employ” *must* also involve compensation.

Thus, to be a lobbyist designated by a lobbyist principal, one must be paid, directly or indirectly, to lobby. Indeed, compensation unambiguously refers to *quid pro*

quo scenarios, and is accordingly indicative of the general class of activity being regulated in § 105.470(7), RSMo. Thus, here, the legislature’s use of “employs, contracts for pay or otherwise compensates” is intended to encapsulate the entire universe of work in exchange for consideration, whether through permanent employment, hiring an independent contractor, or providing remuneration by other means, such as offering a lobbyist free membership at a golf course in exchange for discussing a land use provision with a member of the state senate. This reading is consistent with the state’s interest: tracking the use of money or other compensation to influence legislation. *See infra* at 27-28 (discussing appropriate governmental interests implicated by lobbyist registration and disclosure statutes).

To determine otherwise would require an extra-technical reading of the statute—such as divorcing the phrase “employs” from “or otherwise compensates.” Such practice is discouraged in Missouri, *Crum*, 493 F.3d at 996, and for good reason—it risks dramatically extending the breadth of the statute beyond legislative intent and beyond reasonable construction.

Reading the statute regarding executive lobbyists and applying it to the actions of the MEC and Mr. Dallmeyer in filing the Complaint demonstrate the dangers of strained statutory readings like the MEC’s. Under § 105.470(2)(c), an executive lobbyist is one who seeks to “influence any action by . . . any . . . commission,” such as the MEC, when “designated to act” by any “nonprofit corporation.” § 105.470(2), RSMo. The statutory exceptions for such designated lobbyists cover only those who “[a]ppear[] or inquir[e] in regard to a complaint” before a government commission. § 105.470(2)(d)(a), RSMo. Mr.

Dallmeyer was explicitly designated by the Missouri Society of Governmental Consultants to act for the purpose of influencing the MEC's action, and he did so by filing the Society's Complaint, not by "appearing" or "inquiring" concerning it. Thus, by a strained interpretation of § 105.470(2) parallel to that of the MEC regarding designated lobbyists under § 105.470(5), Mr. Dallmeyer impermissibly failed to register as an executive lobbyist.

In any event, constitutional considerations militate against the MEC's reading of the statute. While this body is not empowered to rule upon constitutional deficiencies, *infra* at 26, it ought to endorse interpretations of the statute that avoid significant constitutional questions, such as those discussed below. This is "[s]till another reason for rejecting the statutory construction argued for by" the Ethics Commission's finding of probable cause, because "to do otherwise would raise serious constitutional problems." *State Bd. of Registration for the Healing Arts v. Finch*, 514 S.W.2d 608, 614 (Mo. App. 1974).

II. Section 105.470(5)(c) Is Unconstitutional as the MEC Seeks to Apply It To Petitioner.

This Commission's order encouraged both Parties to brief Mr. Calzone's contention that § 105.470(c), RSMo., as the MEC seeks to apply it against Mr. Calzone, violates the First Amendment. AHC Order at 2. Mr. Calzone does not contest the fact, also stated in the MEC's Answer, that this body lacks the power to declare statutes unconstitutional. Ans. at 11, ¶ 35. Rather, Petitioner merely preserves—as he did

below—this argument for judicial appeal, should one be necessary. Ex. D at 9, l 22-25, 10 l 1-5.

This is not to say that this body ought not to consider the constitutional implications of ruling against Petitioner. *E.g. Finch*, 514 S.W.2d at 614 (rejecting a construction of a challenged statute which “would raise serious constitutional problems”). And there are significant constitutional questions at issue here, which were also discussed at some length in Petitioner’s Motion to Dismiss below.

a. As applied to Mr. Calzone, the statute is not properly tailored to a vital governmental interest.

“Lobbying is of course a pejorative term, but another name for it is petitioning for the redress of grievances. It is under the express protection of the First Amendment.” *United States v. Finance Committee to Re-Elect the President*, 507 F.2d 1194, 1201 (D.C. Cir. 1974); also *Nat’l Ass’n of Mfrs. v. Taylor*, 582 F.3d 1, 9 (D.C. Cir. 2010) (noting that Petition Clause activities represent a “substantial First Amendment interest[.]” which is implicated by lobbyist registration and reporting statutes).

As the Supreme Court has recognized, however, the Petition Clause’s protections are not absolute. “For example, in *United States v. Harriss* . . . the Court upheld lobbying disclosure requirements . . . on the ground that the statute served a vital national interest in a manner restricted to its appropriate end.” *Taylor*, 582 F.3d at 9 (citation omitted) (internal quotation marks omitted). Conversely, if a lobbyist registration and reporting statute is not narrowly tailored to a necessary and vital interest, it is unconstitutional.

The Supreme Court has limited the necessary and vital interest at issue in regulating lobbying to knowing the identities of those who are paid to influence legislators and legislative staff, as a means of determining “who is being hired, who is putting up the money, and how much.” *Harriss*, 347 U.S. at 615; *Minnesota State Ethical Practices Bd. v. Nat’l Rifle Ass’n*, 761 F.2d 509, 510 (8th Cir. 1985) (upholding lobbyist registration statute that regulated compensated lobbying)⁹.

The lobbying statute upheld in *Harriss*, for example, was “limited to those persons . . . who solicit, collect, or receive contributions of money or other thing of value to be used” for lobbying purposes—and that registration could only be required “if the principal purpose of either the persons or the contributions is to aid” in lobbying activities. 347 U.S. at 619 (citation omitted) (internal quotation marks omitted). The Supreme Court explicitly rejected “a much broader construction” of the law, one urged upon it by the federal government, which would have required non-compensated

⁹ The statute at issue in *Nat’l Rifle Ass’n* plainly excluded uncompensated persons from its definition of lobbying:

- (a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or
- (b) Who spends more than \$250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

761 F.2d at 510 (citation omitted).

lobbyists to register, finding that such a reading could not be anticipated by the text of the statute. *Id.* at 619-620.

Such statutes are, unlike the MEC's application of Missouri law to Mr. Calzone, targeted at "the payment of compensation to others to communicate face-to-face with members of [the General Assembly]." *Harriss*, 347 U.S. at 615; *see also* 2 U.S.C. § 1601(1) ("The Congress finds that . . . responsible representative Government requires public awareness of the efforts of paid lobbyists to influence the public decisionmaking process in both the legislative and executive branches of the Federal Government"). The MEC has failed to produce any evidence that Missouri First or anyone else paid Mr. Calzone to lobby.

Application of the law to Petitioner then, fails to further the vital interest in knowing "who is being hired, who is putting up the money, and how much." *Harriss*, 347 U.S. at 615. Instead, as the MEC seeks to apply the law here, it requires a private citizen to register and file a number of reports with the government as a condition of being an engaged citizen who speaks to those in power. In such circumstances, it is unclear how designating Mr. Calzone as a lobbyist serves "to maintain the integrity of a basic governmental process" or any similar interest. *Harriss*, 347 U.S. at 625; *see also McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334 (1995) (facially invalidating statute that prohibited anonymous issue advocacy by an unpaid citizen).

In Mr. Calzone's case, registration would necessitate the monthly filing of paperwork with the Commission, paperwork that would be burdensome and invasive while providing no useful information to the State and its citizens. Indeed, it would be

misleading. As discussed above, the lobbyist registration statute cognizes that those persons designated as legislative lobbyists collect compensation from a lobbyist principal. It is undisputed that Mr. Calzone takes no such compensation; accordingly, listing Mr. Calzone as a legislative lobbyist would provide a false impression to the public that Mr. Calzone takes money in exchange for airing another's views before the General Assembly.

Accordingly, unless the Commission can demonstrate that a vital governmental interest in fact exists here, requiring monthly reports from a natural person who accepts no financial remuneration for his work is an unconstitutional burden upon Mr. Calzone's rights under the First Amendment.

b. As applied here, the lobbyist registration statute is unconstitutionally vague.

The Supreme Court has clearly stated that statutes are "void for vagueness" when their provisions' "prohibitions are not clearly defined," because "[v]ague laws may trap the innocent by not providing fair warning." *Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972). And when "First Amendment rights are involved, an 'even greater degree of specificity' is required." *Buckley v. Valeo*, 424 U.S. 1, 77 (1976) (quoting *Smith v. Goguen*, 415 U.S. 566, 573 (1974)). "Precision of regulation must be the touchstone in an area so closely touching our most precious freedoms." *NAACP v. Button*, 371 U.S. 415, 438 (1963).

Yet the Missouri statute fails to provide *any* guidance as to how one must be “designated” as a legislative lobbyist.¹⁰ And Counsel for the MEC admitted at the hearing below that the Missouri courts provide no such guidance. Ex. D at 165, l 17 (“There is no Missouri law on that”).

Mr. Calzone contends that the term “designate” is clearly defined in the statute, *see* above at 20-21, as it must be to describe an action by which a principal proclaims to the public that someone has the authority to represent it. In its efforts to extend its grasp over Mr. Calzone and others like him, however, the MEC would turn the term into an amorphous bog, a trap for the unwary, where a “designation” no longer requires a principal’s representation to the public, only the telepathy of the MEC’s investigators who may discern when a person has designated herself as another’s lobbyist. In any case, the MEC’s reinterpretation of the term will remove any need—or right—for principals to designate their lobbyists, and it will create a risk that an individual’s errant words—even if she is conducting exempted activity like legislative testimony, distributing a newsletter, or responding to a request from a legislator for information—might unwittingly turn herself into another’s lobbyist. *See* § 105.470(5)(d), RSMo. (listing exceptions to legislative lobbying activity).

¹⁰ This Commission may only “[p]romulgate rules relating to the provisions of sections 105.955 to 105.963 and chapter 130. All rules and regulations issued by the commission shall be prospective only in operation.” § 105.955.14(7), RSMo. Nevertheless, the inability to properly define the term “designate” through the rulemaking process provides no justification for attempting to do so through an enforcement action. Notice is both the hallmark of rulemaking and a constitutional limit on enforcement.

No reasonable person could predict which string of events might become fodder for a complaint with the Ethics Commission—which has the ability to levy non-trivial fines and restrain individuals from conducting protected First Amendment activities. Opportunities for gamesmanship, by legislators seeking to silence citizen activists and by ideological opponents to frustrate their enemies, would abound—as happened here. “No speaker, in such circumstances, safely could assume that anything he might say upon the general subject would not be understood by some as an invitation . . . Such a distinction offers no security for free discussion. In these conditions it blankets with uncertainty whatever may be said. It compels the speaker to hedge and trim.” *Buckley*, 424 U.S. at 42 (quoting *Thomas v. Collins*, 323 U.S. 516, 535 (1945)).

Accordingly, as the Ethics Commission seeks to interpret it, the lobbyist registration statute is unconstitutionally void-for-vagueness.

III. Petitioner Ought To Be Awarded Reasonable Attorneys’ Fees, But Not At This Time

Finally, the Commission requested that the Parties brief Petitioner’s request for an “award of reasonable attorney fees.” AHC Order at 2. Should this body rule in favor of Petitioner, Missouri law presumes that a fee award ought to be granted: “A party who prevails in an agency proceeding . . . brought by . . . the state, shall be awarded those reasonable fees and expenses incurred by that party in the civil action or agency proceeding, unless the court or agency finds that the position of the state was substantially justified or that special circumstances make an award unjust.” § 536.087(1), RSMo.

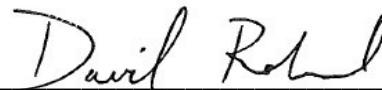
However, this Commission’s own regulations are clear, that while “[a] party may file a complaint for litigation fees and expenses as authorized by law . . . [s]uch complaint shall be a separate contested case.” 1 C.S.R. 15-3.560 (2016). Accordingly, rendering a decision for litigation expenses at this juncture is “premature.” *Bauer*, 2008 Mo. Admin. Hearings LEXIS 287 at 9 (“Our regulations provide that such action shall constitute a separate contested case. Therefore, we deny the request as premature and do not rule on its merits”). Resolution of this case, then, is not contingent upon Petitioner’s request for fees.

CONCLUSION

The Missouri Ethics Commission never had jurisdiction, its theory of the statute is unworkable and would seriously damage its own statute, and an award for fees is unnecessary at this time. Conversely, applying the Ethics Commission’s theory of the case against Mr. Calzone poses significant constitutional questions.

The Ethics Commission’s unjustified actions have caused Petitioner to suffer through investigation and litigation for nearly 18 months. Summary decision is warranted and ought to promptly issue.

Respectfully submitted,



David E. Roland Mo. Bar #60548
FREEDOM CENTER OF MISSOURI
P.O. Box 693
Mexico, MO 65265

Phone: (314) 604-6621
Fax: (314) 720-0989
Email: dave@mofreedom.org

Allen Dickerson*
CENTER FOR COMPETITIVE POLITICS
124 S. West St., Suite 201
Alexandria, VA 22314
Phone: (703) 894-6800
Fax: (703) 894-6811
Email: adickerson@campaignfreedom.org

Counsel for Petitioner

*admitted *pro hac vice*

Dated: March 4, 2016

IN THE ADMINISTRATIVE HEARING COMMISSION


RON CALZONE,)	
Petitioner,)	
vs.)	Case No. 15-1450
)	
MISSOURI ETHICS COMMISSION,)	
Respondent.)	
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PETITIONER’S STIPULATION AS TO RESPONDENT’S EXHIBITS

Petitioner Ron Calzone hereby stipulates as to the admissibility of the following pages from Respondent Missouri Ethics Commission’s (“MEC”)’s Amended Answer filed February 3, 2016. In consideration of this body’s February 5th order “for parties to submit motions for summary decision, which are to be accompanied with admissible evidence” and for the convenience of the Administrative Hearing Commission, Petitioner attaches true and correct copies of those pages hereto as Exhibits A, B, and C respectively. The pages have been Bates stamped for convenience.

1. Pages 1-3 of Respondent’s Exhibit R1 (Official Complaint Form and attached Statement of Facts).
2. Page 35 of Respondent’s Exhibit R1. (Letter from counsel for the Missouri Society of Governmental Consultants accompanying its Complaint).
3. Exhibit 1 to Respondent’s Amended Answer. (Charter of Missouri First, Inc.)

Respectfully submitted,



David E. Roland Mo. Bar #60548
FREEDOM CENTER OF MISSOURI
P.O. Box 693
Mexico, MO 65265
Phone: (314) 604-6621
Fax: (314) 720-0989
Email: dave@mofreedom.org

Allen Dickerson*
CENTER FOR COMPETITIVE POLITICS
124 S. West St., Suite 201
Alexandria, VA 22314
Phone: (703) 894-6800
Fax: (703) 894-6811
Email: adickerson@campaignfreedom.org

Counsel for Petitioner

*admitted *pro hac vice*

Dated: March 4, 2016

EXHIBIT A

Carver & Michael

Gaylin Rich Carver
gaylin@carvermichael.net

712 East Capitol Avenue.
Jefferson City, MO 65101

Michael A. Dallmeyer
mike@carvermichael.net

573-636-4215 (telephone)
573-634-3008 (facsimile)

Sara C. Michael
sara@carvermichael.net

Georganne Wheeler Nixon, P.C.
gcorganne@carvermichael.net

November 4, 2014

Missouri Ethics Commission
PO Box 1370
Jefferson City, MO 65102-1370

Re: Complaint

Dear Sir or Madame:

Enclosed herewith for filing and action by MEC is the complaint, along with supporting Exhibits A-E, against Ron Calzone for violating the requirements imposed on lobbyists by Missouri law that I am submitting on behalf of our client, Missouri Society of Governmental Consultants.

The MSGC is headed by Sam Lickliger, president, and Randy Scherr, secretary, and is organized as a nonpartisan, not for profit entity which supports education, regulation and compliance training for professionals engaged in the profession of serving clients as governmental consultants. Any public or media communications should be directed to MSGC, while any communications or questions from MEC should be directed to the undersigned.

Thank you for your prompt attention to processing and investigating this complaint.

Sincerely,

CARVER & MICHAEL, LLC



Michael A. Dallmeyer
mike@carvermichael.net

MAD/ts



COPY

MISSOURI ETHICS COMMISSION

NOV 04 2014

HAND DELIVERED

EXHIBIT B



OFFICIAL COMPLAINT FORM

Missouri Ethics Commission
PO Box 1370
Jefferson City, MO 65102-1370

- Section 106.957, RSMo states that the Commission shall receive any complaints alleging violations of the provisions of:
1) The requirements imposed on lobbyists by section 105.470 to 105.478;
2) The financial interest disclosure requirements contained in sections 105.483 to 105.492;
3) The campaign finance disclosure requirements contained in chapter 130, RSMo;
4) Any code of conduct promulgated by any department, division or agency of state government, or by state institutions of higher education, or by executive order;
5) The conflict of interest laws contained in sections 105.450 to 105.467 and section 171.181, RSMo; and
6) The provisions of the constitution or state statute or order, ordinance or resolution of any political subdivision relating to the official conduct of officials or employees of the state and political subdivisions.

This complaint shall contain all the facts known to the person bringing the complaint that give rise to the complaint.

This complaint shall be sworn to under penalty of the crime of perjury.

Within 5 days of receipt of this complaint, the Commission will send a copy of this complaint, including the name of the person bringing this complaint, to the person, organization or campaign committee against whom the complaint is brought.

Note: According to Missouri State Law, the Commission shall dismiss any complaint which is frivolous in nature, as lacking any basis in fact or law. Any person who submits a frivolous complaint shall be liable for actual and compensatory damages to the alleged violator for holding the alleged violator before the public in a false light. A finding by the Commission that a complaint is frivolous or without probable cause shall be a public record.

THIS FORM MUST BE RETURNED BY MAIL OR HAND-DELIVERED. FAXED COPIES OR EMAILS WILL NOT BE ACCEPTED.

PART 1 PERSON BRINGING COMPLAINT

NAME: Michael A. Dallmeyer, Attorney DATE OF COMPLAINT: November 4, 2014
ADDRESS: Carver & Michael LLC, 712 East Capitol Ave.
CITY: Jefferson City STATE: MO COUNTY: Cole ZIP: 65101
CONTACT PHONE NUMBER/S: (HOME) (WORK) 573-636-4215 (CELL)
TITLE OF OFFICE HELD OR SOUGHT (IF APPLICABLE): N/A

PART 2 ORGANIZATION OR CAMPAIGN COMMITTEE AND INDIVIDUAL(S) OR POSITION(S) AGAINST WHOM THIS COMPLAINT IS BEING BROUGHT AGAINST

NAME: Ron Calzone
ADDRESS: 33867 Highway E
CITY: Dixon STATE: MO COUNTY: Maries ZIP: 65459
CONTACT PHONE NUMBER/S: (HOME) 573-759-7556 (WORK)
TITLE OF OFFICE HELD OR SOUGHT (IF APPLICABLE): N/A
DATE OF ELECTION (IF APPLICABLE): CHECK ELECTION TYPE (IF APPLICABLE): Primary

VERIFICATION BY OATH OR AFFIRMATION

STATE OF MISSOURI
COUNTY OF Cole

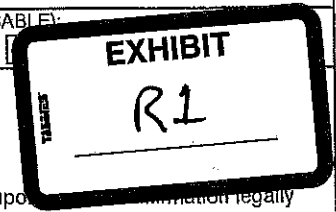
I, Michael A. Dallmeyer, being duly sworn upon affirmation legally administered, certify under penalty of perjury that the foregoing information in this complaint is complete, true, and correct, to the best of my knowledge and belief.

Signature of Complainant: Michael A. Dallmeyer

Subscribed and sworn to before me this 4 day of November, 2014.

Notary Seal: THERESA M. SCHAEFER, Notary Public - Notary Seal, State of Missouri, Commission # 13452968, My Commission Expires: 12-09-2017

Signature of Notary Public: Theresa M. Schaefer



PART: STATEMENT OF FACTS

On Aug. 4, 2000, Ron Calzone incorporated Missouri First, Inc. as a Missouri Non-profit. (Exhibit A) Mr. Calzone has for 14 years presented himself as representing "Missouri First". He has served as President and /or Secretary/Member of the Board for all of those 14 years. (Exhibit B)

Although their website claims they are a not-for-profit and tax exempt (See exhibit C), no Federal 990 Tax Returns can be found.

According to their Charter (Exhibit D) their "Methods of Operation" state that "...legislative lobbying and citizen involvement may be used toinfluence public policy".

Since 2000, Mr. Calzone has continuously and consistently lobbied members of the Missouri General Assembly on issues relating to right to bear arms, common core standards, property rights, and privacy of records. Section 105.473.1 (RSMo.) states "Each lobbyist shall, no later than January fifth of each year or five days after beginning any activity as a lobbyist, file standardized registration forms, verified by a written declaration that it is made under penalties of perjury, along with a filing fee of ten dollars, with the commission". Mr. Calzone has not filed such registration and therefore is in violation of the law.

He has engaged in numerous conversations with legislators including Rep. Doug Funderburk (3/26/2013), Rep. Kurt Bahr (3/27/2013), Sen. Ed Emery (4/10/2013), Rep. Mike Kelley (5/2/2013), Sen. Jay Wasson (5/14/2013), Sen. Ed Emery (3/31/2014), Sen. Brian Nieves, Sen. Jim Lembke, Sen. Will Kraus, and Sen. Kurt Schaefer. In addition he presented collectively to the House Republican Caucus on Sept. 10, 2013.

For several years, Mr. Calzone has constantly worked out of the offices of Sen. Brian Nieves using them as his own "office" in the Capitol.

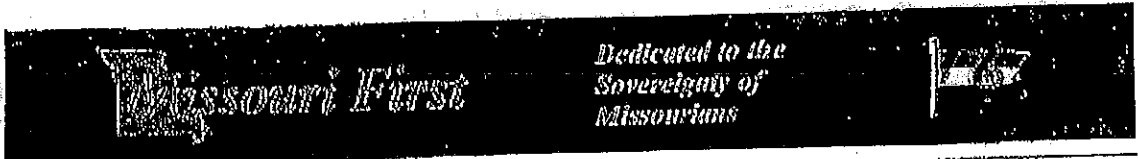
Mr. Calzone has repeatedly appeared before numerous House and Senate committees over the last 14 years in support of or in opposition to many bills relating to the issues listed above. In addition to his personal appearances before committees, Mr. Calzone solicits witness forms from supporters with the expressed purpose of personally delivering them to the committee members. (See Missouri First website pages -Exhibit E)

When testifying he consistently identifies himself as a director of Missouri First, and then declares that he is not a registered lobbyist, and doesn't need to be because he does not get paid.

Because of these activities over the past 14 years, where Mr. Calzone has designated himself to act on behalf of Missouri First, the organization he created, he meets the definition of "legislative Lobbyist" as defined in 105.470 (4)(c) and has for 14 years failed to register as a Lobbyist as required by 105.473. Further section 105.473 .3(1) (RSMo) states the "During any period of time in which a lobbyist continues to act as an executive lobbyist, judicial lobbyist, legislative lobbyist, or elected local government official lobbyist, the lobbyist shall file with the commission on standardized forms prescribed by the commission monthly reports which shall be due at the close of business on the tenth day of the following month." Failure to file such reports subjects the individual to a ten dollar a day late fee. Mr. Calzone has failed to file a monthly lobbyist report for over fourteen years.

EXHIBIT C

Missouri First



Home
Charter
Essays
Projects
MO History
Contact
Join

Ron Calzabe explains what a "constitutional republic" is at the Day of Discovery in Hannibal, MO May 8, 2010.

Eminent Domain - also at the Day of Discovery in Hannibal, MO May 8, 2010.

Conclusion and efforts to preserve the people's reserved power to the petition process.

Dedicated to the Sovereignty of Missourians

EXHIBIT
1

Charter

Statement of Purpose

Because we recognize man's dependence on God, Missouri First concurs with the Missouri State Constitution, which says, *"We the people of Missouri, with profound reverence for the Supreme Ruler of the Universe, and grateful for His goodness, do establish this constitution, for the better government of the state."*

Missouri First recognizes that *"Rugged individualism, buffered by a Godly concern for others"*, is the essence of our state's character. Sovereignty is essential if we are to preserve this character.

Because we recognize that there exists a multiplicity of values, characters, and aspirations among these great united states, as well as the rest of the world, and that not all are congruent with those of Missourians, Missouri First seeks to assert and defend the appropriate sovereignty of Missourians. Missouri First maintains that the people of Missouri retain all rights of sovereignty, except those they have expressly delegated to the Federal Government in accordance with the original intent of the US Constitution of 1787 and the state of Missouri in her Constitution.

Missouri First affirms that Missouri is not a universal state and that mankind has no claim to her; that to be a Missourian is to first love her hills and mountains, fields and forests, streams and rivers, towns and cities, to cherish her history and traditions, and to share common memories with her people. To be a Missourian is to love liberty. Missouri First asserts that these Missourians are the heirs of this land, and they will determine for themselves what course she will take.

Scope of Operation

Because there are issues on the international, national, state, and local levels which can impact the sovereignty of Missourians, there are no particular limits to the scope of operation of Missouri First as long as the issues being dealt with are in compliance with the intent and the spirit of this charter.

Missouri First does not trod the well traveled roads, but rather seeks out the rugged, long forgotten paths which lead back to the founding principles of our land. Consequently, Missouri First prefers to deal with the issues neglected by others, but will work in the areas where it can make the most difference.

Methods of Operation

Missouri First will give priority to educating and mobilizing the public to meet our objectives. Media advertising, public oratory, informational seminars, legislative lobbying, and citizen involvement may be used to teach or to influence public policy. Realizing that our children represent our future, Missouri First will work with public, private, and home

Missouri First

schools.

Missouri First will campaign for legislative and ballot issues, as well as specific candidates who further our stated objectives, but will not lobby or campaign for a particular political party.

Guiding Principles

Whereas:

- This union of states was originally founded upon Christian principles...
- The role of the Federal government is limited to those powers specifically delegated to it by the U.S. Constitution and "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."...
- The Federal Government has entangled the nation in unwholesome international relationships...
- The Federal Government has usurped the sovereign, constitutional rights of the States and individual citizens...
- In an affront to the liberty of Missourians, and in contradiction to the original intent of the Constitution, the Federal Government has directly levied taxes on citizens...
- The State government has usurped the rights of local entities and individual citizens...
- The specific role of state and local governments is to do those things of common interest which can not be done or can not be practically done by individuals. Citizens should be most affected by the governmental body nearest them, since it is most easily held accountable...
- Citizens and businesses are overtaxed, thus inhibiting the proper exercise of individual liberty and responsibility...
- Our ideals and character are being diluted and corrupted...
- The express God-ordained purpose of government is to be "a minister of God to you for good" and to act as "an avenger who brings wrath upon the one who practices evil". (ROM 13:4) Justice is expected by God...

Therefore Missouri First will:

- Teach about the Christian and Constitutional heritage of this nation and dispel the false notions about 'separation of church and state' and the authority of the Federal government over Missouri's handling of religious matters.
- Work against unwholesome international relationships and promote state, local, and individual sovereignty so local residents can establish public policy that promotes local values without interference from outside influences.
- Promote proper application of the Bill of Rights.

Missouri First

- Cultivate a demand for public policy which will promote Missouri First's Goals.

Membership

Membership is available by invitation by the Board to Missourians,

Honorary membership is available to non-Missourians by invitation of the Board.

Special Advisor to the Board affiliation is available to Missourians and non-Missourians by invitation of the Board.

Special Spokesman for the Board status is available by invitation of the Board.

Organization

- Missouri First will be governed by the Board of Directors within the constraints of this charter.
- Normal operational decisions will be decided upon by a simple majority vote, but a conviction objection by one or more board members will nullify the decision.
- Changes to the charter will be only upon unanimous consent of the Board.
- Removal of any Board member may be accomplished by unanimous consent of the remaining Board members.
- Addition of new Board members may be accomplished by unanimous consent of the existing Board members up to a maximum of seven members..
- Removal of any member may be accomplished by unanimous consent of the Board.

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1 (Start time: 9:34 a.m.)

2 P R O C E E D I N G S

3 CHAIR WEEDMAN: Everyone, we are in closed
4 session.

5 Mr. Calzone, I met you earlier, but we're the
6 Missouri Ethics Commission, and you are here with
7 counsel, Mr. Dickerson, and there is Mr. Roland of
8 Mexico and also Mr. Zach Morgan.

9 And so, Mr. Calzone, I assume you've
10 certainly had the opportunity to discuss with your
11 attorneys the purpose of this hearing.

12 MR. CALZONE: I have.

13 CHAIR WEEDMAN: Okay. There is a record
14 being made, so only one person at a time will speak, and
15 the record will be available after the hearing.

16 You've had the opportunity to talk to your
17 counsel, and so any questions you would have would be
18 directed through your counsel.

19 And, Mr. Dickerson, are you primarily going
20 to handle the matter as Mr. Calzone's attorney?

21 MR. DICKERSON: I will.

22 There is some preliminary question as to
23 whether the Commission has opted to approve my
24 pro hac vice motion.

25 CHAIR WEEDMAN: We have.

1 MR. DICKERSON: Excellent.

2 CHAIR WEEDMAN: We approve your motion to
3 appear and welcome you from Virginia.

4 MR. DICKERSON: Thank you, sir.

5 CHAIR WEEDMAN: The procedure is that
6 Mr. Curt Stokes, as the counsel, will present evidence.
7 You will be allowed to cross-examine any witnesses and
8 question evidence and then you may present evidence.

9 Objections should be made as you would under
10 any other court case. We will attempt to follow rules
11 of evidence and rules of civil procedure.

12 And for the record I would like the Ethics
13 Commission counsel to state your name.

14 MR. STOKES: Yes. My name is Curt Stokes,
15 and with me is Paralegal Melissa Johnson.

16 CHAIR WEEDMAN: I would also note that there
17 is Ethics Commission staff.

18 And, James, would you recite the members of
19 the staff that are present at the hearing.

20 MR. KLAHR: Yes, Chairman Weedman.

21 For the record staff present at the hearing
22 are James Klahr, K-l-a-h-r, Executive Director; Stacey
23 Heislen, H-e-i-s-l-e-n, Assistant Director; Liz Ziegler,
24 Z-i-e-g-l-e-r, General Counsel; Ron Getty, G-e-t-t-y,
25 Senior Investigator. Those are the staff present from

1 the Commission.

2 CHAIR WEEDMAN: Okay. And would the
3 Respondent and counsel state for the record their names.

4 MR. DICKERSON: Of course.

5 MR. CALZONE: My name is Ron Calzone.

6 CHAIR WEEDMAN: Okay.

7 MR. DICKERSON: Allen Dickerson, with the
8 Center for Competitive Politics, D-i-c-k-e-r-s-o-n. I'm
9 joined by Zachary Morgan also of my office and Dave
10 Roland of the Freedom Center of Missouri.

11 CHAIR WEEDMAN: Okay. Mr. Calzone, you
12 understand the purpose of the hearing is a Complaint has
13 been filed against you alleging violations of Missouri
14 law.

15 And the burden is on Mr. Stokes here to prove
16 his case, and we're acting as hearing officers to hear
17 it, and we'll take what you and your lawyers present
18 into consideration.

19 So let's talk about any preliminary matters,
20 any motions that have been filed, before we hear any
21 evidence.

22 Mr. Stokes, do you have any preliminary
23 matters that you want to address?

24 MR. STOKES: Very briefly, Commissioner.

25 I just want to put on file the Missouri

1 Ethics Commission's response to the Respondent Calzone's
2 Motion to Dismiss.

3 Just to summarize it, we feel that
4 Section 105.961 of the Revised Statutes of Missouri
5 states that the Missouri Ethics Commission after finding
6 reasonable grounds to refer a case for a hearing, quote,
7 shall hold a hearing.

8 So the statutes and the Missouri rules -- I'm
9 sorry -- the Missouri Ethics Commission's rules
10 regarding procedure don't really provide for a motion
11 for any decision on the pleadings or for a summary
12 decision. We have to hold a hearing.

13 There is also -- just as a side matter, there
14 are some constitutional arguments raised in the Motion
15 to Dismiss, and we have a note in there stating that
16 Missouri administrative agencies have no authority or
17 power to rule on the constitutionality of Missouri
18 statutes. That is something that can and should be
19 reserved for the Missouri circuit court.

20 CHAIR WEEDMAN: Okay. Mr. Dickerson, any
21 matters that you would like to raise prior to the
22 presentation of evidence?

23 MR. DICKERSON: Well, I'm pleased to know
24 that the Commission received our motion.

25 CHAIR WEEDMAN: Yes.

1 MR. DICKERSON: I hope you had a chance to
2 review it. I appreciate this opportunity to review the
3 Commission's blessedly brief response.

4 I think our response would be twofold. One
5 is true, there is no specific provision on entertaining
6 motions to dismiss, but it is suggested that the usual
7 rules of civil procedure will be applied where they are
8 appropriate.

9 And such motions are I think especially
10 appropriate in a case such as this, where the
11 Commission's evidence is from the face of the Complaint
12 clearly unsatisfactory and arguably a violation of due
13 process rights.

14 In addition, I do understand the rules of
15 this Commission to permit briefing either at or
16 following a hearing, and so I would ask to the extent
17 the Commission does not choose to rule on the motion in
18 advance of hearing evidence, that it be considered as
19 our briefing on the merits, as well as our briefing of
20 certain evidentiary objections, you know,
21 contemporaneously and following this hearing.

22 CHAIR WEEDMAN: Okay. Mr. Dickerson, I
23 assume you understand that we as a commission do not
24 rule on constitutional issues.

25 MR. DICKERSON: I do understand that. I also

1 understand it is my duty to preserve such issues.

2 CHAIR WEEDMAN: I believe you have adequately
3 preserved same through your Motion to Dismiss, and your
4 Motion to Dismiss is overruled, and we will proceed to
5 hear the case.

6 So is there any other preliminary matter
7 other than your Motion to Dismiss, Mr. Dickerson?

8 MR. DICKERSON: Not at this time, sir.

9 CHAIR WEEDMAN: Okay.

10 Mr. Stokes, you may proceed.

11 MR. STOKES: Thank you, Commissioner.

12 I'd like to proceed with just brief
13 introductory remarks, an opening.

14 This is the case of Missouri Ethics
15 Commission versus Ron Calzone.

16 The Ethics Commission will be -- alleges and
17 intends to prove that Mr. Calzone was designated by a
18 nonprofit corporation in the name of Missouri First,
19 Inc. to act as a lobbyist on behalf of Missouri First,
20 Inc. and its constituent members.

21 The statute governing Missouri lobbyists
22 reads as -- under 105.473 requires anyone who meets the
23 definition of a lobbyist to do three things.

24 They register with the Missouri Ethics
25 Commission as a lobbyist. They identify their lobbyist

1 principal or the person or corporation on whose behalf
2 they are acting. They have to file monthly expenditure
3 reports disclosing any expenditures to or on behalf of
4 Missouri legislators, Missouri legislator staff or
5 Missouri legislator family members.

6 Finally, the statute requires legislative
7 principals either on their own or through their
8 registered lobbyist to file something called a lobbyist
9 principal report.

10 And that's just a one-page piece of paper
11 that says we, you know, as Missouri First, Inc. support
12 the following types of legislation, we oppose the
13 following types of legislation. That's filed twice
14 during each legislative session. The first one comes in
15 March. The second one comes in May.

16 And the definition of lobbyist is any natural
17 person who acts for the purpose of attempting to
18 influence legislation or proposed or potential
19 legislation.

20 And in connection with that, there is four
21 definitions, and if any individual meets any of those
22 four, they have to register as a lobbyist.

23 The first two have to do with employment or
24 being contracted as a lobbyist. We're not going to get
25 into those. The fourth one has to do with spending

1 money in excess of \$50 to or on behalf of Missouri
2 legislators. We're not going to get into that.

3 The provision that we want and we'll be
4 focusing on today is the designated act as a lobbyist by
5 any nonprofit corporation.

6 And here the nonprofit corporation that we'll
7 be talking about is Missouri First, Inc., and the person
8 designated to act is Mr. Ron Calzone.

9 More detail on Mr. Calzone.

10 Mr. Calzone formed Missouri First
11 approximately 15 years ago. He filed Articles of
12 Organization for a nonprofit corporation with the
13 Missouri Secretary of State. He is a registered agent.
14 His home address is the registered office. He was an
15 incorporator of the corporation.

16 And as of the most recent biennial report,
17 Mr. Calzone is the only officer. He's actually both the
18 president and the secretary. There are no other
19 officers identified on their statement -- or their
20 biennial registration report. He is also one of three
21 members of the Board of Directors, and he is still the
22 registered agent.

23 So Mr. Calzone really has supervision
24 authority over Mr. -- over Missouri First as reflected
25 in the biennial registration report.

1 Evidence will also show that Missouri First
2 has a Charter. They put this online.

3 The methods of operation for the Charter read
4 Missouri First will give priority to education --
5 educating and mobilizing the public.

6 It goes on to say that legislative lobbying
7 may be used to teach or to influence public policy.

8 Legislative lobbying is used specifically in
9 the Charter as a purpose and a method of operation for
10 Missouri First, Inc.

11 Missouri First, Inc. also on their website
12 invites members to join.

13 It says, why join? They say, by joining
14 Missouri First you place your name and influence on the
15 right side of issues affecting Missourians.

16 The old saying, quote, there is strength in
17 numbers, end quote, holds true especially when lobbying
18 Missouri House and Senate members.

19 You may be certain that Missouri First is
20 working hard to represent your values and the issues
21 that touch your life.

22 It goes on to say that when you fill out the
23 form, that Missouri First asks this form to be
24 completed, that they may use -- better keep the members
25 informed on Missouri issues and to bolster our -- and in

1 brackets he puts your, end brackets, clout when fighting
2 the war for sovereignty.

3 Right above the form that you can fill out on
4 the website it says, please use the name and address for
5 which you are registered to vote. That will allow us to
6 look up your legislative districts and keep you informed
7 about your own State rep and senator.

8 Now, when we talk about who is required to
9 register, the registration form is on the Missouri
10 Ethics website. It's a two-page form.

11 You just identify your contact information,
12 including your e-mail, and Part -- and under Part 3 you
13 identify the name, address and phone number of any
14 lobbyist principal.

15 And the form specifies that the lobbyist
16 principal is any person, business entity, nonprofit
17 corporation by whom you are employed or in whose
18 interest you appear.

19 And so Missouri's registration form is pretty
20 clear on how to identify your lobbyist principal. It's
21 a nonprofit on whose behalf you appear.

22 And we'll come back to that when we talk
23 about what Mr. Calzone says in the Missouri Senate and
24 the Missouri House.

25 The monthly expenditure reports -- oh, I

1 apologize. You'll also hear from the Secretary of the
2 Missouri Society of Governmental Consultants, who will
3 testify that not all lobbyists are paid by a lobbyist
4 principal that they identify.

5 A lot of them will take on a pro bono or free
6 client, and they still identify the nonprofit
7 corporation or entity as a lobbyist principal, even
8 though they're not necessarily paid by that entity.

9 We'll also talk about the monthly lobbyist
10 expenditure reports. And it's not necessarily the case
11 that lobbyists spend money on legislators.

12 In fact, you'll hear from Missouri Ethic
13 Commission's Business Services Director that supervised
14 a query of our monthly database report and found that
15 for legislative session 2014, between January and May of
16 2014, the number of nonexpenditure reports were between
17 822 and 850 reports.

18 Meanwhile only --

19 MR. DICKERSON: Commissioner, I have to
20 object. I mean, this is an opening statement, and it is
21 assuming an enormous amount of information as evidence
22 that's it's now being directed to.

23 CHAIR WEEDMAN: Mr. Stokes, is there any
24 agreement between you and Mr. Dickerson as to the
25 admission of many of the documents you are putting on

1 the screen in opening statement?

2 MR. STOKES: No. We're intending these as
3 demonstrative exhibits, as visual aids, for purposes of
4 opening.

5 We'd request a little bit of leeway. It's
6 very easy to lay the foundation for this. It's really a
7 preview of what the testimony will be.

8 CHAIR WEEDMAN: Well, why don't you not show
9 us exhibits on the screen.

10 MR. STOKES: Okay.

11 CHAIR WEEDMAN: You may mention what you
12 intend the evidence to be or the documents to be, and
13 Mr. Dickerson's objection is well taken.

14 And so proceed with your opening statement.

15 MR. STOKES: Okay. Let me turn this off real
16 quick.

17 There we go.

18 The Missouri Ethics Commission Business
19 Services Director will testify that approximately
20 850 lobbyists filed no expenditure reports every month
21 during the legislative session in 2014/2015, compared
22 with about 120 to 150 lobbyists who filed an expenditure
23 report. So over 80 percent of our lobbyists file no
24 expenditure report.

25 The other thing -- the other report that we

1 talk about is the list of principals and legislative
2 action. It's a very simple, like I said, one-page
3 report. You identify who the lobbyist principal is,
4 what types of legislation they support and what types of
5 legislation they oppose.

6 So what it really gets down to is did
7 Missouri First, Inc. designate Mr. Calzone to act as a
8 lobbyist on behalf of Missouri First?

9 Now, when you think about it, what does it
10 take to designate somebody?

11 We will ask the Commission to take official
12 notice of the Merriam Webster's Third New International
13 Dictionary definition of designate. That dictionary is
14 the institutional dictionary of choice for the Missouri
15 Supreme Court.

16 We'll talk about -- we'll have you read that
17 definition during the hearing.

18 The purpose of designate in the statute we
19 believe is authorize, that Missouri First authorizes
20 Mr. Calzone to act.

21 The evidence will show that Mr. Calzone
22 appeared in the Missouri Capitol not just in legislative
23 committee hearings but meeting with individual
24 legislators, meeting with legislative staff, meeting
25 with other legislative -- other legislative groups, and

1 talking about not only specific legislation but public
2 policy, potential legislation, things that should be
3 passed, things that should be blocked.

4 You'll see specific documentation showing a
5 witness form in the Missouri Senate where Mr. Calzone
6 identifies himself as appearing on behalf -- not of
7 himself but appearing on behalf of Missouri First, Inc.

8 When he signed that and said I'm appearing on
9 behalf of Missouri First, Inc., he was the only officer
10 for Missouri First, Inc. He was the president and he
11 was the secretary.

12 So as president and secretary he was saying
13 I'm appearing here and I'm not appearing here on my
14 personal behalf. I'm appearing on behalf of my
15 nonprofit corporation, Missouri First. We believe that
16 that act alone shows designation.

17 When the president of a nonprofit corporation
18 and the secretary of a nonprofit corporation says appear
19 before the Missouri House and Missouri Senate to
20 represent the interests of Missouri First, Inc., that's
21 authorizing. That's designating.

22 We'll also see that Mr. Calzone invites
23 people on the website to fill out witness forms, which
24 he then prints and collects.

25 And when he puts those out, you'll actually

1 see that it's not just picking up some forms from other
2 witnesses and delivering it to the Missouri House or the
3 Missouri Senate. You'll actually see a cover page on
4 top of that which shows a map of where each individual
5 signed that, and it has little points showing where each
6 individual is from that submitted that witness form.

7 With that it will say -- you know, one
8 example shows over 378 people oppose House Bill 1869,
9 one supported it.

10 So it's not just taking something from a
11 third-party witness and presenting it. It is using the
12 Missouri First website and the link it provides called
13 libertystool.org to collect information and help -- to
14 use that to help bolster the position of Missouri First,
15 Inc. before the Missouri Legislature to try to pass
16 and/or block legislation pending before the Missouri
17 General Assembly.

18 You will see finally that our investigator
19 did rec-- the Missouri Ethics Commission received a
20 Complaint. It was signed by a natural person. It was
21 attested to by a notary public with a current notary,
22 and that the investigator talked with the Missouri
23 Senate, gathered Senate documents that were presented to
24 legislative committee hearings and Missouri House
25 committee hearing documents.

1 You'll see kind of the totality of everything
2 that the investigator looked at, and we think that when
3 you look at the facts as a whole, you will see that
4 Mr. Calzone was acting to influence legislation.

5 He was doing more than just testifying in
6 hearings. He was meeting with -- he was meeting with
7 legislators individually, and he was doing so on behalf
8 of Missouri First, Inc. when he as president and
9 secretary of Missouri First, Inc. had authorized him and
10 designated him to do so.

11 And for that reason we ask that the Missouri
12 Ethics Commission order Mr. Calzone to register as a
13 lobbyist, to cease and desist from acting on behalf of
14 Missouri First, Inc. until he registers and to assess
15 any appropriate fee under Section 105.961.

16 CHAIR WEEDMAN: Thank you, Mr. Stokes.

17 COMMISSIONER MUNICH: May I ask a question,
18 Mr. Chairman?

19 CHAIR WEEDMAN: You may.

20 COMMISSIONER MUNICH: Mr. Stokes, do you
21 anticipate that there will be any evidence regarding the
22 membership of a third party, in which are there actual
23 members and do we know how many?

24 MR. STOKES: We can get into that.

25 COMMISSIONER MUNICH: Okay. But you intend

1 to address that?

2 MR. STOKES: Yes.

3 CHAIR WEEDMAN: Mr. Dickerson, would you like
4 to make an opening statement?

5 MR. DICKERSON: I'd appreciate that. Thank
6 you, sir.

7 Defending this case is like fighting smoke.
8 I mean, it's difficult because, as you're aware, the
9 purpose of the Complaint filed by a governmental agency
10 is to give notice to the accused precisely what theory
11 of the case is being used by the State.

12 Civil or criminal, this is a situation where
13 the accused is being asked to appear under coercion
14 before the State and is frankly not being given an
15 opportunity to understand in advance precisely what the
16 State's theory is, for reasons we gave in our Motion to
17 Dismiss.

18 The evidence that was actually served and
19 given notice of is entirely irrelevant. Missouri
20 statute specifically states that testimony before the
21 General Assembly or any of its committees is not
22 lobbying, full stop.

23 Exhibits thereto, witness forms, et cetera,
24 none of that is relevant and none of that can serve as
25 the basis for -- as a lobbyist.

1 Similarly, statements made on websites or
2 electronic newsletters, those are specifically exempted
3 by the statute from the definition of lobbying.

4 And those are, you know, Missouri -- Missouri
5 Statute 105.470(5)(d) as in Delta, and then Subsection B
6 as in bravo and D as delta.

7 That is what we were provided. We were
8 provided no witness list. We were provided no -- this
9 theory that Mr. Calzone designated himself, which is a
10 contradiction of both logic and grammar, is entirely new
11 to us.

12 And so I would just like to put on the record
13 that there's a significant problem of due process in
14 springing any theory of the case at a live hearing
15 without advance notice of witnesses upon an accused
16 under these circumstances.

17 That being said, the difficulty here is, as
18 my friend at the bar appropriately said, you know,
19 whether or not Mr. Calzone was designated.

20 And I'm reminded of, you know, Abraham
21 Lincoln was in the House of Representatives when the
22 Mexican-American War started. And he -- the President
23 of the United States at that point, Polk, had said, you
24 know, an American -- American troops were killed on
25 American soil and, therefore, we have to go to war.

1 And Lincoln famously introduced this thing
2 called the spot resolution, which was, fine. Show us
3 the spot. Prove to us it was on American territory.
4 Show us the act that actually made the act of war.

5 And that's the situation here. The
6 Commission has amassed this smoke screen of completely
7 irrelevant facts.

8 And instead of pointing to a specific act, a
9 specific moment at which Missouri First, Incorporated
10 entity with its own bylaws and rules specifically
11 designated Mr. Calzone as a lobbyist, instead it points
12 to this totality of circumstances, most of which is not
13 even admissible evidence, to suggest that at some point
14 along the line he was designated.

15 And there's a lot of problems with that. I
16 mean, first there's the constitutional objection, which
17 I understand is the province of general jurisdiction and
18 not of this Commission. But that is a serious problem
19 there.

20 We don't know who members of Missouri First
21 are, at least I've been served with no information that
22 we know who. We don't know the testimony -- the
23 testimony that's been provided, first of all, is
24 irrelevant. Second of all, as my friend noted, it's
25 contradictory.

1 How can you be designated by people taking
2 different positions on the same legislation?

3 These are the sort of things that simply
4 aren't providing adequate notice of what designation
5 means.

6 And finally, I think there is a fundamental
7 misreading of the statute. Even if one doesn't want to
8 get into the constitutional question of vagueness,
9 overbreadth and underbreadth, in the statute, this idea
10 that designate means someone who is not compensated I
11 don't think flows from the statutory language itself.

12 The section that says you're designated does
13 not say you're doing it pro bono or you're doing it not
14 for pay, and the section that says you have to have a
15 lobbyist principal specifically says that the lobbyist
16 principal is compensated.

17 There is no provision in the definition of a
18 lobbyist principal for pro bono action. None. And
19 those things taken together I would suggest show that
20 this is being very deeply misread.

21 There is no need to drive full force into a
22 major constitutional controversy here. It's enough to
23 say the State has not proven a single act which
24 specifically designated Mr. Calzone, and that should be
25 the end of the matter.

1 CHAIR WEEDMAN: Thank you.

2 Mr. Stokes, you may proceed with evidence.

3 MR. STOKES: Okay. I'd actually like to
4 rebut some of the legal argument that was made there.

5 I would draw the Commission's attention to
6 Section 105.470, Subsection 5, the definition of
7 legislative lobbyist. That statute was --

8 CHAIR WEEDMAN: That is page 12?

9 MR. STOKES: It's actually page 12 of the
10 legislative book.

11 The statute was described as listing, quote,
12 exemptions. I believe the word that Respondent used was
13 exemptions from lobbying. That's not what the statute
14 says.

15 The statute says a legislative -- the
16 following actions shall not constitute lobbying solely
17 due to -- I'm sorry.

18 Legislative lobbyists shall not include any
19 member -- any other person solely due to such person's
20 participation in any of the following activities.

21 That means these activities are relevant to
22 whether or not you are a lobbyist. It's just that we
23 have to prove one of those things, plus something else.

24 Conspicuously absent from that list is
25 meeting one on one with legislators in their offices,

1 meeting one on one with legislators one on one in a
2 hallway.

3 I can tell you that if the Ethics Commission
4 were to adopt Respondent's proposed construction of this
5 statute, the first thing that every registered lobbyist
6 is going to do is go down and testify in front of a
7 committee and say, oh, I testified in front of a
8 committee. I'm not a lobbyist anymore. I don't want to
9 register.

10 Or they're going to go and they're going
11 to file -- they're going to publish a newsletter and
12 say, look, I published a newsletter. I don't have to
13 register as a lobbyist anymore.

14 So it's kind of a -- it's a misreading of the
15 statute to say that's a list of exemptions. It's just
16 saying that we have to rely on more than the following
17 activities to prove that Mr. Calzone is a lobbyist, and
18 we intend to do that.

19 CHAIR WEEDMAN: Mr. Stokes, proceed with
20 evidence.

21 MR. STOKES: Thank you.

22 The first thing I'll ask the Commission to do
23 is to take official notice of the Ethic Commission's
24 investigative report. That is Exhibit 1.

25 And you should have a copy of Exhibit 1 in

1 front of you. That is -- that is both an official
2 record that we're asking you to take official notice of,
3 and it's also supported by the business record affidavit
4 of the Missouri Ethics Commission's Executive Director
5 and custodian of records.

6 CHAIR WEEDMAN: Mr. Dickerson, have you had
7 the opportunity to look at Exhibit 1?

8 MR. DICKERSON: I think I have at one point
9 but it was not numbered as such at the time, so if you'd
10 give me just a moment.

11 CHAIR WEEDMAN: Certainly.

12 Mr. Stokes, I realize you have the affidavit
13 from the custodian of records --

14 MR. STOKES: Yes.

15 CHAIR WEEDMAN: -- but as to the content of
16 the report, is it your intention to call Della Luaders
17 to testify and be cross-examined over this.

18 MR. STOKES: Yes. Yes. She will be our
19 second witness.

20 MR. DICKERSON: In that case I'd like to
21 object to the report itself until that time as the
22 testimony occurs.

23 CHAIR WEEDMAN: You may offer it after Della
24 testifies.

25 MR. STOKES: I will do that, Commissioner.

1 The next thing I'd like to offer has been
2 marked as Exhibit 2. These are the business records of
3 the Missouri House of Representatives as preserved and
4 maintained pursuant to Missouri statute by the Missouri
5 Secretary of State.

6 The Secretary of State's certification of the
7 records is the first page of Exhibit 2.

8 Yes. So actually there's -- the first two
9 pages are the certifications.

10 So we have -- the first one is for the 2014
11 legislative documents. The second page is for the 2010
12 legislative documents.

13 CHAIR WEEDMAN: And, Mr. Stokes, I assume
14 that the Ethics Commission investigator refers to such
15 documents in her investigative report?

16 MR. STOKES: Yes. But these documents as
17 official State of Missouri documents, the Commission can
18 take official notice of them and admit them into
19 evidence.

20 CHAIR WEEDMAN: I understand.

21 Mr. Dickerson, do you have objection to --

22 MR. DICKERSON: I do not object to
23 authenticity. I do object on relevance, for the simple
24 reason that all of this is activity occurring before
25 legislative committees of the General Assembly for the

1 reasons that I've already stated, both irrelevant and
2 prejudicial.

3 CHAIR WEEDMAN: Well, we'll hold your
4 objection in abeyance until we've heard from the
5 investigator about these records that Mr. Stokes offers.

6 MR. DICKERSON: Thank you, sir.

7 CHAIR WEEDMAN: Okay.

8 MR. STOKES: The next exhibit we'd like to
9 admit is marked Exhibit 3. These are the official
10 records of the Missouri State Senate attested to by the
11 Secretary of the Senate. That is the first page --
12 first and third page -- I apologize -- of Exhibit 3, and
13 we ask that the Commission take official notice of these
14 documents as well.

15 CHAIR WEEDMAN: And like Exhibit 2, I assume
16 the staff investigator refers to such documents in her
17 investigative report?

18 MR. STOKES: That's correct.

19 CHAIR WEEDMAN: Mr. Dickerson, we'll hold any
20 objection --

21 MR. DICKERSON: Same objection.

22 CHAIR WEEDMAN: -- you may have in abeyance
23 until we've heard from the investigator.

24 MR. STOKES: The last thing we'd like to
25 admit is Exhibit 4. These are the certified

1 registration reports, the biennial registration reports,
2 and Articles of Incorporation for Missouri First from
3 the Missouri Secretary of State's Office.

4 CHAIR WEEDMAN: Mr. Dickerson, any objection
5 to your client's Secretary of State records?

6 MR. DICKERSON: No objection, sir.

7 CHAIR WEEDMAN: Okay.

8 So Exhibit 4 is admitted.

9 (EXHIBIT NO. 4 WAS RECEIVED INTO EVIDENCE.)

10 MR. STOKES: Okay. The first witness I'd
11 like to call is Randy Scherr.

12 CHAIR WEEDMAN: Okay.

13 MR. DICKERSON: And just to put it on the
14 record, I do object to the inclusion of this witness
15 without notice.

16 MR. STOKES: I would respond that Mr. Scherr
17 was interviewed -- well, first I'd like to note that no
18 request for witnesses were ever made.

19 Second, I'd like to note that the interview
20 summary for Mr. Scherr was provided with the
21 investigation report to Respondent months ago, and
22 they've actually seen everything in Mr. Scherr's
23 interview notice -- or interview in that investigative
24 report, and it's been in Respondent's possession for
25 several months now.

1 CHAIR WEEDMAN: So noted, and your objection
2 is for the record.

3 Mr. Scherr --

4 MR. SCHERR: Yes, sir.

5 CHAIR WEEDMAN: -- welcome.

6 MR. SCHERR: Thank you.

7 CHAIR WEEDMAN: Come forward and you're going
8 to testify, and if you'd raise your right hand.

9 (Witness sworn.)

10 CHAIR WEEDMAN: Have a seat.

11 Would you please state and spell your name
12 for the court reporter.

13 These proceedings are being recorded and will
14 be typed up in a transcript, and so only one person can
15 talk at a time so that the court reporter can take down
16 the questions and the answers.

17 So if you would start with your name and
18 address for the court reporter.

19 MR. SCHERR: Randy Scherr, S-c-h-e-r-r. I
20 live at 120 East High Street, Jefferson City, Missouri
21 65101.

22 CHAIR WEEDMAN: Okay. Mr. Stokes, proceed.

23 DIRECT EXAMINATION

24 BY MR. STOKES:

25 Q. Thank you, Mr. Scherr, for coming in this

1 morning.

2 Can you tell us a little about yourself and
3 your lobbying?

4 A. Sure.

5 I've been lobbying for about 38 years. I
6 started out with a corporation, lobbied for four years
7 there, and then I started the first of my two lobbying
8 firms in 1981, and my second firm, oh, about 12 or
9 15 years ago. So I've been lobbying full time since
10 1977.

11 Q. Okay. And can you give us just a brief
12 educational background?

13 A. I have two degrees in political science, one
14 from MU and one from Lincoln University.

15 Q. Okay. So the two degrees, is that a
16 bachelor's and a master's?

17 A. A bachelor's and master's, yes, sir.

18 Q. Okay. Are you a member of any professional
19 organizations related to lobbying?

20 A. I am. There is a statewide organization
21 called Missouri Society of Governmental Consultants,
22 which was created in about 1989, 1990 in preparation for
23 the -- what is now the core of the current statute on
24 lobbyist reporting.

25 And that was created at that time to provide

1 information to the legislators on compliance and
2 recordkeeping and things that would be helpful for both
3 sides, both the Ethics Commission and the lobbyists, on
4 how to comply.

5 That organization has grown. I currently
6 serve on -- I've been on the Board for about 15 years.
7 I served as president for two or three years, and I'm
8 now serving as secretary of that organization. I've
9 been secretary now for about seven years.

10 Q. Okay. And you've been subpoenaed here today
11 in your capacity as secretary of the organization?

12 A. That is correct.

13 Q. Are you familiar with the lobbyist
14 registration process through the Missouri Ethics
15 Commission?

16 A. Fairly familiar with it, yes.

17 Q. So you've been registered with the Missouri
18 Ethics Commission since the Missouri Ethics Commission
19 was formed in the mid 1990s?

20 A. Since the registration was formed -- was
21 required, yes, sir.

22 Q. Okay. And about how long does it take you to
23 actually register every year?

24 A. Well, the registration is required at the
25 beginning of the year. The annual requirement now

1 takes, oh, I'd say a minute or two. You go on and you
2 simply renew -- enter your credit card number, pay your
3 \$10 --- or \$11 I think. It takes maybe two minutes,
4 three minutes to register for that registration.

5 And then there are two -- as you well know,
6 there are two other reporting requirements. One is the
7 expenditure reporting and one is the principal
8 reporting.

9 **Q. Okay. Going back to the registration**
10 **process. You had mentioned that the fee is \$10?**

11 A. I think it's \$10 --

12 MR. DICKERSON: Objection, leading.

13 CHAIR WEEDMAN: Mr. Stokes, let Mr. Scherr
14 tell us.

15 THE WITNESS: I'm sorry.

16 Repeat the question.

17 BY MR. STOKES:

18 **Q. What is the registration fee?**

19 A. I think it's \$10, plus a dollar for the
20 credit card transaction. I think it's \$11.

21 **Q. And let's walk through that actual**
22 **registration process.**

23 **When you identify the lobbyist principals on**
24 **that report, how do you identify them?**

25 A. Well, the registration is actually for the

1 lobbyist, and that's what we have to renew every year.
2 But within that, as you -- as you register for a client,
3 as we add those clients, those are -- those are
4 continued through the Commission's lobbyist
5 registration.

6 So what we do in that January report is just
7 renew our registration as Randy Scherr as a lobbyist,
8 but my principals are continued to be listed, and then
9 if we -- if we pick up a new client or we lose a client
10 or finish business with a client, we want to deregister.
11 That is another -- that is a step that we take
12 throughout the year.

13 We pick up a new client on May 1st. We
14 register that. We're required to register within five
15 days of beginning any action on behalf of that client.
16 So we do that.

17 And if we end any business with a client,
18 then we just simply go in and delete. And each of those
19 take, you know, a minimal amount of time.

20 I mean, one, you have to add the principal
21 name, address, contact number, so simply putting an
22 address in there and hitting add.

23 Deleting is much simpler. You simply go to
24 the -- you go to the drop-down list on your principals,
25 which are all under your registration. You click on --

1 you go to the delete screen and then you click delete --
2 or you mark the one -- click the one you want to delete
3 and then hit delete and it's gone. It's actually much
4 faster than the simple registration of putting in the
5 address.

6 **Q. Okay. When you're bringing on a new client,**
7 **do all of your clients actually pay you?**

8 A. No.

9 **Q. If you have a client who is not paying you,**
10 **do you still feel obligated -- do you still report them**
11 **as a lobbyist principal?**

12 A. Yes. We're required to. I think -- I think
13 we're required to --

14 MR. DICKERSON: Objection, opinion.

15 CHAIR WEEDMAN: Overruled.

16 THE WITNESS: We have clients that we are --
17 that we do pro bono work for, and because we are in the
18 Capitol speaking on their behalf and advocating on their
19 behalf and using them as the basis of some positions
20 that they want advocated, our position is we are
21 required to register on behalf of those clients, those
22 principals.

23 BY MR. STOKES:

24 **Q. That's your understanding?**

25 A. Yes.

1 **Q. As you understand it through your years of**
2 **experience and through the Missouri Society of**
3 **Governmental Consultants, is it your understanding that**
4 **that is common practice throughout the lobbying**
5 **community, to identify clients that are not paying the**
6 **lobbyist?**

7 MR. DICKERSON: Again, Commissioner, this is
8 coming awful close to expert testimony.

9 MR. STOKES: I think we can qualify him as an
10 expert. He has 38 years of experience, a master's
11 degree in political science, and he's the secretary of
12 the Missouri Society of --

13 MR. DICKERSON: An expert for what purposes?

14 MR. STOKES: For the common business
15 practices in the lobbying community.

16 CHAIR WEEDMAN: We'll take his testimony for
17 what it may be worth based upon his experience in the
18 Missouri Legislature.

19 BY MR. STOKES:

20 **Q. And I apologize. I'll ask again.**
21 **Is it your understanding in the lobbying**
22 **community, both through your years of experience and**
23 **through your service to the Missouri Society of**
24 **Governmental Consultants, that it's common for lobbyists**
25 **to identify corporations -- nonprofit corporations and**

1 **other entities even though they're not necessarily being**
2 **paid?**

3 A. It is my opinion that, yes, they do that.
4 We know several lobbyists that do that, and I
5 think most of us feel that it's not only required but
6 it's beneficial.

7 **Q. And how is it beneficial?**

8 A. Well, if you -- let's take, for instance, the
9 group that -- the one group that we have that we do
10 pro bono work is Head Start. And certainly those are --
11 that's an organization that we -- we have internalized.
12 We feel -- we're very supportive of that group, and we
13 register on their behalf and we advocate on their behalf
14 in the Capitol.

15 **Q. But they don't pay you?**

16 A. No.

17 **Q. Okay. And you have them identified on your**
18 **list of lobbying?**

19 A. Yes.

20 **Q. Next I'm going to ask about the lobbyist**
21 **expenditure reports. You said you file those once per**
22 **month. About how long does it take you to file that**
23 **report?**

24 A. Well, that depends on, you know, the month
25 obviously and the amount of expenditures and -- or

1 whether you have no expenditures.

2 I kind of anticipated that question.

3 So in a month during legislative session or
4 where there's maybe significant contact and if you have
5 expenditures, it may take -- you know, it may take 15 or
6 20 minutes, obviously depending on, you know, the amount
7 of your expenditures and whether they're broken out
8 between group expenditures, committee expenditures or
9 individual expenditures. It may take 15 minutes,
10 20 minutes if you have expenditures.

11 Just a footnote. I mean, that's
12 substantially better than it was -- what it was in 1990,
13 or prior to 1990 with the new law. It would take seven
14 or eight hours to do it.

15 So today's system, with the computerized
16 system, that's about what it takes in an average month
17 if you have expenditures. If you don't have
18 expenditures, it is significantly less.

19 I kind of anticipated that question because
20 of -- kind of where I thought it might go.

21 I filed my August report on September 1st,
22 which was two days ago, and I timed it from entering
23 the -- from entering the website, logging in, filing a
24 no expenditure report for the month, clicking on the
25 send confirmation and printing off my printed copy. It

1 took a minute and twenty-one seconds.

2 Q. Okay. Now, you said that your August was a
3 no expenditure report?

4 A. No expenditures.

5 Q. Do you find that a lot of lobbyists file no
6 expenditure reports?

7 A. You know, I don't go into very many
8 lobbyists' expenditure reports. I don't look at them.
9 So I don't know -- I wouldn't know.

10 Q. Okay. Now, the final report I want to ask
11 about is the lobbyist principal report.

12 A. Yes, sir.

13 Q. Can you tell us how you fill those out?

14 A. Well, the lobbyist principal report is
15 required to be filed by either the lobbyist or the
16 principal. The law requires one to be filed for every
17 principal, and either the lobbyist or the principal can
18 do that.

19 Our practice is that we file it for all of
20 our clients. Regardless of whether they want to file it
21 on their own, we always file one for every principal
22 that we register for, to make sure that one is on file.

23 And that is the only paper requirement there
24 is. Everything else is electronic. So we do file those
25 by paper.

1 We keep -- we keep copies of the general
2 areas of interest that we lobby for, and we fill those
3 out, sign them, date them and send them in.

4 **Q. About how long does it take you to do that?**

5 A. It doesn't take very long. I mean, we file,
6 I'm guessing, maybe 40 or 45 of those. So we have to go
7 through, make sure they're accurate in terms of what do
8 the principal reports say, do we still cover the areas
9 of interest that they have, and generally they are,
10 because they are fairly broad admittedly, and then we
11 have to sign them and date them, and it takes -- to do
12 45 of them it may take a half an hour.

13 **Q. Okay. Thank you.**

14 **And the next thing I'm going to ask about is**
15 **Mr. Ron Calzone. Are you familiar with Mr. Ron Calzone?**

16 A. I see him occasionally in the Capitol, yes.

17 **Q. And when you say you see him in the Capitol,**
18 **where do you see him in the Capitol?**

19 A. Well, we spend most of our time on the third
20 or fourth floors and in the hearing rooms. So it would
21 be in the hearing rooms in the basement or the first
22 floor or on the third, fourth floor generally.

23 **Q. Okay. Now, you said -- are there also**
24 **legislator offices on the third and fourth floor?**

25 A. There are legislator offices on the first

1 floor, a few on the second, quite a few on the third and
2 quite a few on the fourth.

3 **Q. And have you ever seen Mr. Calzone in a**
4 **legislator's office?**

5 A. Well, he's -- he's there -- when I see him, I
6 mean, he is either in the offices talking to legislators
7 or there doing whatever, you know, normal lobbyists do.

8 But I don't seek him out. I mean, we've not
9 worked on issues together. But, I mean, the Capitol is
10 not a very big place, and the regular people in the
11 Capitol that you see, there's, you know, maybe 60 to --
12 60 to 80 a day, and you know most of them. So, yeah, we
13 see him.

14 **Q. Okay. How frequently do you see him at the**
15 **Capitol approximately?**

16 A. Again, I don't know. I mean, this year I
17 didn't -- it didn't seem like we saw him as much this
18 year as we've seen him in the previous years.

19 I guess years when there are issues that he's
20 working on that brings him more often than not, but this
21 year I saw him, you know, on a regular basis, but I
22 would -- I would say probably not as often as the
23 previous years.

24 MR. DICKERSON: If I may, I'd like to move to
25 strike any testimony that refers to periods before this

1 Commission's jurisdiction.

2 CHAIR WEEDMAN: We'll take that into
3 consideration, Mr. Dickerson. We're aware of the
4 statute of limitations.

5 BY MR. STOKES:

6 Q. The last thing I want to ask about is what
7 you do as a lobbyist to attempt to influence legislation
8 or potential legislation.

9 Can you kind of give us an overview of what
10 you do in your day-to-day activities both during the
11 legislative session and outside of the legislative
12 session?

13 A. Well, during the legislative session is
14 obviously when we're the most active. You're looking at
15 all of the hearing schedules. You're checking the
16 hearings that you need to attend. You're making sure
17 you have your witnesses there. You're talking to the
18 chairman. You're talking to the members of the
19 committee. You're talking to leadership staff.

20 I mean, there is all sorts of things you do,
21 that you have to do or need to do to either move
22 legislation through or defeat legislation, so you take
23 all those steps.

24 That is what we call -- I mean, there are
25 several different ways to lobby. You have what we call

1 direct lobbying, where you're talking to those
2 legislators on a regular basis, there is grassroots
3 lobbying and then there's a combination.

4 Grassroots lobbying would be where you step
5 back. You organize an entity. And we've done this on
6 many occasions for different interests, whether it's
7 health care, whether it's energy, whether it's
8 conservation issues.

9 You might create a coalition, and you manage
10 that coalition and you manage their grassroots
11 activities to lobby, but you never -- we never talk to a
12 legislator. That is what we would call the pure
13 grassroots lobbying.

14 And then there's the combination, where you
15 create a coalition. You organize those people within
16 that coalition. You keep them informed of what is going
17 on. You bring them up to speed on the issues.

18 And then you organize their efforts in the
19 Capitol and do that for them, do it on their behalf, do
20 it on behalf of an entity. And you actually do the
21 direct lobbying, as well as coordinating the grassroots.

22 So there are really kind of three categories
23 of lobbying that we see ourselves involved in over the
24 last, you know, 30 years.

25 **Q. Okay. Now, you said that the coalition, the**

1 **grassroots coalition, that you don't contact legislators**
2 **in the ones that you do.**

3 **The ones that you do, have you ever been an**
4 **officer or board director for one of those nonprofit**
5 **corporations?**

6 A. I can't remember any case where we were,
7 because generally what we have is a situation where a
8 group of -- a group of interests would come together and
9 say, you know, we want to put a -- we want to put a
10 local grassroots spin on this, but we also want you to
11 do the lobbying or not to do the lobbying, whichever the
12 case may be.

13 So, you know, we have -- we've had situations
14 where they ask us to do the -- to carry the message and
15 then also organize the grassroots, and in those cases we
16 register on their behalf. But I have not -- I don't
17 know that I've been a board member of any of those
18 organizations --

19 **Q. Okay.**

20 A. -- because typically they're made up of
21 people or the board that is created if it's -- if it's
22 incorporated. You can also put a coalition together
23 that wouldn't have to be incorporated.

24 **Q. Okay. Now, do lobbyists ever sometime**
25 **register either themselves or their lobbying firm as a**

1 principal, say when you're appearing at the Capitol
2 maybe on your own behalf?

3 A. I would say there are lobbyists that do that,
4 yes.

5 Q. So that you could say that that lobbyist is
6 designating themselves --

7 A. Give me the example again.

8 So you mean for -- you mean where I would
9 register for my firm?

10 Q. Yes.

11 A. Oh, yes. Yes. I'm sorry. Yes, we do.

12 Q. All right. And is that common practice
13 throughout the lobbying community?

14 A. It is.

15 Because what it does is if you have
16 expenditures that you incur that are clearly reportable
17 expenditures, you need a principal to report that
18 expenditure for, on behalf of.

19 So we register on behalf of our firm, our own
20 firm, for the purpose of reporting expenditures that we
21 incur that are not paid for by another principal.

22 And that's -- I think that's generally the
23 practice of lobbyists, because that is -- that's how we
24 report those expenditures.

25 Q. Okay. And that's actually -- that's an

1 **important point.**

2 **You mentioned if a principal makes an**
3 **expenditure with a lobbyist -- or with a legislator, the**
4 **lobbyist also has to report that on a monthly**
5 **expenditure report?**

6 A. Well, two things can happen. We can incur
7 that expenditure on behalf of a client or a principal,
8 which is obviously reportable and on our report we
9 attribute that to that principal, or the principal can
10 incur an expense that is also reportable.

11 We have nothing to do with it but because
12 we're the designated lobbyist that expenditure has to be
13 reported somewhere.

14 For instance, a vice-president of marketing
15 for ABC Corporation takes two legislators to a ballgame.
16 We don't even know anything about it.

17 But what we advise our clients, if you have
18 expenditures that you incur that are paid for by the
19 principal, not by the individual, it comes out of his
20 pocket, it's not reportable, assuming he's not a
21 lobbyist.

22 If it comes out of the corporation and those
23 are corporate tickets, they have to be reported. We
24 advise our clients, notice us up on those expenditures
25 so we can report them. So we put on our report

1 expenditures that somebody else -- one of our principals
2 had but we had nothing to do with it. We were not even
3 presence. But those are required to be reported.

4 **Q. Now, the final thing I want to ask about is**
5 **when you are talking to legislators one on one, how do**
6 **you distinguish -- you know, attempting to influence**
7 **legislation, what does that conversation look like?**

8 A. Well, you stop them in the hall. You go by
9 their office. Most of the -- I mean, we know most of
10 the legislators. They know us. They know some of our
11 principals, but they may not know all of them.

12 If it's a principal that they know we're
13 working on behalf of and the topic or the subject matter
14 is very clear, we may just start talking to them about
15 the bill.

16 A lot of times we go in, and if it's -- if
17 it's a particular health care bill or a professional
18 registration issue or something like that, we'll clearly
19 say we represent so and so, and this is the -- this is
20 the area of interest and this is what our concerns are
21 with the bill or we support the bill.

22 But generally lobbyists will tell the
23 legislator, you know, on behalf of -- on behalf of who
24 they are speaking.

25 **Q. Okay. Now, talking about Senate procedure.**

1 **Are lobbyists allowed on the Senate floor when the**
2 **Senate is in session?**

3 A. No, sir.

4 **Q. And if you want to talk with a senator who**
5 **happened to be on the floor at the time, what would you**
6 **have to do?**

7 A. You generally get permission to go into the
8 side galleries, and then you get a doorman and ask them
9 if they would get Senator Kehoe or whoever.

10 **Q. Okay.**

11 A. And the procedure is the same on the House
12 side.

13 **Q. All right. Now, have you testified in front**
14 **of a legislative committee before?**

15 A. All of the time.

16 **Q. And when you testify in front of a**
17 **legislative committee, do you rely on that as a reason**
18 **not to register as a lobbyist?**

19 MR. DICKERSON: Objection, relevance.

20 CHAIR WEEDMAN: Overruled.

21 THE WITNESS: There are -- there are two
22 issues here. One is the registration. But the
23 registration does not -- I mean, no. To answer your
24 question, no. We do not rely upon the witness form to
25 absolve us from -- or exempt us from the registration.

1 There is a witness form requirement in the
2 law, which both bodies use in front of all of the
3 committees, which require the witness to fill out their
4 name, address and -- and the principal -- or on whose
5 behalf they are speaking.

6 BY MR. STOKES:

7 **Q. Okay. And have you ever produced a**
8 **newsletter or any kind of informational material about**
9 **legislation?**

10 A. We do all of the time.

11 **Q. And you don't -- in your opinion -- it's not**
12 **your understanding that absolves you of the requirement**
13 **to register as a lobbyist?**

14 MR. DICKERSON: Objection. These call for
15 legal conclusions.

16 MR. STOKES: I just asked for his
17 understanding.

18 CHAIR WEEDMAN: We'll take Mr. Scherr's
19 opinion and understanding that it's not a legal opinion.

20 THE WITNESS: Please repeat the question.

21 BY MR. STOKES:

22 **Q. So it's not your understanding that producing**
23 **information material absolves you from the requirements**
24 **to register as a lobbyist?**

25 I apologize. That's --

1 A. I'm not sure I see the connection.

2 CHAIR WEEDMAN: Start over.

3 THE WITNESS: The question was about
4 newsletters?

5 BY MR. STOKES:

6 Q. Yes. You --

7 A. We produce newsletters.

8 Q. Even though you produce newsletters you still
9 register as a lobbyist?

10 A. Oh, absolutely.

11 MR. STOKES: That's what I should have asked
12 the first time.

13 THE WITNESS: Yes.

14 MR. STOKES: All right. I don't have any
15 further questions for Mr. Scherr.

16 CHAIR WEEDMAN: Mr. Dickerson, how long do
17 you anticipate cross-examination will be?

18 MR. DICKERSON: That's an excellent question,
19 sir, since I'm preparing it as we speak.

20 CHAIR WEEDMAN: Well, we'll take five minutes
21 now and you can prepare your cross.

22 MR. DICKERSON: Five minutes would be
23 sufficient.

24 (A RECESS WAS TAKEN.)

25 CHAIR WEEDMAN: We're back on the record.

1 And, Mr. Dickerson, you are going to
2 cross-examine.

3 MR. DICKERSON: Yes, sir. Thank you.

4 CHAIR WEEDMAN: Proceed.

5 CROSS-EXAMINATION

6 BY MR. DICKERSON:

7 **Q. Good morning.**

8 A. Good morning.

9 **Q. You mentioned that you represent 45 clients**
10 **roughly?**

11 A. We register probably on behalf of about
12 45 clients. That's a rough number.

13 **Q. And how many of those do not provide you with**
14 **any compensation?**

15 A. At least one, Head Start.

16 **Q. Any others?**

17 A. We register on behalf of -- we register on
18 behalf of HCA as an example, which is headquartered in
19 Nashville, but we also -- and we get paid by them to
20 handle hospital issues.

21 We also represent -- we also register on
22 behalf of all their facilities in Kansas City on the
23 Missouri side just in the event that we might work on
24 some CON or some other individual issues.

25 Those hospitals do not pay us. We do not get

1 paid. We are not paid by those hospitals.

2 **Q. But you are paid by the umbrella?**

3 A. We are paid by HCA in Nashville.

4 So we register on their behalf, but we also
5 register on behalf of each of the hospitals in the event
6 that they have CON issues or other individual issues.

7 **Q. I mean, those are both good examples.**

8 **So when you were hired by HCA, did you sign**
9 **an engagement letter --**

10 A. Sure.

11 **Q. -- was there some sort of agreement?**

12 **Is that a standard letter?**

13 A. It is for many of our clients, yes.

14 **Q. Has it been vetted by counsel?**

15 A. By their counsel?

16 **Q. By your counsel.**

17 A. In some cases, yes.

18 **Q. You've never just gone and designated**
19 **yourself as HCA's lobbyist as part of a contractual**
20 **agreement with the principal?**

21 A. No.

22 **Q. And would you say that that's the same model**
23 **you would use for a pro bono client like Head Start?**

24 A. I might -- one of my staff handles that one.

25 I don't know if we have an agreement with them or not.

1 Q. But your staff member presumably did not?

2 A. I'm sorry?

3 Q. Your staff member did not designate
4 themselves as --

5 A. No. No. We were designated by them.

6 Q. So the control group or the board or someone
7 at Head Start said you are our lobbyist and said so
8 explicitly?

9 A. To speak on their behalf.

10 Q. Right.

11 Now, taking back to your experiences at the
12 Capitol. You weren't present for any of the
13 conversations Mr. Calzone had with members of the
14 legislative --

15 A. If I -- I mean -- no.

16 Q. So --

17 A. You mean in terms of being close enough to
18 hear what the conversations were? No. Typically I
19 don't pay attention. I try to stay out of other
20 lobbyists' conversations. I mean, I view that as a
21 courtesy, and I expect the same courtesy from others.

22 Q. I appreciate and respect that point.

23 So then you cannot testify in any way to the
24 content of those conversations?

25 A. That he has with any of the individual

1 legislators?

2 Q. Yes.

3 A. No.

4 Q. And you have not made any representations
5 today on the record as to the identity of any of those
6 legislators?

7 A. No.

8 Q. Or when precisely you saw them --

9 A. No.

10 Q. -- in conversation with Mr. Calzone?

11 A. No.

12 Q. So let's talk a little bit about the report
13 process. You said that, you know, you would list your
14 lobbying firm as the lobbyist principal and the
15 expenditures being made. Is that fair?

16 A. No, that's not what I said.

17 Q. Please.

18 A. I said that we register on behalf of my
19 company -- actually both of my consulting companies on
20 an annual basis. We do that -- we don't register just
21 to do the report, I mean, when we have something to
22 report. We do it on a regular basis and keep that --
23 keep the two firms on the principal list.

24 If we have expenditures that we cannot
25 attribute to a client, we -- we file those on behalf of

1 the principal, our principal, my firm.

2 Q. I understand that.

3 You do not file an expenditure report unless
4 there has been an expenditure. Correct?

5 A. You file an expenditure every month, but it
6 may be a no expenditure report.

7 Q. Okay.

8 A. It's a required report every month.

9 Q. And the lobbyist principal report, that is
10 only reporting the expenditure by the lobbyist
11 principal. Correct?

12 A. No. The lobbyist principal -- or the
13 principal report is a report that is filed twice a year,
14 in March and May, and all that shows is the areas of
15 interest that that principal has in the Legislature, the
16 Executive Branch and the Judicial Branch, if you're
17 registering on behalf of all three.

18 Q. Sure. Or pre--

19 A. The principal report has nothing to do with
20 expenditures.

21 Q. Okay. Are you aware of any lobbyist
22 principal that makes no expenditures?

23 A. Sure.

24 Q. Such as?

25 A. We probably have several. We have

1 organizations that don't pay us -- don't authorize any
2 expenditures.

3 **Q. Okay. But they do compensate you?**

4 A. They compensate us but they don't -- we are
5 not authorized to have any expenditures on their behalf,
6 lobbying expenditures on their behalf.

7 **Q. I understand that distinction.**

8 A. Okay.

9 **Q. Let me ask a question but in less technical**
10 **terms.**

11 **Are you aware of any lobbyist principal that**
12 **simply doesn't spend any money in any way?**

13 A. Sure.

14 **Q. For instance?**

15 A. Well, I mean, you want me to go down --

16 **Q. Yes, I'd like specific names if you have**
17 **them.**

18 A. I'll pull up my principal report. We have
19 quite a few of them that don't have any expenditures.

20 **Q. And have never made -- I think we're talking**
21 **past each other. I understand that --**

22 A. I'll give you one example, Prudential. I
23 represent Prudential.

24 Prudential to my knowledge has never had an
25 expenditure -- a lobbying expenditure in this state

1 because they don't authorize it.

2 **Q. But Prudential has paid you?**

3 A. Correct.

4 **Q. So it has spent money on lobbying in the**
5 **state of Missouri?**

6 A. They've spent money on lobbying, but they
7 have not had any reportable lobbying expenditures.

8 **Q. I understand that distinction. Maybe I**
9 **should say outlays.**

10 **Do you know of any lobbyist principal that**
11 **simply has spent no money for lobbying purposes or for**
12 **expenditures in the state of Missouri?**

13 A. Yes.

14 **Q. For instance?**

15 A. Head Start.

16 **Q. Okay. So going back to Head Start, Head**
17 **Start -- is Head Start the only example --**

18 A. That is the one that comes to mind. I could
19 go back through our list. We probably have some -- you
20 mean in terms of no expenditures under the IRS -- under
21 the OBRA '90 definition of lobbying?

22 **Q. Well, that's -- I'd rather not get into that**
23 **particular technical point.**

24 A. No. But that's what you're asking about.

25 You're asking about expenditures that are both lobbying

1 expenditures required to be reported in Missouri, in
2 addition to lobbying expenditures under the Federal IRS
3 definition under OBRA '90. So you're combining two
4 different expenditure definitions. So you are asking
5 about that.

6 **Q. No, I'm not, because the IRS version goes to**
7 **a Federal tax policy --**

8 A. No. It -- it goes to a Federal tax policy,
9 but you asked whether the clients have expenditures in
10 Missouri which all fall under that definition, and we
11 have to certify to those clients each time each month --
12 each year on the percentage that falls under that
13 definition of that portion of that fee.

14 **Q. If I may, sir --**

15 A. So you're mixing apples and oranges here.

16 **Q. So let me explain myself.**

17 A. Sure.

18 **Q. I'm asking, is there any organization that**
19 **you're aware of other than Head Start which spends no**
20 **money on expenditures as understood under Missouri law**
21 **and makes no payments to a Missouri lobbyist?**

22 A. I don't know the answer to that.

23 **Q. Okay. So going back to Head Start which is**
24 **one of your clients. Does Head Start file as a lobbyist**
25 **principal?**

1 A. Yes. No. They -- no. We file their
2 principal report.

3 **Q. Okay. And you file -- you designate them as**
4 **a lobbyist principal?**

5 A. We put on -- we put on our lobby report that
6 they are a principal of ours.

7 **Q. Exactly.**

8 A. We also file their principal report that is
9 required to be filed twice a year, which we do for all
10 of our clients.

11 **Q. Okay. How -- going back to the question of**
12 **your report. How is it that you timed yourself, just**
13 **for the record?**

14 A. I just anticipated a question about how long
15 it takes to file a report. So yesterday -- what is --
16 today is Wednesday -- Thursday. Tuesday, I guess, is
17 when I got my notice about the reports being required.
18 I thought -- or the reminder to do your reports.

19 I thought, well, I'm going to anticipate that
20 there is going to be about question on how long does it
21 take to file a report.

22 So I just took my phone out, hit timer and
23 started the process. I just anticipated the question.

24 MR. DICKERSON: I'm sorry. I beg your
25 indulgence for a moment.

1 BY MR. DICKERSON:

2 Q. Going back to Head Start. Does Head Start
3 employ you or your firms?

4 MR. STOKES: Object, calls for a legal
5 conclusion as to what the definition of employ means.

6 THE WITNESS: I'm not sure --

7 CHAIR WEEDMAN: Maybe Mr. Dickerson can
8 clarify his question of what the word employ means.

9 BY MR. DICKERSON:

10 Q. Are you employed for any -- are you an
11 employee of any purpose of Head Start?

12 MR. STOKES: Objection, same grounds, legal
13 conclusion, legal opinion.

14 CHAIR WEEDMAN: Mr. Scherr, if you understand
15 the question.

16 THE WITNESS: I understand, sure.

17 CHAIR WEEDMAN: Are you an employee of Head
18 Start?

19 THE WITNESS: No. No.

20 BY MR. DICKERSON:

21 Q. And you've never been paid by Head Start
22 you've testified?

23 A. No. We do strictly pro bono work for
24 Head Start.

25 Q. And you've never been otherwise compensated

1 **by Head Start?**

2 A. No.

3 **Q. So you mentioned that you're aware of other**
4 **lobbyists who take unpaid clients. Correct?**

5 A. In conversations with other lobbyists or in
6 their testimony they may say we're representing this
7 entity pro bono, or they'll tell us -- you know, we all
8 talk to everybody, and we -- once in a while somebody
9 will say, yeah, we're doing this one pro bono.

10 MR. DICKERSON: In that case I'd like to
11 strike his testimony on other lobbyists as hearsay.

12 THE WITNESS: Sure. I'm sorry.

13 CHAIR WEEDMAN: We'll take such testimony for
14 what it's worth.

15 BY MR. DICKERSON:

16 **Q. Can you give me any examples of these**
17 **individuals that you've spoken with who have made these**
18 **representations to you?**

19 A. Not right off the top of my head.

20 **Q. When did you first become aware of complaints**
21 **in this matter?**

22 A. It was -- the Complaint was -- as you well
23 know. I mean, you have a copy. The Complaint was
24 filed --

25 **Q. I do.**

1 A. -- by the association.

2 Q. So you understand the association and not
3 Mr. -- I believe his name is Dallmeyer -- to have been
4 complaining?

5 A. He's the attorney --

6 MR. STOKES: Objection as to relevance.

7 MR. DICKERSON: The relevance is it's an
8 unlawful complaint. It's not filed by a natural person.

9 CHAIR WEEDMAN: It's relevant.

10 If you understand the question, Mr. Scherr,
11 you can answer it.

12 BY MR. DICKERSON:

13 Q. You understood the society to be the
14 complainant in this case?

15 A. The society motivated the Complaint and had
16 it filed by Mr. Dallmeyer.

17 Q. Was the official action taken by the society
18 to bring about the filing of the Complaint?

19 A. Yes, sir.

20 Q. Were you involved in those deliberations?

21 A. I was the secretary, sir, and took the
22 record.

23 Q. Did the society consult with any outside
24 groups in deciding to file the Complaint?

25 A. No, not -- not to my knowledge.

1 Q. Did you personally --

2 A. Not that -- not that I'm aware of, and there
3 was no action by the association to contact anybody
4 outside.

5 Q. Did you personally contact anyone outside?

6 A. About what?

7 Q. About filing a Complaint against Mr. Calzone.

8 A. I don't think so.

9 Q. Did you discuss Mr. Calzone's status or
10 nonstatus as a lobbyist with anyone?

11 A. Oh, I think that's common discussion around
12 the Capitol.

13 Q. Who did you discuss it with?

14 A. There were legislators that came to the
15 association and asked if -- if we were interested in
16 compliance with the law because -- one of the things
17 that MSGS does is we do the ethics training for our
18 members.

19 We provide them updates. We provide them
20 whatever the Commission rulings might be. We offer them
21 some advice on how to do -- handle their reporting, what
22 documents they need to keep in place to make sure that
23 they are, you know, carefully reporting their
24 expenditures.

25 And there were -- I don't know that I had any

1 conversations with anybody, but I think our board
2 members did.

3 **Q. Are those legislators members of the society?**

4 A. No.

5 **Q. So outside conversations were had on the**
6 **subject of Mr. Calzone?**

7 A. You asked if we -- your question was whether
8 it was discussed with any other groups.

9 **Q. All right. Was it discussed with any other**
10 **individuals --**

11 A. About whether we file it or not?

12 **Q. About whether -- about Mr. Calzone and his**
13 **status or nonstatus as a lobbyist.**

14 A. Oh, I think those conversations were fairly
15 common.

16 **Q. Do you know of the names of any particular**
17 **legislators who brought this proposal?**

18 A. We have fairly -- we have -- I know of
19 legislators that asked the question about why we thought
20 he wasn't registered.

21 **Q. Do you know of any legislator who raised the**
22 **question of bringing a complaint before this Commission**
23 **on the subject of Mr. Calzone's status or nonstatus?**

24 MR. STOKES: Objection, irrelevant.

25 CHAIR WEEDMAN: I think it's relevant.

1 THE WITNESS: I'm sorry?

2 CHAIR WEEDMAN: I believe it is relevant. So
3 Mr. Stokes' objection is overruled.

4 MR. DICKERSON: Perhaps you could read back
5 the question.

6 (THE COURT REPORTER READ BACK THE FOLLOWING:
7 QUESTION: Do you know of any legislator who
8 raised the question of bringing a complaint before this
9 Commission on the subject of Mr. Calzone's status or
10 nonstatus?)

11 BY MR. DICKERSON:

12 Q. As a lobbyist.

13 A. Yes.

14 Q. Who?

15 A. Senator Ron Richard.

16 Q. Are there any others?

17 A. Representative Kevin Engler.

18 And those are the two that I'm familiar with
19 that -- those are the only two that I'm familiar with.

20 Q. You do not testify that that is an exhaustive
21 list of the contacts between your organization --

22 A. I do not.

23 Q. -- and legislators on this topic?

24 A. I could not testify it's exhaustive between
25 other members of the society or the board.

1 Q. And I'm not asking you for that.

2 Have you -- how well do you know

3 Mr. Dallmeyer?

4 A. I know him fairly well.

5 Q. Do you see him in the Capitol?

6 A. Not anymore. He's not registered.

7 Q. Is he a lobbyist? Was he --

8 A. No. He was a lobbyist at one point.

9 Q. Do you know until when?

10 A. Oh, I think he changed his practice maybe a
11 year or two ago, maybe two years ago.

12 Q. So you have not seen him in the Capitol in
13 the last two years?

14 A. No.

15 Q. Is it therefore reasonable to suppose that he
16 was not in the Capitol the last two years?

17 MR. STOKES: Objection, calls for
18 speculation.

19 THE WITNESS: I couldn't answer that.

20 BY MR. DICKERSON:

21 Q. How often are you in the Capitol?

22 A. Every day.

23 Q. And at no point during any of those daily
24 visits did you see Mr. Dallmeyer for the last two years?

25 A. No, not -- I don't think so.

1 Q. So you never saw Mr. Dallmeyer in a
2 conversation with Mr. Calzone with any legislator in the
3 last two years?

4 A. I didn't.

5 Q. Did your organization consult with or did you
6 personally consult with any client of your firms on the
7 subject of this Commission hearing?

8 A. No.

9 Q. What do you understand to be the consequences
10 if you fail to properly report as a lobbyist?

11 A. I would imagine -- I'm not that familiar with
12 the penalty provisions. I would yield that to the
13 Commission. I'm not that familiar with the penalty
14 provisions.

15 I mean, we have -- I'm familiar with what has
16 been done in the past. I mean, there have -- there
17 haven't been very many of these complaints filed.

18 I am familiar with one of them that happened,
19 oh, I'm going to say maybe eight years ago, six or
20 eight, ten years ago.

21 The person refused to register. There was a
22 Complaint filed. My understanding is that the
23 Commission sent some letters, said you really need to
24 be -- you need to be registered. The person continued
25 to fail to register, and then that person was fined and

1 that person then subsequently registered.

2 **Q. Do you know the amount of the fine?**

3 A. I'm going from a vague memory, but I want to
4 say it was in -- I think it was about \$2,300. I'm not
5 sure. Again, that is -- this is all talk.

6 **Q. Sure.**

7 A. But I think it was about \$2,300 if I'm not
8 mistaken.

9 **Q. And do you recall the penalty requested by**
10 **your society in this matter?**

11 A. I don't think there is any -- I think
12 compliance -- I don't know that there is any penalties.
13 I don't remember. I don't know.

14 **Q. That's fair.**

15 A. I could -- we could look it up, but I don't
16 know that there's a penalty requirement -- or a penalty
17 requested.

18 **Q. So then I understand your testimony to be**
19 **that you are aware of only one organization that does**
20 **not compensate and that has been registered as a**
21 **lobbyist principal in the state and that is Head Start?**

22 A. I am testifying that that is the one I'm
23 aware of because it is a principal of ours, but we have
24 no way of knowing unless my colleagues -- unless we're
25 sitting around having a beer and a colleague says we're

1 doing this pro bono, we have -- we are not privy to any
2 of our colleagues' contracts with their clients.

3 So I don't know how we would know that unless
4 we just casually discussed it over a glass of wine. And
5 certainly nothing comes to mind. All I'm testifying to
6 is the one that we know of in our firm that --

7 **Q. And I appreciate that. I'm just making sure**
8 **the record is clear.**

9 A. Sure.

10 MR. DICKERSON: May I have a minute to confer
11 with my clients before completing my cross, in the room?

12 CHAIR WEEDMAN: Yes. And I would ask the
13 Commissioners, do the Commissioners have any question of
14 Mr. Scherr?

15 COMMISSIONER STOLTZ: No.

16 MR. DICKERSON: If I could just have half a
17 minute.

18 (OFF THE RECORD.)

19 MR. DICKERSON: Just very few final
20 questions.

21 BY MR. DICKERSON:

22 **Q. This looks like it was filed on election day.**
23 **Is that correct?**

24 A. I think that's correct.

25 **Q. Is there -- are you aware of any significance**

1 **or conversations about that timing?**

2 A. Yes, I am.

3 **Q. And what was the content of those**
4 **conversations?**

5 A. The content of those conversations were --
6 this was within the officers and the board -- that
7 Mr. Calzone had been involved in some local activities
8 in an election campaign in St. Louis regarding the
9 speaker, John Diehl, Representative John Diehl, and that
10 there was some concern that if it was filed prior to the
11 election, that it would somehow impact Diehl's -- could
12 potentially play into some election, and we didn't want
13 that to happen, so we waited until election day.

14 **Q. And by some election, you specifically mean**
15 **Speaker Diehl's election to the House?**

16 A. Because of some activities that were being
17 undertaken, not to Speaker -- as a State representative,
18 his election for reelection, that's correct.

19 **Q. And --**

20 A. And those -- there were no conver-- to my
21 knowledge there were no conversations with
22 Representative Diehl about that. I'm not privy to any
23 conversations. It was strictly an internal discussion
24 by the association.

25 **Q. Were there conversations at that point with**

1 **any member of the Legislature?**

2 A. Not to my knowledge.

3 **Q. Were there conversations on that question**
4 **with any member of the leadership of any State or local**
5 **party?**

6 A. No. No.

7 **Q. I had to ask.**

8 A. That wouldn't have happened.

9 **Q. Were there any conversations on that matter**
10 **with any other registered lobbyist?**

11 A. Well, all of -- all of our board are
12 registered lobbyists.

13 **Q. Was this conversation undertaken during a**
14 **board meeting?**

15 A. I don't recall. I'd have to go -- I don't
16 recall that, because I think it was authorized -- I
17 think the board action -- you're testing my memory here.

18 **Q. I understand that.**

19 A. I think our board -- I think the board at
20 that time met in August and -- and authorized the
21 complaint to be filed once it was -- I think it was
22 ready to -- I think it was ready to go in October, and
23 at that time there was some activities being taken --
24 undertaken in the Diehl -- Representative Diehl's
25 reelection, and there was some discussion about simply

1 holding off until after the reelection, so it didn't
2 impact any of the election.

3 Q. And does Speaker Diehl have any association
4 whatsoever with your society?

5 A. No. None.

6 Q. What's the tax status of the society?

7 A. We're a (c)(6).

8 Q. (c)(6).

9 Did you file any legal costs or other costs
10 associated with the filing of this Complaint as
11 intervention in an election with your filings with the
12 Internal Revenue Service?

13 MR. STOKES: I'll object to relevance.

14 CHAIR WEEDMAN: How is it relevant?

15 MR. DICKERSON: There's a limit to how much
16 activity -- campaign activity a 501(c)(6) organization
17 may undertake.

18 MR. STOKES: What does that have to do with
19 whether or not Mr. Calzone is required to register as a
20 lobbyist?

21 MR. DICKERSON: It has to do with the fact
22 that this entire Complaint was illegitimate from the
23 first moment it was filed. It was filed by a nonnatural
24 person. It was clearly filed with political intention.
25 I think it's highly relevant to a probable cause

1 determination.

2 CHAIR WEEDMAN: Well, to the extent it would
3 go to the motive of the Complaint, Mr. Scherr, you may
4 answer.

5 THE WITNESS: The motive of the Complaint was
6 that --

7 BY MR. DICKERSON:

8 **Q. That was not my question, sir.**

9 CHAIR WEEDMAN: I think that's the only way
10 it would be relevant.

11 MR. DICKERSON: Well, I apologize. To the
12 extent that the commissioner was asking you a question,
13 you should absolutely answer.

14 CHAIR WEEDMAN: Go ahead and complete the
15 question.

16 BY MR. DICKERSON:

17 **Q. My question was whether or not the expense of**
18 **this Complaint were in any way reported to the Internal**
19 **Revenue Service?**

20 A. There was no requirement to file those
21 expenses, and there was no expense incurred in the
22 filing of this Complaint.

23 **Q. Mr. Dallmeyer represented you pro bono?**

24 A. Yes, he did.

25 And there was no campaign activity connected

1 to this.

2 Q. Are you a voting member of the voting
3 society?

4 A. Yes.

5 Q. Did you vote to file this Complaint?

6 A. The vote was unanimous.

7 Q. Did you vote to file this complaint or did
8 you abstain?

9 A. Yes. Yes to both.

10 Q. You both filed --

11 A. I'm sorry. I voted, yes. I voted yes.

12 Q. Were there any abstentions?

13 A. No.

14 MR. DICKERSON: I have no further questions,
15 sir.

16 MR. STOKES: Very brief recross (sic).

17 REDIRECT EXAMINATION

18 BY MR. STOKES:

19 Q. Mr. Scherr, you mentioned HCA is a lobbyist
20 principal for you. Are you a member of the board for
21 HCA?

22 A. No, sir.

23 Q. Are you a member of the board for any of the
24 Kansas City Missouri hospitals under its umbrella?

25 A. No, sir.

1 Q. Are you an officer of HCA?

2 A. No, sir.

3 Q. Are you an officer of any of the Kansas City,
4 Missouri hospitals under --

5 A. No.

6 Q. -- that umbrella?

7 A. No, sir.

8 MR. STOKES: Okay. No further questions.

9 CHAIR WEEDMAN: Mr. Scherr, I have one
10 question.

11 THE WITNESS: Yes, sir.

12 QUESTIONS

13 BY CHAIR WEEDMAN:

14 Q. Have you ever lobbied on behalf of a client
15 on the opposite side of an issue in which Mr. Calzone
16 was involved?

17 A. The only one I can -- I can think of was this
18 session we were on opposite sides of the PDMP bill, but
19 that's -- that was this session only. I didn't even
20 know he was involved prior to that.

21 Q. Could you clarify for the record the PDMP?

22 A. I'm sorry. It's the Prescription Drug
23 Monitoring Program legislation that I have a client
24 that's interested in.

25 I didn't know Mr. Calzone was involved in it

1 until he appeared at one of the hearings. But that was
2 this year only to my knowledge. I don't think -- I
3 don't think we've been on opposite sides -- or even the
4 same side or opposite side prior to this year.

5 **Q. And that was this year, 2015?**

6 A. That was 2015, correct, sir.

7 **Q. And was it a hearing before the Senate or the**
8 **House?**

9 A. The one that I remember was on the Senate
10 side. I -- I don't remember whether he appeared on the
11 House side on that hearing or not.

12 CHAIR WEEDMAN: Okay.

13 COMMISSIONER MUNICH: I have a follow-up
14 actually now.

15 QUESTIONS

16 BY COMMISSIONER MUNICH:

17 **Q. And what did you observe -- when you said**
18 **Mr. Calzone was on the other side, what did you observe**
19 **him doing?**

20 A. We had several groups and coalitions that we
21 were helping with and some direct clients that were very
22 interested in the PDMP bill. We had those people come
23 in and testify in support obviously.

24 Mr. Calzone came in and testified as an
25 opponent. And he came in, and as I recall, his

1 introduction, which was kind of interesting because
2 prior -- prior to this he had a different type of
3 introduction as he sat down.

4 But at that particular hearing it was
5 interesting to note that he introduced himself as Ron
6 Calzone. I'm a -- I think he said he's a director of
7 Missouri First, but I'm not designated to be their
8 lobbyist, which was a phrase that we had not seen or
9 heard from him prior.

10 And then he turned in a very large stack of
11 witness forms that he had collected, I think the
12 Missouri First website.

13 **Q. Do you know if that hearing was before or**
14 **after the Complaint was filed?**

15 A. Oh, it was after. The Complaint was filed in
16 November. The Complaint was filed November 4th of 2014.
17 This was in -- it was in the Senate hearing. I think it
18 was in April of this year. No. It was well after.

19 COMMISSIONER MUNICH: Thank you.

20 MR. DICKERSON: Could I ask one follow-up
21 question on that issue to Commissioner Munich's
22 questions.

23 CHAIR WEEDMAN: Certainly.

24 RECROSS-EXAMINATION

25 BY MR. DICKERSON:

1 **Q.** **Did any of the asso-- did any client of any**
2 **member of your society lobby on the other side of that**
3 **issue for Mr. Calzone?**

4 A. Did any -- did any client of any member --

5 **Q.** **Your board consists of certain members.**
6 **Correct?**

7 A. Correct.

8 **Q.** **Those are themselves registered lobbyists.**
9 **Correct?**

10 A. They are all registered lobbyists, and it's
11 an individual society. Everyone has to -- every member
12 has to be a registered lobbyist.

13 **Q.** **Did any client of any member of your board**
14 **lobby on the opposing side for Mr. Calzone's views?**

15 A. I am not aware of any, but I don't keep track
16 of all of our -- quite a few of our -- quite a few of
17 our board members are what we call in-house lobbyists or
18 corporate lobbyists or association lobbyists, and there
19 are a host of us that are independent lobbyists that
20 have multiple clients. I'm not aware of any.

21 **Q.** **Just one last question.**

22 **Do you know why you were designated as a**
23 **witness today personally?**

24 A. I presume I was subpoenaed because I'm
25 secretary of the organization.

1 MR. DICKERSON: Thank you.

2 THE WITNESS: I mean, I don't know any other
3 reason why.

4 CHAIR WEEDMAN: Any followup, Mr. Stokes?

5 MR. STOKES: No followup, Commissioner.

6 CHAIR WEEDMAN: Any other questions by the
7 Commission?

8 Thank you, Mr. Scherr.

9 I assume this witness may be excused.

10 MR. STOKES: Yes.

11 CHAIR WEEDMAN: Thank you.

12 THE WITNESS: Thank you.

13 CHAIR WEEDMAN: Mr. Stokes, proceed.

14 MR. STOKES: Thank you, Commissioner.

15 My next witness is Della Luaders, D-e-l-l-a,
16 L-u-a-d-e-r-s.

17 CHAIR WEEDMAN: Ms. Luaders, come forward and
18 raise your right hand.

19 (Witness sworn.)

20 CHAIR WEEDMAN: Okay. Have a seat.

21 DIRECT EXAMINATION

22 BY MR. STOKES:

23 Q. Thank you for coming in here, Ms. Luaders.

24 Can you tell us a little bit about your

25 employment with the Missouri Ethics Commission?

1 A. I have been a Senior Field Investigator with
2 the Missouri Ethics Commission for nine and a half
3 years.

4 **Q. Has that whole time been an investigator?**

5 A. Yes, sir.

6 **Q. And what are your duties as an investigator?**

7 A. To investigate complaints as they are
8 assigned to me. To assist with other investigations or
9 audits as requested.

10 **Q. Are you familiar with Ron Calzone?**

11 A. Yes.

12 **Q. How are you familiar with Mr. Calzone?**

13 A. Our office received a complaint against
14 Mr. Calzone.

15 **Q. Okay. I'm going to hand you what I've marked
16 as Exhibit 6 and ask if you recognize that document.**

17 **Are you familiar with this document?**

18 A. Yes.

19 **Q. What is this document?**

20 A. This is a copy of the Complaint received
21 against Mr. Calzone and the supporting documentation
22 with the Complaint.

23 **Q. Is it signed by Mr. Michael Dallmeyer?**

24 A. Yes.

25 **Q. And is it dated November 4 of 2014?**

1 A. Yes.

2 Q. Is it notarized by Theresa M. Schaefer?

3 A. Yes.

4 Q. And according to the document, her commission
5 does not expire until December 9th of 2017. Is that
6 right?

7 A. Yes.

8 MR. STOKES: Commissioners, I'd like to admit
9 Exhibit 6 into the record.

10 CHAIR WEEDMAN: Mr. Dickerson, is there an
11 objection to the Complaint with exhibits?

12 MR. DICKERSON: Well, I guess I have a
13 clarification.

14 Is Exhibit 6 the Complaint with all of these
15 attachments?

16 MR. STOKES: Yes.

17 MR. DICKERSON: I don't object to its
18 introduction as an exhibit. I mean, the truth of the
19 assertions, of course, is very much in doubt.

20 CHAIR WEEDMAN: And we understand that.

21 MR. DICKERSON: So I would object to the
22 extent that it's inadmissible hearsay and probably
23 fraudulent.

24 COMMISSIONER MUNICH: I'm sorry. Probably
25 what?

1 MR. DICKERSON: Fraudulent.

2 COMMISSIONER MUNICH: Thank you.

3 CHAIR WEEDMAN: Mr. Stokes, the Complaint
4 itself is admitted. We'll take under advisement the
5 objection as to the exhibits. You're presenting
6 evidence and other documents which either support or do
7 not support your position.

8 MR. STOKES: The purpose of admitting
9 Exhibit 6 is to establish that a Complaint was filed
10 with the Commission, that it was signed under oath and
11 verified by the complainant.

12 MR. DICKERSON: I certainly do not object to
13 that proffer.

14 (EXHIBIT NO. 6 WAS RECEIVED INTO EVIDENCE
15 WITH THE OBJECTIONS NOTED IN THE RECORD.)

16 BY MR. STOKES:

17 Q. So as part of the Complaint, did you talk
18 with Mr. Dallmeyer?

19 A. Yes.

20 Q. And he was a real person?

21 A. Yes.

22 Q. He stated that he was the one who did sign
23 the Complaint?

24 A. Yes.

25 Q. And was he able to talk about the facts in

1 **the Complaint with you?**

2 A. Yes, and that he had filed it on behalf of
3 his client, Missouri Society of Governmental
4 Consultants.

5 **Q. And did Mr. Dallmeyer state whether or not he**
6 **had actually seen Mr. Calzone in the Capitol?**

7 A. Yes.

8 **Q. And that was within two years of November --**

9 MR. DICKERSON: This entire line of
10 questioning is hearsay.

11 CHAIR WEEDMAN: I would agree.

12 Your objection is sustained.

13 MR. DICKERSON: Thank you. My apologies for
14 the formulation.

15 BY MR. STOKES:

16 **Q. So can you walk us through your investigation**
17 **process very briefly and then we'll kind of go into more**
18 **depth?**

19 A. My -- of this particular Complaint?

20 **Q. Of this particular Complaint.**

21 A. This Complaint was received. It was assigned
22 to me.

23 I began a background on the entities named in
24 the Complaint, research on the various pieces of
25 information provided in the Complaint, and then I spoke

1 with various individuals for information regarding
2 Mr. Calzone, lobbying activities -- alleged lobbying
3 activities or other actions over at the Capitol.

4 Q. Okay. And as part of the investigation, did
5 you obtain documents from the Missouri Senate?

6 A. Yes.

7 Q. I'm going to show you what I've marked as
8 Exhibit 2.

9 Do you recognize Exhibit 2?

10 A. Yes.

11 Q. And did you rely upon these documents in your
12 investigation?

13 A. Yes.

14 Q. And were they presented to you in the format
15 that they are presented here as Exhibit 2?

16 A. Yes.

17 Q. Okay. We can come back to those in a little
18 bit.

19 I'm going to show you also Exhibit 3.

20 Are you familiar with Exhibit 3?

21 A. Yes.

22 Q. What is that?

23 A. That is Senate committee meeting -- committee
24 minutes.

25 Q. And is that a true and accurate copy of the

1 **version that you relied upon in your investigative**
2 **report?**

3 A. Yes.

4 **Q. Okay. Who did you talk to as part of your**
5 **investigation?**

6 A. I talked to the complainant, Mr. Dallmeyer.
7 I spoke with the president of the Missouri Society of
8 Governmental Consultants, Mr. Licklider, and I spoke
9 with its secretary, Mr. Scherr. Additionally I spoke
10 with Mr. Calzone and I spoke with various legislators.

11 **Q. Okay. You said you spoke with Mr. Calzone.**
12 **Can you walk us through what you talked -- the topics of**
13 **that conversation with Mr. Calzone?**

14 A. We talked about Missouri First and that it
15 was -- Mr. Calzone identified it as -- as a think tank
16 made up of like-minded individuals who mostly dealt with
17 politics and spent a lot of time commenting on
18 legislation and public policy.

19 Also court cases, court decisions,
20 constitutional rights, fair market value principles,
21 maintained a website of this information.

22 **Q. Okay. What else did you talk about?**

23 A. We talked about his position or his work with
24 Missouri First. He indicated he is a director of
25 Missouri First, that he as director reviewed bills and

1 commented on his opinion on whether they were good or
2 bad to legislators or to the website, to Missouri First.

3 MR. DICKERSON: If I may put an objection on
4 the record to hearsay to the extent this is being
5 offered for the truth of any of these assertions.

6 CHAIR WEEDMAN: I think she's describing
7 conversations with Mr. Calzone.

8 MR. STOKES: Who is a party-opponent.

9 CHAIR WEEDMAN: Right.

10 Your objection is overruled as to discussions
11 with Mr. Calzone.

12 MR. DICKERSON: Thank you, sir.

13 THE WITNESS: That those were posted. That
14 he did meet with legislators, and when he did, he didn't
15 have a standard introduction, but that he would
16 typically identify himself as a Ron Calzone, Director of
17 Missouri First, or Ron Calzone, a director of Missouri
18 First.

19 That he did testify and that he also had
20 printed from Missouri First's website witness forms that
21 were submitted by various individuals and had hand
22 delivered those when he went to testify.

23 The individuals could go on to Missouri
24 First's website and complete a witness form utilizing
25 that website. It uses a tool, a libertytools.org, which

1 is basically a database administration program that
2 Mr. Calzone did design and build and allows the person
3 to then enter this witness form and submit it to
4 Missouri First.

5 It also allowed Missouri First to keep track
6 of these individuals who file -- or submits those forms
7 to Missouri First.

8 BY MR. STOKES:

9 Q. Now, you said he met with legislators. Did
10 he say specifically meeting one on one or, you know,
11 outside of legislative committee meetings with Missouri
12 legislators?

13 A. Yes.

14 Q. Okay. Did he mention talking about
15 legislation or policy during those meetings?

16 A. Yes.

17 Q. Okay. And did he mention when those meetings
18 occurred?

19 A. No.

20 Q. Okay. Did he express an understanding
21 about -- did he express an understanding of what -- of
22 whether or not people were asking him whether or not he
23 was required to register as a lobbyist?

24 A. Mr. Calzone said that he clearly lobbied, but
25 the distinction was that he did not fall within the

1 definition of a legislative lobbyist, that the -- he
2 would -- he would like -- he wants to be in compliance,
3 that if the MEC said to register, he would contest it,
4 that the standard is not whether you're attempting to
5 influence but whether you are hired to influence.

6 **Q. Okay. Did he say if anybody had ever**
7 **complained to him about not registering?**

8 A. Mr. Calzone was aware that people had
9 complained to him, had voiced opinions that he should be
10 a registered lobbyist.

11 **Q. Okay. I next want to talk a little bit more**
12 **in detail about Missouri First.**

13 I'll have you turn to Exhibit 4.

14 And Exhibit 4, the first page, it is a
15 certified copy of business records for Missouri First,
16 Inc.

17 Did you rely on this in your investigation?

18 A. Yes.

19 **Q. And the second page is marked 2014-2015**
20 **Biennial Registration Report?**

21 A. Yes.

22 **Q. Did you rely on this in your investigation?**

23 A. Yes.

24 **Q. And tell us who the officers indicated on**
25 **this form are for Missouri First?**

1 A. Mr. Calzone serves as both president and
2 secretary.

3 **Q. Are there any other officers listed on this**
4 **Biennial Registration Report?**

5 A. No.

6 **Q. And who is listed on the Board of Directors?**

7 A. Mr. Calzone, Mr. Paul Hamby and Ms. Calzone.

8 **Q. Are there any other directors listed anywhere**
9 **on the form?**

10 A. No.

11 **Q. And who appears to have signed the Biennial**
12 **Registration Report?**

13 A. Mr. Calzone.

14 **Q. Okay. Next I'll have you turn to the next**
15 **page, which is the 2012-2013 Biennial Registration**
16 **Report.**

17 **And did you rely on this document in your**
18 **investigation?**

19 A. Yes.

20 **Q. And at the bottom who appears to have signed**
21 **as president for this Biennial Registration Report?**

22 A. Mr. Calzone.

23 **Q. I'll next have you turn to another two pages,**
24 **the 2010-2011 Biennial Registration Report for Missouri**
25 **First.**

1 Who appears to have signed as director on
2 behalf of Missouri First?

3 A. Mr. Calzone.

4 Q. Okay. And the very next page where it asks
5 for names and addresses of all other officers and
6 directors, who is identified?

7 A. Mr. Calzone.

8 Q. Okay. I'll next finally have you turn to the
9 Articles of Incorporation for Missouri First, Inc.

10 Who is listed -- I'm sorry. Did you rely on
11 this document in your investigation?

12 A. Yes.

13 Q. Who is listed as the registered agent for
14 Missouri First?

15 A. Mr. Calzone.

16 Q. And who is listed as an incorporator for
17 Missouri First, Inc.?

18 A. Mr. Calzone, Lewis Goldberg and Dave
19 Schlemper.

20 Q. And who signs as incorporator for Missouri
21 First, Inc.?

22 A. Mr. Calzone, Mr. Goldberg and Mr. Schlemper.

23 Q. Okay. And when you talked with Mr. Calzone,
24 you talked -- did you talk about Missouri First's
25 website?

1 A. Yes.

2 Q. What did he say about the Missouri First
3 website?

4 A. That the Missouri First website contained
5 information about various legislation, also the court
6 decisions, constitutional rights issues, fair market
7 value principles, all that have been considered or
8 discussed.

9 Q. Okay. I'm going to hand you what's been
10 marked as Exhibit 7.

11 Are you familiar with this document?

12 A. Yes.

13 Q. Did you rely on this document in your
14 investigation?

15 A. Yes.

16 Q. And tell us what this document is.

17 A. This is Missouri First's Charter.

18 Q. Okay. And where was this document found in
19 your investigation?

20 A. On Missouri First's website, mofirst.org.

21 Q. And can I have you go to the paragraph with
22 the header Methods of Operation?

23 A. Uh-huh.

24 Q. And can you read that paragraph for us?

25 A. Missouri First will give priority to

1 educating and mobilizing the public to meet our
2 objectives. Media advertising, public oratory,
3 informational seminars, legislative lobbying and citizen
4 involvement may be used to teach or to influence public
5 policy.

6 Realizing that our children represent our
7 future, Missouri First will work with public, private
8 and home schools.

9 **Q. And the next paragraph after that?**

10 A. Missouri First will campaign for legislative
11 and ballot issues, as well as specific candidates who
12 further our stated objectives, but will not lobby or
13 campaign for a political party, a particular political
14 party. Excuse me.

15 **Q. Okay. And I will next have you look at what
16 I've marked as Exhibit 8.**

17 COMMISSIONER MUNICH: This is 8?

18 MS. JOHNSON: Yes.

19 CHAIR WEEDMAN: And the one before was
20 Exhibit 7.

21 BY MR. STOKES:

22 **Q. Are you familiar with this document?**

23 A. Yes.

24 **Q. Did you rely on this document in your
25 investigation?**

1 A. Yes.

2 **Q. What is this document?**

3 A. This is a page on Missouri First's website
4 that allows individual citizens to join Missouri First.

5 **Q. Okay. Can you read the first paragraph that**
6 **begins why join?**

7 A. By joining Missouri First you place your name
8 and influence on the right side of issues affecting
9 Missourians.

10 The old saying, there is strength in numbers
11 holds true, especially when lobbying Missouri House and
12 Senate members.

13 You may be certain that Missouri First is
14 working hard to repeat (sic) your values in the issues
15 that touch your life -- to represent your values in the
16 issues that touch your life.

17 **Q. And can I have you read the paragraph that**
18 **begins what is asked of me?**

19 A. All we ask is that you agree with the
20 principles outlined in our Charter and fill out the form
21 below.

22 Missouri First assures you that we take your
23 personal information seriously and understand in no
24 circumstances will this information be sold, traded or
25 used in some commercial endeavor. We ask this form to

1 be completed that we may better keep you informed on
2 Missouri issues and to bolster our, your, clout with
3 fighting the war for sovereignty.

4 **Q. Finally can you read that last paragraph**
5 **before the first name and last name fields, starting**
6 **with please use.**

7 A. Please use the name and address for which you
8 are are (sic) registered to vote. That will allow us to
9 look up you (sic) legislative districts and keep you
10 informed about your own State rep and senator.

11 **Q. Okay. And did you talk with Mr. Calzone**
12 **about who he felt he was representing?**

13 A. Mr. Calzone --

14 MR. DICKERSON: Objection, leading.

15 CHAIR WEEDMAN: It is leading but --

16 MR. STOKES: I'll rephrase the question.

17 BY MR. STOKES:

18 **Q. Did you speak with Mr. Calzone on whether he**
19 **felt he was representing anybody?**

20 A. Yes.

21 **Q. And what did he say?**

22 A. That his hat was -- he felt his hat was to
23 represent the faceless mask of citizens who did not have
24 a lobbyist.

25 **Q. Okay. Now, as part of your investigation,**

1 did you also -- you also mentioned earlier that you
2 looked at documents from the Missouri House of
3 Representatives?

4 A. Yes.

5 Q. And we referred to those as Exhibit 2?

6 A. Uh-huh.

7 Q. I'm just going to have you start -- now, at
8 the top of each page we've Bate's numbered these. So
9 when I refer to page 3, that's what I'm referring to,
10 the number at the very top of the page.

11 Can I have you turn to page 3 of Exhibit 2?

12 A. Okay.

13 Q. And do you recognize this document?

14 A. Yes.

15 Q. What is this document?

16 A. This is the minutes from a House hearing for
17 a Special Standing Committee on General Laws.

18 Q. Okay. And tell us what that first page does
19 or is.

20 A. Page 3?

21 Q. Yes.

22 A. Page 3 just indicates who was a witness for
23 and who was a witness against appearing for this
24 committee.

25 Q. Okay. Turning then to page 5, can you tell

1 **us what the document is?**

2 A. This is a witness appearance form for an
3 individual who appeared and had to complete this form in
4 order to witness.

5 **Q. Okay. Now, under witness information you see**
6 **three blocks. Right?**

7 A. Yes.

8 **Q. Can you kind of describe what those three**
9 **blocks are?**

10 A. The individual if they appear to testify on
11 their own behalf, a business organization if they were
12 testifying on behalf of this business or organization,
13 and the third block is a registered lobbyist, if, in
14 fact, they are a registered lobbyist, and the business
15 or organization with which they are associated.

16 **Q. Okay. Now, when you were investigating and**
17 **reviewing the Missouri House documents, when you**
18 **requested Missouri House committee documents, is this**
19 **the format that you generally received them in, with**
20 **that first page and then the second page of a witness**
21 **form?**

22 A. Yes.

23 **Q. Okay. Next I'm going to have you turn to**
24 **page 19 of Exhibit 2.**

25 CHAIR WEEDMAN: Is that Bate's stamped

1 No. 19?

2 MR. STOKES: Bate's Stamp Page No. 19.

3 CHAIR WEEDMAN: Okay.

4 BY MR. STOKES:

5 Q. And can you tell us about this page?

6 A. This again is a page of who appeared to
7 witness for or against a particular issue before a
8 committee regarding elections.

9 Q. Okay. Who is listed as against?

10 A. Ron Calzone, Missouri First.

11 Q. And Missouri First is under organization?

12 A. Yes.

13 Q. Okay. I'm going to next have you turn to
14 page 28. Now, can you tell us about this page?

15 A. This is the witness appearance form that is
16 required to be filled out.

17 Q. Okay. Now, here Mr. Calzone is actually
18 signed under witness information, not business
19 information. Right?

20 A. Yes.

21 Q. Okay. But we're also going to turn to
22 page 30, and can you describe what this document is?

23 A. This is a supplement to his testimony that he
24 offered, where he just listed what he felt were the
25 fundamental problems with the House bill, the things

1 that he would like the committee to consider, and
2 additionally a map that shows where the various other
3 individuals who submitted form -- witness forms, where
4 they are from, where they reside.

5 Q. And then pages 32 through page 37, was that
6 also an attachment to the committee record for this
7 bill?

8 A. Yes.

9 Q. And what is that?

10 A. This is the House bill as it was introduced
11 with markings or edits of changes, problems, points to
12 reinforce that previous form.

13 Q. Now, is it your understanding that that
14 annotated version was submitted by Mr. Calzone --

15 A. Yes.

16 Q. -- as part of his record?

17 A. Yes.

18 Q. Okay.

19 The next document I'm going to have you look
20 at is page 55.

21 Can you tell us what this document is?

22 A. This is the minute book for a committee on
23 Health Care Policy.

24 Q. And HJR 19 was the bill job number?

25 A. Yes.

1 Q. And the date of this is March of 2013. Is
2 that right?

3 A. Yes.

4 Q. Is this document within two years of the
5 Complaint being filed in this matter?

6 A. Yes.

7 Q. Okay. Who is listed as a witness for on
8 page 55?

9 A. Pamela Grow, individual; James Coyne,
10 individual; Abram Messer, Missouri Family Network;
11 Barbara Smith, individual; Parry Skain, Missouri Right
12 to Life; Ron Calzone, Missouri First.

13 Q. Okay. I'm going to have you turn to
14 Mr. Calzone's witness form at page 70 of Exhibit 2, and
15 this document is dated March 12th of 2013.

16 A. Yes.

17 Q. And Mr. Calzone identifies again himself?

18 A. Yes.

19 Q. And he is also submitting information or
20 testimony in the box below?

21 A. Yes.

22 Q. Okay. Then let's turn then to page 76 and
23 have you identify what that document is.

24 A. This contains the location of the
25 400 witnesses in favor of the HJR 19 Health Care Freedom

1 Amendment.

2 Q. Okay. Were these documents supplied -- the
3 documents with all of the maps on it, was that supplied
4 by Mr. Calzone?

5 A. Yes.

6 Q. I'm also going to have you turn to -- I
7 apologize. I should have had these premarked.

8 Sorry. Page 149.

9 COMMISSIONER MUNICH: 149?

10 MR. STOKES: 149, yes.

11 BY MR. STOKES:

12 Q. Now, those documents -- can you tell us what
13 this document is?

14 A. This is the minute book for a committee,
15 where it lists the witnesses for or against.

16 Q. Okay. And Mr. Calzone is listed as a witness
17 on this form as well?

18 A. Yes.

19 Q. And it's for 2014?

20 A. Yes.

21 Q. Now, this one he's identified as an
22 individual. Is that right?

23 A. Yes.

24 Q. And page 151, can you tell us what this
25 document is?

1 A. This is the witness appearance form that is
2 to be completed by witnesses.

3 **Q. Now, in this form he is again identified as**
4 **an individual?**

5 A. Yes.

6 **Q. Okay. So we've now looked at three committee**
7 **forms where Mr. Calzone identifies himself as an**
8 **individual?**

9 A. Yes.

10 **Q. Let's now contrast that. I'm going to have**
11 **you turn to your complaint investigation report and have**
12 **you turn to page --**

13 CHAIR WEEDMAN: Which is before us as exhibit
14 what?

15 MR. STOKES: Exhibit 1.

16 BY MR. STOKES:

17 **Q. Now, did you include other documentation from**
18 **the Missouri House in your investigative report?**

19 A. Yes.

20 **Q. And I'm trying -- I'm turning to that page,**
21 **to those pages.**

22 **I apologize.**

23 **The minutes. Here we go. Page 105.**

24 CHAIR WEEDMAN: Wait until we get there.

25 MR. STOKES: I apologize, Commissioners.

1 BY MR. STOKES:

2 Q. Now, these are the minutes for HCS HB 1788,
3 which is House Committee Substitute for House Bill 1788,
4 and on page 106, can you tell us what the concluding
5 note is on these committee minutes?

6 A. Testifying against the bill was Ron Calzone,
7 Missouri First.

8 Q. So it identifies Missouri First --

9 A. Yes.

10 Q. -- in the committee meetings for that one?

11 Now I'm going to have you turn to
12 Exhibit 4 -- I'm sorry -- 3, which is the Senate
13 documents.

14 And in Exhibit 3 the first -- I'm sorry.
15 Page 2 for SJR 14, Senate Joint Resolution 14. I
16 apologize.

17 Where is Mr. Calzone listed on that document?

18 A. Witnesses giving information.

19 Q. Okay. And it just lists there Mr. Calzone.

20 Correct?

21 A. Yes.

22 Q. Okay. Now let's compare that with page 4.

23 So on page 4 who is listed as a witness for?

24 A. Witness for?

25 Q. Yes.

1 A. Ron Calzone, Missouri First; Abram Messer,
2 Missouri Family --

3 Q. Just for the Ron Calzone, witness for.

4 Next, page 6, we have witnesses for and
5 witnesses -- I'm sorry. Not page 6.

6 Page 9. Is Ron Calzone listed as a witness
7 for Senate Bill 613 --

8 A. Yes.

9 Q. -- on that page?

10 Okay. Now, again going back to Exhibit 2.

11 I'm sorry. Page 46 of Exhibit 2.

12 Now, in contrast to some of the other witness
13 forms we've seen, under this one can you tell us who is
14 listed as a witness?

15 A. Ron J. Calzone.

16 Q. And under organization information what is
17 listed?

18 A. Missouri First, Incorporated.

19 Q. And does it have testimony listed under
20 there?

21 A. Yes.

22 Q. And is it marked for or against or other?

23 A. For.

24 Q. Okay. And it's your understanding that this
25 form was provided to the Missouri House by Mr. Calzone?

1 A. Yes.

2 Q. And then I'll have you turn to the next page,
3 page 47.

4 Do you recognize this document?

5 A. Yes.

6 Q. Now, at the top of that document it says
7 libertytools.org?

8 A. Yes.

9 Q. Okay. Was this document also supplied by
10 Mr. Calzone?

11 A. Yes.

12 Q. And Mr. Calzone supplied this to the Senate?

13 A. Yes.

14 Q. It was not supplied by Mr. Kilgus of
15 St. Louis, Missouri?

16 A. No.

17 Q. Mr. Kilgus was not listed at the cover page
18 for this committee hearing as being present for this
19 hearing?

20 A. Correct.

21 Q. Okay.

22 MR. DICKERSON: I apologize, Counselor. Can
23 you remind me where we are?

24 MS. JOHNSON: Exhibit 2.

25 MR. STOKES: Pages 46, 47 and 48.

1 MR. DICKERSON: Thank you.

2 BY MR. STOKES:

3 Q. So in your investigation is it fair to say
4 that you saw instances where Mr. Calzone was appearing
5 before a legislative committee both for himself and
6 identifying himself as himself and you also saw
7 instances where the witness form identified himself
8 appearing on behalf of Missouri First?

9 A. Yes.

10 Q. Okay. So it's fair -- it would be a fair
11 conclusion to say that he understood the difference
12 between appearing for one's self and appearing on behalf
13 of Missouri --

14 MR. DICKERSON: Objection, calls for
15 speculation.

16 CHAIR WEEDMAN: I agree. Sustained.

17 BY MR. STOKES:

18 Q. The last thing I want to talk about is the
19 conclusion of the report.

20 You did look through Missouri Ethic
21 Commission's records, and did you find Mr. Calzone's
22 registration as a lobbyist?

23 A. No.

24 Q. Did you see him filing any lobbyist
25 expenditure reports?

1 A. No.

2 Q. Did you see that Missouri First had filed any
3 lobbyist expenditure -- or had lobbyist expenditure
4 reports reported on their behalf?

5 A. No.

6 Q. Did you see that Missouri First had reported
7 any lobbyist principal reports?

8 A. No.

9 Q. Or had them filed on their behalf?

10 A. No.

11 Q. Does Missouri First have any registered
12 lobbyists?

13 A. No.

14 MR. DICKERSON: I'd like to object to the
15 relevance on all of the filings for Missouri First which
16 is not a party to this proceeding.

17 MR. STOKES: It's relevant because it shows
18 that Missouri First, their Charter says they're going to
19 lobby, they encourage members to join because they're
20 going to lobby on the members' behalf but they don't
21 have any registered lobbyists --

22 CHAIR WEEDMAN: Your objection is overruled.

23 MR. DICKERSON: In this case speculative.

24 CHAIR WEEDMAN: Okay. Proceed.

25 BY MR. STOKES:

1 **Q. So Missouri First does not have -- no**
2 **registered lobbyist in Missouri lists Missouri First as**
3 **a lobbyist principal. Right?**

4 A. Correct.

5 MR. STOKES: All right. No further questions
6 for the witness.

7 CHAIR WEEDMAN: Mr. Stokes and Mr. Dickerson,
8 we're going to finish this hearing today, and we
9 originally hoped that perhaps by lunchtime we might get
10 it done.

11 But, Mr. Dickerson, proceed with your
12 cross-examination.

13 MR. DICKERSON: Thank you, sir.

14 And I will try to get us out in a position
15 where nourishment will be possible.

16 CHAIR WEEDMAN: Okay.

17 CROSS-EXAMINATION

18 BY MR. DICKERSON:

19 **Q. Good morning. I'm sorry for the disjointed**
20 **aspects of my presentation.**

21 **Well, let's start with the way you conducted**
22 **your investigation. Did you record the conversations**
23 **you had with individuals?**

24 A. No.

25 **Q. Was there any record contemporaneous to those**

1 **conversations that you kept?**

2 A. No.

3 **Q. Did you keep any notes?**

4 A. No.

5 **Q. So when you are directly quoting from**
6 **Mr. Calzone and from other individuals you spoke with,**
7 **that's entirely from your memory?**

8 A. No.

9 **Q. Then on what -- let me restate my previous**
10 **question.**

11 **Did you keep any contemporaneous record of**
12 **the conversations you were having?**

13 A. I took notes during the conversation.

14 MR. DICKERSON: You took notes.

15 I would -- if we were in discovery, I would
16 ask for those notes. It's very difficult to impeach a
17 witness without that sort of information.

18 CHAIR WEEDMAN: Well, I think you could have
19 requested to see such documents, Mr. Dickerson. Is
20 there anything that prevented you from doing so?

21 I mean, you didn't request them and
22 Mr. Stokes failed to produce them?

23 MR. STOKES: I just want to clarify.

24 The interview memoranda included with
25 Exhibit 1, the investigator reports, those were provided

1 to Mr. Calzone several months ago.

2 The interview memorandums are dated January
3 of 2015. That is approximately two months after the
4 Complaint was filed.

5 CHAIR WEEDMAN: Okay.

6 COMMISSIONER MUNICH: Are those all of the
7 notes, those include all of the investigators' notes?

8 MR. STOKES: I'll let --

9 THE WITNESS: After the report is written and
10 reviews are written, it is my standard practice to let
11 those stand on their own and anything handwritten is
12 discarded.

13 CHAIR WEEDMAN: Proceed, Mr. Dickerson.

14 MR. DICKERSON: Thank you, sir.

15 I suppose that speaks for itself.

16 BY MR. DICKERSON:

17 Q. I'm going to attempt to walk you through some
18 of the voluminous documents that were referenced by the
19 Commission's counsel.

20 Perhaps you could turn to Bate Stamp No. 3 of
21 Exhibit 4.

22 CHAIR WEEDMAN: Of Exhibit 4, page 3.

23 BY MR. DICKERSON:

24 Q. And you testified as to the officers listed
25 on Page Bate Stamp 2 of that exhibit. Could you please

1 read the officers present on page 3 of Exhibit 4?

2 A. Treasurer Anne R. Calzone.

3 Q. Thank you.

4 And then on Bate Stamp 7 of the same exhibit,
5 a few pages later, if my memory serves -- and I
6 apologize if it does not -- under the incorporators you
7 read three of those individuals. Are there only three
8 incorporators listed on that?

9 A. No. There are two off to the right.

10 Q. And could you read those into the record?

11 A. Nathan Maydon, Mark C. Atkins.

12 Q. And then if I could direct you to Exhibits 7
13 and 8. Could you look to the lower left-hand corner of
14 Exhibit 7 and read what you find there?

15 A. [http://mofirst.org/\(9/2/2015 2:33:14 PM\)](http://mofirst.org/(9/2/2015%202:33:14%20PM)).

16 Q. And what do you understand that to signify,
17 if anything?

18 A. That the website is -- printout came from
19 this website.

20 Q. Was it printed under your understanding
21 yesterday at 2:33 p.m.?

22 A. Yes.

23 Q. Have you verified that those exhibits are
24 true and correct copies of the documents that you
25 testified you relied upon in your investigation?

1 A. No.

2 Q. I wonder if I could ask you some questions
3 about the process by which you gather documents from the
4 House and Senate, you know, from the recordkeepers
5 there.

6 What did you request?

7 A. Documentation of the minutes which would show
8 the committee meeting and any of the supporting
9 documents for or against, specifically if it related to
10 Mr. Calzone or Missouri First.

11 Q. So did you receive documents in response to
12 that request that did not involve Mr. Calzone?

13 A. No.

14 Q. Could I direct you to Bate Stamp No. 3 of
15 Exhibit 2, and could you tell me if you find there --

16 A. Oh --

17 Q. -- Mr. Calzone's name?

18 A. Bate Stamp No. 3?

19 Q. Yes.

20 A. Of Exhibit 2?

21 Q. Of Exhibit 2, yes.

22 A. No.

23 Q. So this document was not given to you in
24 response to your request?

25 A. It was.

1 Q. Then could I perhaps reask the question of
2 how you went about requesting documents from the staff.

3 A. Additionally certain Senate bills or House
4 bills were included in that.

5 Q. How were those House or Senate bills
6 selected?

7 A. Randomly based upon the information obtained
8 through the investigation.

9 Q. Well, let's take those in parts.
10 What do you mean by information obtained
11 during the investigation?

12 A. Certain legislators represent certain House
13 bills or Senate bills based upon what they might
14 represent.

15 Q. Based upon the sponsors?

16 A. Yes.

17 Q. And how did you determine which
18 representatives or senators to use for developing that
19 sample?

20 A. The ones contained in the Complaint.

21 Q. The ones contained in the Complaint?

22 A. Yes.

23 Q. And you requested all records referring to
24 legislation sponsored by the individuals that were
25 referred to in the Complaint?

1 A. As I recall.

2 Q. Do you recall the process by which you
3 randomly selected legislation from that was sponsored by
4 those individuals?

5 A. The -- no, I do not recall.

6 Q. I want to address -- I wonder if I could
7 direct you to two different documents, and honestly I'm
8 going to have to select more or less at random here.

9 Well, let's say -- let's say Bate Stamp 10 of
10 Exhibit 2 and Bate Stamp 104 of Exhibit 2. And I'm
11 sorry to ask you to compare two documents that are
12 separated.

13 Now, leaving aside the information filled in
14 by some third party, are these forms identical, the
15 forms themselves?

16 A. No.

17 Q. What are the differences?

18 Or let me ask a more direct question.

19 The form noted at page 104 does not include
20 any space for registered lobbyists. Is that correct?

21 A. Yes.

22 Q. It also does not include a separate section
23 for business or slash organization. Is that correct?

24 A. Yes.

25 Q. In fact, all that is present is witness

1 information, which gives the name of the witness, home
2 address, city and then there's a separate line for
3 business information. Is that correct?

4 A. Yes.

5 Q. Now, are you aware of the process by which
6 the House and Senate developed their minute book
7 entries?

8 A. Can you please --

9 Q. Certainly.

10 The minute book entry -- let me give you an
11 example of Bate Stamp Page 3 on Exhibit 2, which is the
12 first minute book entry that is provided here.

13 How is this -- how does this page come to be?

14 Or a different question, did Mr. Calzone
15 author this page?

16 A. Not that I am aware.

17 Q. And he's not -- would he have authored any
18 page upon which he was listed under the minute book?

19 A. Not that I'm aware.

20 Q. Is it not true that the minute book entries
21 are, in fact, the judgment of House and Senate staff as
22 to who has testified for what purpose and with what
23 affiliation?

24 A. Yes.

25 Q. So is it not true that Mr. Calzone did not in

1 any way represent his affiliation upon any of the minute
2 book entries that the Commission is attempting to admit?

3 MR. STOKES: I would object to the extent
4 that he's trying to impeach minutes.

5 Under Missouri case law, the minutes of legal
6 organizations, such as the Missouri Legislature, cannot
7 be impeached by extrinsic evidence.

8 CHAIR WEEDMAN: Objection overruled.

9 You may answer if you know.

10 THE WITNESS: I am unaware.

11 BY MR. DICKERSON:

12 Q. Did you rely upon the minute book entries in
13 concluding your report?

14 A. Yes.

15 Q. Turning to the witness appearance forms --
16 actually withdrawn.

17 What other documents other than witness
18 appearance forms and minute book entries did you request
19 from the two houses and General Assembly, if any?

20 A. None.

21 Q. So all of the pages in the exhibits that the
22 Commission has brought to your attention were delivered
23 as part of your request for the committee meetings of
24 the two houses?

25 A. Yes.

1 Q. So it's correct to -- it's correct to state
2 that anything other than a witness form or a minute book
3 entry was submitted as part of testimony for the
4 General Assembly or its committees?

5 A. Are you asking me to speculate on that?

6 Q. To the extent you don't know, please answer
7 that way.

8 A. I do not know.

9 Q. Turning to page 105 of Exhibit 1, to which
10 you have already testified.

11 Was this document prepared by Mr. Calzone?

12 CHAIR WEEDMAN: I'm sorry, Counsel. Would
13 you tell me again what document you're referring to?

14 MR. DICKERSON: Oh, I apologize.

15 Bate Stamp No. 105 of Exhibit 1. It should
16 read at the top HSC HB 1788.

17 CHAIR WEEDMAN: I see it.

18 BY MR. DICKERSON:

19 Q. Was this documented created by Mr. Calzone?

20 A. I do not know.

21 Q. Was this document created by the -- I believe
22 this is the House -- by the House of Representatives?

23 A. Yes.

24 Q. Did you rely upon the -- did you rely upon
25 the contents of this document in preparing your report?

1 A. Yes.

2 Q. You spoke -- could you briefly list the
3 individuals you spoke with as part of your
4 investigation?

5 I realize that may be a lengthy list, and I'm
6 happy to direct you to an exhibit if there is one.

7 A. There is.

8 I am not seeing the list.

9 Okay. Senator Engler, Senator Nieves,
10 Representative Barnes, Representative Schaefer,
11 Representative Funderburk.

12 I'm struggling to remember the rest of the
13 individuals' names.

14 Q. And did you speak with -- who is the
15 complainant in this case?

16 A. Michael Dallmeyer.

17 Q. And did you speak with Mr. Dallmeyer?

18 A. I did.

19 Q. And did he --

20 MR. DICKERSON: I apologize, Commissioners.

21 BY MR. DICKERSON:

22 Q. Did he make any representations to you
23 outside of the scope of the affidavit initiated in this
24 Complaint?

25 MR. STOKES: Objection, hearsay.

1 CHAIR WEEDMAN: I don't know which counsel
2 first opened the issue of hearsay with the complaining
3 witness, Mr. Dallmeyer.

4 Obviously whatever Mr. Dallmeyer has said is
5 hearsay because he's not here today.

6 MR. DICKERSON: Yes.

7 CHAIR WEEDMAN: So are we going to receive
8 hearsay testimony about Mr. Dallmeyer or not? That is
9 the question.

10 If we're going to receive it, then she can
11 answer the question. If we're not going to receive
12 hearsay testimony from Mr. Dallmeyer, then your
13 objection is sustained, Mr. Stokes.

14 MR. STOKES: I think it really --

15 CHAIR WEEDMAN: If the two of you want to
16 speak to the issue, you may.

17 MR. STOKES: I think my objection, to support
18 it, it also comes down to the ground of relevance.

19 The Complaint is signed by Mr. Dallmeyer,
20 attested to by Mr. Dallmeyer and notarized by a public
21 notary in Missouri. That really is enough to stand on
22 its own to establish that the Missouri Ethics Commission
23 received a Complaint signed by a natural person,
24 under -- and attested to and notarized by.

25 And that really stands on its own to

1 establish the Missouri Ethics Commission had
2 jurisdiction to conduct the complaint (sic) and
3 authority to conduct the complaint (sic).

4 MR. DICKERSON: If it is the intention of the
5 Commission to not rely upon the content of that
6 affidavit, then I am satisfied.

7 CHAIR WEEDMAN: We are relying on the
8 evidence presented today by Mr. Stokes.

9 MR. DICKERSON: Very well.

10 As Exhibit 1 is not moved into evidence, I
11 will reserve any objections for that point.

12 I wonder if I could again have just a couple
13 minutes, given the surprise nature of this proceeding,
14 to consult with my client.

15 CHAIR WEEDMAN: Certainly.

16 MR. DICKERSON: Thank you.

17 (OFF THE RECORD.)

18 CHAIR WEEDMAN: Back on the record.

19 MR. DICKERSON: Thank you, sir.

20 BY MR. DICKERSON:

21 Q. Have you seen this document which has been
22 marked Exhibit 9 previously?

23 A. Yes.

24 Q. And what is Exhibit 9?

25 A. It is a cover letter that was attached to the

1 Complaint received from Mr. Dallmeyer.

2 **Q. Is it a true and correct copy of that letter?**

3 A. Yes.

4 **Q. And could you read everything beginning Dear**
5 **Sir or Madam?**

6 CHAIR WEEDMAN: We are capable of reading and
7 the letter speaks for itself.

8 MR. DICKERSON: Excellent.

9 BY MR. DICKERSON:

10 **Q. When did you first see this document?**

11 A. January 8th, 2015.

12 **Q. And how do you remember that date with**
13 **such --**

14 A. Because the original Complaint came in on
15 November 4. When Complaints are received at our office
16 and deemed within our jurisdiction, they are
17 photocopied. A photocopy is provided to all
18 investigators who are assigned the Complaint.

19 The copy that I received did not include this
20 letter. I spoke with Mr. Dallmeyer on January 8th,
21 2015, at which time he referenced this letter.

22 **Q. And at the time of that conversation did he**
23 **reference it -- what was the content of his reference to**
24 **the letter?**

25 A. That I should speak with his clients,

1 Mr. Licklider and Mr. Scherr, and he had noted that his
2 client was the Missouri Society of Governmental
3 Consultants, and he had referenced that in his letter.

4 **Q. At that point did you understand the**
5 **complainant not to be Mr. Dallmeyer but to be the**
6 **society?**

7 MR. STOKES: Objection, calls for a legal
8 conclusion, irrelevant.

9 CHAIR WEEDMAN: Overruled.

10 THE WITNESS: No.

11 BY MR. DICKERSON:

12 **Q. Did you, in fact, speak with these two**
13 **individuals, Mr. Licklider and Mr. Scherr?**

14 A. Yes.

15 **Q. Did you reference this letter in speaking**
16 **with them?**

17 A. No.

18 **Q. Now, what time was this letter first provided**
19 **to Mr. Calzone?**

20 A. January 21st, 2015.

21 **Q. Why was there a gap of more than two weeks,**
22 **by my math, between the discovery of the letter and its**
23 **being produced?**

24 A. I spoke with Mr. Calzone on January 20th,
25 2015, and during that conversation it appeared he had

1 not received a copy of this letter either. I spoke with
2 management, confirmed it should have been contained and
3 was instructed to call him on the 21st and have staff
4 send a copy to him.

5 **Q. Now, at that point you had already conducted**
6 **your investigation. Correct?**

7 **Or had begun conducting your investigation?**

8 **I apologize.**

9 A. Yes.

10 **Q. And that was on the instructions of the**
11 **Commission. Correct?**

12 A. On the instructions of -- I'm sorry?

13 **Q. The Commission.**

14 A. Yes.

15 **Q. What is the process by which you're assigned**
16 **an investigation?**

17 A. A Complaint is received in our office. It is
18 reviewed by the Executive Director and General Counsel
19 to determine whether the allegations fall within our
20 jurisdiction.

21 If it is determined that they do,
22 notification letters are issued, a copy of the original
23 Complaint is made and supplied to the investigative
24 supervisor, who then reviews that information and
25 supplies that copy to the investigator who he chooses to

1 assign.

2 That investigator then, depending upon the
3 type of complaint, has either fifteen days or nine days
4 to conduct that investigation and submit a report.

5 MR. DICKERSON: Thank you, ma'am.

6 I move Exhibit 9 into evidence.

7 MR. STOKES: No objection.

8 CHAIR WEEDMAN: Admitted.

9 (EXHIBIT NO. 9 WAS RECEIVED INTO EVIDENCE.)

10 MR. DICKERSON: And at this point I have no
11 further questions, sir.

12 CHAIR WEEDMAN: Okay.

13 Followup?

14 MR. STOKES: Very brief.

15 REDIRECT EXAMINATION

16 BY MR. STOKES:

17 **Q. Does the Complaint cover page reference the**
18 **cover letter, the Complaint that is actually signed and**
19 **notarized by Mr. Dallmeyer?**

20 A. No, it does not.

21 **Q. Turning to page 26 of Exhibit 1. That is a**
22 **document purporting to be the Charter of Missouri First?**

23 COMMISSIONER MUNICH: Page again, Counselor.

24 MR. STOKES: Page 26.

25 THE WITNESS: Yes.

1 BY MR. STOKES:

2 Q. And the date on the bottom is January 20th of
3 2015?

4 A. Yes.

5 Q. Okay. Turn to page 30 of the document
6 purporting to say Join Missouri First.

7 A. Yes.

8 Q. That also is dated January 20th?

9 A. Yes.

10 Q. And these are true and accurate copies of the
11 website as you saw them on January 20th?

12 A. Yes.

13 MR. STOKES: I believe pages 26 and 30 speak
14 for themselves with reference to whether or not they are
15 substantially similar to Exhibits 7 and 8, which are
16 cleaner copies.

17 At this point I'd like to admit Exhibits 1,
18 2, 3, 6, 7 and 8 into evidence.

19 CHAIR WEEDMAN: Okay. Mr. Dickerson.

20 MR. DICKERSON: I mean, I object to these to
21 the extent that there's an earlier version that is
22 actually relied upon. This is not best evidence.

23 CHAIR WEEDMAN: Well --

24 MR. STOKES: You know what, this is what I
25 was worried about. I'll reserve this just very briefly,

1 Exhibits 6, 7 and 8.

2 I still would like to admit Exhibit 1 with
3 all of the documents attached thereto. Exhibits 2 and 3
4 are certified Missouri Secretary of State documents.
5 That is the best evidence.

6 CHAIR WEEDMAN: Exhibits 2 and 3 are
7 admitted.

8 (EXHIBIT NOS. 2 AND 3 WERE RECEIVED INTO
9 EVIDENCE.)

10 CHAIR WEEDMAN: As to Exhibit 1 --

11 MR. DICKERSON: May I object to Exhibits 2
12 and 3?

13 CHAIR WEEDMAN: Certainly.

14 MR. DICKERSON: I don't object as to
15 authenticity. I do object as to relevance, both in the
16 sense that as we established on cross-examination, these
17 are not statements by Mr. Calzone. These are
18 determinations by who knows who somewhere along the
19 line.

20 It's an inadmissible hearsay even if it does
21 have a stamp on them, and it's simply not relevant
22 to the extent it involves testimony before the
23 Commission -- not before the Commission -- I
24 apologize -- before the Assembly.

25 COMMISSIONER MUNICH: Aren't these public

1 records?

2 CHAIR WEEDMAN: Yes.

3 They're public records, and you're not
4 objecting to authenticity. I mean, you have the
5 opportunity to rebut the contents where it says
6 Mr. Calzone appeared and testified.

7 I mean, if he wants to contest that record
8 and say I didn't appear on X date and testify before
9 that House committee, we can certainly consider it and
10 that record might be wrong.

11 MR. DICKERSON: I object solely to the
12 characterizations.

13 The forms themselves I understand to be
14 admissible. My objection goes to the weight.

15 CHAIR WEEDMAN: Okay. I mean, they're
16 relevant as to an appearance before a committee.

17 MR. DICKERSON: And for those purposes I do
18 not object.

19 CHAIR WEEDMAN: Okay. So where do we stand
20 on --

21 MR. DICKERSON: 1 --

22 CHAIR WEEDMAN: Well, 1 is admitted and --

23 COMMISSIONER MUNICH: So 6, 7 and 8.

24 CHAIR WEEDMAN: -- 2 and 3 are admitted.

25 MR. DICKERSON: Respectfully, Commissioner, I

1 don't believe I was heard on Exhibit 1 either.

2 CHAIR WEEDMAN: Okay. Speak.

3 MR. DICKERSON: Exhibit 1 does involve very
4 substantial hearsay, and I object to the inclusion of
5 that hearsay. It also -- honestly I would have to go
6 page by page to explain what is admissible and not
7 admissible, but to the extent that any of this is being
8 offered for the truth of the matter asserted, I think
9 it's basically all inadmissible hearsay.

10 CHAIR WEEDMAN: Well, certain parts of
11 Exhibit 1 are Secretary of State records concerning --

12 MR. DICKERSON: Yes. Well, maybe we do have
13 to go page by page. I apologize.

14 The report I object to on hearsay. The
15 supporting documents, I do not object to the business
16 filings. I do object to GuideStar because it's not a
17 governmental record and it's not authenticated.

18 I fail to understand the relevance of Bate
19 Stamps 16 through 17. I object on that basis, as well
20 as, again, none of these printouts have been
21 authenticated from third-party groups.

22 MR. STOKES: Actually with regards to 16
23 through 19 -- I'm sorry -- 13 through 19, those are just
24 for the purposes of establishing that the investigator
25 actually conducted the investigation.

1 I'll take out pages 13 through 19.

2 MR. DICKERSON: I don't object as to
3 relevance on 20 and 21, 22 or 23. Much of this is
4 duplicative of Exhibit 4. To the extent that they are
5 duplicates I don't object to their inclusion as I did
6 not object to Exhibit 4, but that's going to involve a
7 certain amount of collating.

8 On the basis of the Commission's redirect, I
9 object only as to relevance for Bate Stamps 26 through
10 31.

11 I do not believe that the remainder of these
12 web printouts have been authenticated, consisting of
13 blog posts, et cetera, from the Missouri First website.

14 Even if they were, they are irrelevant for
15 the purposes -- for the reasons I gave in my opening.
16 They haven't been even referenced by witnesses to my
17 recollection.

18 CHAIR WEEDMAN: So you're objecting to
19 Exhibit 1, pages 26 through what?

20 COMMISSIONER DEEKEN: Did you say 31?

21 CHAIR WEEDMAN: 31?

22 MR. DICKERSON: I did.

23 I do not object to pages 26 through 31 to the
24 extent that they're duplicative of Exhibit 4. I do
25 object to 32 through -- I suppose 32 through 102 as

1 being -- I mean, there just -- there is no foundation
2 for them.

3 CHAIR WEEDMAN: Mr. Stokes, are these
4 documents that were obtained off the internet off a
5 website?

6 MR. STOKES: So I believe pages 26 through 31
7 are referenced at Bate's Page 6 of the investigator
8 report. It talks about how the investigator went to
9 mofirst.org and how mofirst.org provided synopsis.

10 So I believe -- I believe the authentication
11 for pages 32, et cetera, are authenticated by the
12 investigative report itself, which is what --

13 CHAIR WEEDMAN: Let's just ask Mrs. Luaders.

14 Did you discuss -- have you followed,
15 Mrs. Luaders, the pages we're talking about, 26 through
16 32?

17 THE WITNESS: Yes.

18 CHAIR WEEDMAN: Did you discuss such pages on
19 the web with Mr. Calzone?

20 THE WITNESS: Yes.

21 CHAIR WEEDMAN: Okay. Does that suffice for
22 identification?

23 MR. DICKERSON: Pages 26 through 31, yes.
24 For pages 32 through 102 I object on relevance because
25 there is no relevance and it hasn't been used in

1 testimony or an exhibit or anything else. I object to
2 authenticity and to the extent there has been no
3 testimony supporting it, and it's simply not evidence at
4 this point.

5 CHAIR WEEDMAN: Mr. Stokes, I think
6 Mr. Dickerson has a point. It has not been referenced
7 in either testimony from Mrs. Luaders. So to that
8 extent it may not be relevant because it hasn't been
9 identified.

10 MR. STOKES: Okay.

11 MR. DICKERSON: I have no further questions
12 for Mrs. Luaders.

13 CHAIR WEEDMAN: Okay. Well, if he has no
14 further questions, then as to pages 32 through 100, your
15 objection, Mr. Dickerson, is sustained. It may not be
16 relevant and it hasn't been identified.

17 MR. DICKERSON: Through page 102.

18 CHAIR WEEDMAN: 102 for the record.

19 MR. DICKERSON: I do not object to pages 103
20 and 104, which appear to be true and correct State
21 records. I do not object to the admissibility of 105
22 and 106. I do object, of course, to any implications
23 that would be taken from it for the reasons already
24 stated.

25 107 and -- 107 -- excuse me -- and 108 I have

1 no objection. Pages 109 through -- 109 through 134 I
2 object on the same grounds that I objected to the
3 previous long line of pages.

4 CHAIR WEEDMAN: That there has not been
5 appropriate identification or what?

6 MR. DICKERSON: That is correct. It's also
7 irrelevant.

8 CHAIR WEEDMAN: Mr. Stokes, do you want to
9 address 109 through --

10 MR. STOKES: I'll withdraw my offer of
11 Exhibit 1 for the time being.

12 CHAIR WEEDMAN: Okay.

13 MR. STOKES: As far as Exhibits 6, 7 and 8,
14 the same thing.

15 I have no further questions for Mrs. Luaders,
16 but I think it would be -- I'll just be very brief. I
17 think it will take ten minutes to lay the foundation of
18 these documents with Mr. Calzone.

19 CHAIR WEEDMAN: Okay.

20 MR. STOKES: I don't want to waste anymore
21 time. I'll just have Mr. Calzone testify very briefly
22 to the authenticity of the website.

23 COMMISSIONER MUNICH: And you're reserving 1
24 as well?

25 MR. STOKES: Yes, reserving 1, 6, 7 and 8.

1 CHAIR WEEDMAN: Okay.

2 Are there further questions of this witness?

3 MR. STOKES: I have no further questions.

4 CHAIR WEEDMAN: Do any Commissioners have any
5 questions?

6 Hearing no further questions, Ms. Luaders,
7 you're excused.

8 CHAIR WEEDMAN: All right. Guys, now it's
9 12:37, and where do we think we stand as far as
10 proceeding? You know, we'd love to try and get this
11 done before we broke for some lunch.

12 The Commission has other business other than
13 just this hearing today, Mr. Dickerson.

14 And so where do we think we stand?

15 MR. STOKES: I think I can lay the foundation
16 for these documents and some hearsay objections with ten
17 to fifteen minutes of testimony from Mr. Calzone, and I
18 think I can get the testimony from Ms. Byers in about
19 15 minutes. So 30 minutes total.

20 CHAIR WEEDMAN: Proceed.

21 COMMISSIONER MUNICH: A half hour of --

22 MR. STOKES: -- direct.

23 CHAIR WEEDMAN: Okay.

24 MR. STOKES: My next witness is Mr. Calzone.

25 MR. DICKERSON: I'd like to make a statement

1 for the record on that point.

2 The difficulty with this case is that it is
3 apparent from the face of the complaint that there is
4 not probable cause to proceed with this matter, and the
5 Commission is now in the process of attempting to
6 backfill that evidentiary hurdle.

7 And to the extent it attempts to do so with
8 Mr. Calzone's own testimony is a fairly substantial
9 constitutional violation.

10 Consequently, in light of the fact that
11 criminal penalties do attach under certain circumstances
12 and given again that we believe it improper for the
13 Commission to prove its case with the Respondent's own
14 testimony, I am advising Mr. Calzone to exercise his
15 Fifth Amendment right not to testify.

16 CHAIR WEEDMAN: All right. You understand
17 that this proceeding is not a criminal proceeding?

18 MR. DICKERSON: I understand that.

19 I have authority for the fact that the Fifth
20 Amendment is available in administrative hearings, if
21 that would be of use to the Commission. I will quickly
22 dig through this.

23 I refer to the case of Johnson versus
24 Missouri Board of Nursing Administrators. The citation
25 is 130 SW 3rd 619, referring here to page 631. That's

1 from the Missouri Court of Appeals Western from 2004.

2 And to read that, although by its literal
3 terms applicable only in criminal decision--

4 CHAIR WEEDMAN: You don't have to read it to
5 us. It's okay.

6 MR. DICKERSON: That's the basis.

7 CHAIR WEEDMAN: You're going to advise your
8 client not to testify?

9 MR. DICKERSON: I am, sir. And I understand
10 that he has the right to ask the questions.

11 CHAIR WEEDMAN: Mr. Stokes, you have the
12 right to call Mr. Calzone, have him sworn and he may
13 take the Fifth Amendment or not.

14 MR. STOKES: And I also want to alert the
15 Commission, there is also case law, that in
16 administrative and civil proceedings you may take an
17 adverse inference that when he claims the Fifth
18 Amendment, you can assume that the answer would not be
19 in his interest.

20 MR. DICKERSON: I would also like to further
21 inform the Commission that in that same case, it says
22 that is at the discretion of the Commission, first of
23 all, and that the adverse inference itself cannot create
24 a sufficient record for a finding against the
25 Respondent.

1 CHAIR WEEDMAN: Okay.

2 COMMISSIONER MUNICH: It has to be a
3 specific, direct question.

4 MR. STOKES: Yes.

5 I'm calling Mr. Calzone.

6 CHAIR WEEDMAN: Mr. Calzone, raise your right
7 hand.

8 (Witness sworn.)

9 CHAIR WEEDMAN: Okay. Mr. Calzone, please
10 state and spell your name for the court reporter.

11 MR. CALZONE: Ron Calzone, R-o-n
12 C-a-l-z-o-n-e.

13 CHAIR WEEDMAN: And your address.

14 THE WITNESS: 33867 Highway E, Dixon,
15 Missouri 65459.

16 CHAIR WEEDMAN: And prior to your testimony
17 may I show my geographical ignorance. Where is Dixon?

18 THE WITNESS: Straight down Highway 63 to
19 Vienna, and then if you cut across 28, about 15 -- well,
20 about 20 miles you'll see Dixon.

21 CHAIR WEEDMAN: Okay.

22 THE WITNESS: It's kind of northeast of
23 Fort Leonard Wood.

24 COMMISSIONER STOLTZ: Just north of Jerome.
25 You don't know where that is either.

1 THE WITNESS: Actually closer to Hayden. If
2 you know where that is at, then I'm impressed.

3 CHAIR WEEDMAN: Okay. Proceed, Mr. Stokes.

4 DIRECT EXAMINATION

5 BY MR. STOKES:

6 Q. Thanks for coming in today, Mr. Calzone.

7 A. Did I have a choice?

8 Q. You can always default.

9 The Commission today is interested in a few
10 questions. I'll be asking you first about Missouri
11 First and then about a website.

12 You are the president of Missouri First?

13 A. As you've heard from my counsel, he's advised
14 me to exercise my Fifth Amendment right and not
15 participate.

16 Q. And --

17 A. Yes, sir.

18 Q. And you are exercising that right?

19 A. I am exercising my Fifth Amendment right.

20 Q. And you are the president of Missouri First
21 in 2015?

22 A. Ditto. I'm exercising my Fifth Amendment
23 right.

24 Q. And in 2014 you were the president --

25 A. I'm exercising my Fifth Amendment right.

1 Q. Can I finish the question before you answer?

2 A. I'm sorry.

3 Q. In 2014 you were president of Missouri First?

4 A. I further exercise my Fifth Amendment right.

5 Q. In 2013 you were president of Missouri First?

6 A. I continue to exercise my Fifth Amendment
7 right.

8 Q. And in 2015 you were the secretary for
9 Missouri First?

10 A. And I'm exercising my Fifth Amendment right.

11 Q. And in 2014 you were secretary for Missouri
12 First?

13 A. I am exercising my Fifth Amendment right.

14 Q. And from 2013 to 2015 you were a director of
15 Missouri First?

16 A. I am exercising my Fifth Amendment right.

17 Q. And you authored the website,
18 www.mo.first.org?

19 A. I continue to exercise my Fifth Amendment
20 rights.

21 CHAIR WEEDMAN: Let's cut to the chase here.
22 It's your intention to invoke the Fifth as to
23 all questions?

24 THE WITNESS: All questions.

25 CHAIR WEEDMAN: Mr. Stokes, you may recite

1 into the record the questions quickly that you intend to
2 ask of Mr. Calzone.

3 MR. STOKES: Okay.

4 And the Charter for Missouri First is located
5 at www.mofirst.org/docs/charter.htm. And that's one
6 question.

7 The next question is that page 26 of
8 Exhibit 1 is a true and accurate copy of the Charter for
9 Missouri First.

10 The next question is that Missouri First has
11 a Join Missouri First page.

12 The next question, the true and accurate copy
13 of the Join Missouri First web page is located at
14 www.mofirst.org/join.php.

15 MR. DICKERSON: Object to form.

16 MR. STOKES: The next question is --

17 CHAIR WEEDMAN: Overruled.

18 MR. STOKES: The next question is that
19 mofirst.org has a blog.

20 The next question is a true and accurate copy
21 of that blog is located at pages 32 through 102 -- I'm
22 sorry -- through 95 of Exhibit 1.

23 The next question, Mr. Calzone built the
24 libertytools.org website.

25 The next question, Mr. Calzone in 2015 spoke

1 with legislators in their offices about legislation
2 pending before the Missouri Legislature in 2015.

3 The next question, Mr. Calzone spoke with
4 legislators in their offices in 2014 about legislation
5 then pending before the Missouri Legislature.

6 The next question, Mr. Calzone in 2013 spoke
7 with legislators in their offices about legislation then
8 pending before the Missouri Legislature.

9 Question, that Mr. Calzone went to the side
10 gallery of the Missouri Senate and requested the
11 doorman for the Missouri Senate to contact senators
12 to come and speak with him outside of the Senate about
13 legislation in 2013, that he did the same thing in 2014,
14 that he did the same thing in 2015.

15 The next question, Mr. Calzone testified
16 before committees of the Missouri General Assembly, that
17 he did so in 2015, the next question that he did so in
18 2014, the next question that he did so in 2013.

19 The next question, page 46 of Exhibit 2 was
20 authored and filled out by Mr. Calzone.

21 The next question, that page 46 of Exhibit 2
22 was submitted to the General Laws Committee of the
23 Missouri House of Representatives on March 6 of 2013.

24 The next question, that pages -- the page 46
25 is a true and accurate copy of the witness appearance

1 form that Mr. Calzone provided to the committee on that
2 date.

3 The next question, Exhibit 6 is a true and
4 accurate copy of the Charter for Missouri First.

5 The next question, that Exhibit 7 is a true
6 and -- I'm sorry.

7 Exhibit 7 is a true and accurate copy of the
8 Charter for Missouri First.

9 The next question, that Exhibit 8 is a true
10 and accurate copy of Join Missouri First.

11 And I believe Exhibit 9 has already been
12 admitted into evidence.

13 The next question, that Mr. Calzone has
14 identified himself to legislators as being with Missouri
15 First. That when Mr. Calzone did so he was both the
16 president and secretary of Missouri First, that when he
17 did do, he did so in 2013, that he did so in 2014 and
18 that he did so in 2015.

19 And those are all of the questions that I
20 have.

21 CHAIR WEEDMAN: Mr. Dickerson, do you have
22 any questions of your client?

23 MR. DICKERSON: I do not.

24 CHAIR WEEDMAN: I have two questions and that
25 would be Exhibits 7 and 8.

1 QUESTIONS

2 BY CHAIR WEEDMAN:

3 Q. Are these accurate copies of the web page of
4 Missouri First?

5 A. I think I need to be consistent and --

6 CHAIR WEEDMAN: If you would like to display
7 Exhibits 7 and 8 to Mr. Calzone.

8 BY CHAIR WEEDMAN:

9 Q. Are those accurate copies of the web page?

10 A. I need to be consistent in exercising my
11 Fifth Amendment right.

12 CHAIR WEEDMAN: Okay.

13 MR. DICKERSON: I'll send those back.

14 MR. STOKES: At this point I'd like to admit
15 Exhibit 1 -- specifically anything in Exhibit 1,
16 particularly pages -- I apologize. I'll be specific.

17 Everything in Exhibit 1 except for --

18 CHAIR WEEDMAN: You may leave the witness
19 stand and sit with your counsel.

20 COMMISSIONER MUNICH: You had excepted,
21 Mr. Stokes, pages 13 and 19 previously.

22 MR. STOKES: With the exception of 13 through
23 19, I'd like to admit Exhibit 1.

24 CHAIR WEEDMAN: That is done with the
25 exception of pages 13 through 19.

1 (EXHIBIT NO. 1, WITH THE EXCEPTION OF PAGES
2 13 THROUGH 19, WERE RECEIVED INTO EVIDENCE.)

3 CHAIR WEEDMAN: Okay.

4 MR. STOKES: I'd also like --

5 MR. DICKERSON: I continue to object.

6 CHAIR WEEDMAN: For the record it's shown --

7 MR. DICKERSON: For the record it has not
8 been authenticated.

9 CHAIR WEEDMAN: Okay.

10 MR. STOKES: I would also like to admit --
11 confirm that 2 and 3 have been admitted.

12 CHAIR WEEDMAN: Yes, they have.

13 MR. STOKES: I'd also like to admit
14 Exhibits 6, 7 and 8.

15 CHAIR WEEDMAN: Exhibits 7 and 8 are
16 admitted.

17 (EXHIBIT NOS. 7 AND 8 WERE RECEIVED INTO
18 EVIDENCE.)

19 CHAIR WEEDMAN: No. 6 --

20 COMMISSIONER MUNICH: Is the Complaint.

21 MR. STOKES: Yes.

22 Exhibit 6, the Complaint, I would like to
23 admit solely for the purposes of establishing the
24 Missouri Ethics Commission authority to act as proof
25 that we did receive a Complaint signed and verified.

1 MR. DICKERSON: I do not object to the
2 existence of the Complaint. I do object to any legal
3 conclusions, such as the Commission being legally
4 permitted to act upon that Complaint.

5 CHAIR WEEDMAN: It is admitted with that
6 understanding.

7 (EXHIBIT NO. 6 WAS RECEIVED INTO EVIDENCE
8 WITH THE OBJECTIONS NOTED IN THE RECORD.)

9 MR. STOKES: Okay.

10 CHAIR WEEDMAN: So do you believe that you
11 have all of the exhibits which you wish to admit in
12 evidence?

13 MR. STOKES: Yes.

14 CHAIR WEEDMAN: Okay. Which would leave us
15 with Betsy Byers and her testimony?

16 MR. STOKES: Yes.

17 CHAIR WEEDMAN: And you think you can get
18 that on pretty quickly?

19 MR. STOKES: Yes. I think there a few things
20 that I can --

21 CHAIR WEEDMAN: Let's hear from her.

22 Please raise your right hand.

23 (Witness sworn.)

24 CHAIR WEEDMAN: Have a seat.

25 MR. STOKES: Now, with a little bit of leeway

1 I want to let the Commission know, what I was hoping to
2 do is having Ms. Byers show you what the public sees
3 when they log on to -- when they go to the Missouri
4 Ethics Commission website, so we can see what levels of
5 transparency there are for the public.

6 I'm not going to be asking to admit the
7 website in as an exhibit. I just want to have it up
8 there displayed as demonstrative so that the Commission
9 can follow along to see what the public can see.

10 CHAIR WEEDMAN: Mr. Dickerson, do you have
11 any problem with that?

12 MR. DICKERSON: I'm happy to stipulate to the
13 accuracy of the Commission's website.

14 DIRECT EXAMINATION

15 BY MR. STOKES:

16 Q. Ms. Byers, can you state your name?

17 A. Betsy Byers.

18 Q. And can you spell your last name?

19 A. B-y-e-r-s.

20 Q. And what's your position with the Ethics
21 Commission?

22 A. I'm Director of Business Services.

23 Q. And what does that job entail?

24 A. It supervises campaign finance, lobbyist
25 reporting, personal financial disclosure and training.

1 **Q. Okay. Walk us through the lobbyist part of**
2 **that. What are lobbyists required to do?**

3 MR. DICKERSON: Objection, calls for a legal
4 conclusion.

5 CHAIR WEEDMAN: You can give your
6 understanding.

7 THE WITNESS: The process that we have in
8 accepting lobbyists' registration is a lobbyist is
9 required to fill out a lobbyist registration form.

10 And on that form they provide their name,
11 their address, contact information and e-mail address,
12 which is the official e-mail address for that lobbyist
13 for security log in for the electronic reporting system
14 and for our communications with them.

15 They also provide a list of principals that
16 they may represent -- or represent. They include a \$10
17 registration fee and submit that. They sign that. They
18 may also put any employees that they may have working
19 for them.

20 BY MR. STOKES:

21 **Q. Okay. And do they also file expenditure**
22 **reports?**

23 A. Once they are registered we enter their
24 information into our database, and they are then
25 required to file monthly reports indicating whether

1 they've had expenditures or not.

2 **Q. Okay. Is there a third report that they**
3 **file?**

4 A. They also file on March 15th and May 30th of
5 each year what we call the principals report. The
6 principals are required to file this; however, a
7 lobbyist can file that for their principal on behalf of
8 their principal.

9 And on that principals report they submit to
10 the Ethics Commission a general description of
11 legislation or actions by the executive branch that they
12 supported or opposed.

13 **Q. Okay. On the registration form does the**
14 **lobbyist -- does a lobbyist identify whether or not**
15 **they're paid by the principal?**

16 A. No, they do not.

17 MR. DICKERSON: Objection, relevance.

18 BY MR. STOKES:

19 **Q. Does the form indicate how much they're paid**
20 **by a lobbyist principal?**

21 MR. DICKERSON: Same objection

22 CHAIR WEEDMAN: Overruled.

23 THE WITNESS: No, they do not.

24 BY MR. STOKES:

25 **Q. Now, on the lobbyist expenditure report, do**

1 **they file that even if they have no expenditures?**

2 A. Yes.

3 MR. DICKERSON: Objection, calls for
4 speculation.

5 BY MR. STOKES:

6 **Q. And have you looked at the reporting system**
7 **to see the number of nonexpenditure reports compared to**
8 **the number of expenditure reports?**

9 A. I have for the last couple of years.

10 **Q. Okay. And what did you find?**

11 A. We have approximately a thousand lobbyists
12 that are registered with the Missouri Ethics Commission.

13 Of those 1,000 lobbyists, just over 800 file
14 nonexpenditure reports, and around 170, 175 on the
15 average file expenditure reports.

16 **Q. Okay. So I take it that the Ethics**
17 **Commission gathers all this information?**

18 A. Yes.

19 **Q. How does it make the registration and**
20 **expenditure reports available to the public?**

21 A. That information is available online --

22 **Q. Okay.**

23 A. -- on our website.

24 **Q. And can you show us what the website looks**
25 **like?**

1 A. I can.

2 MR. STOKES: Is it okay if I turn the lights
3 off so that it's a little more visible?

4 CHAIR WEEDMAN: You may.

5 BY MR. STOKES:

6 **Q. And if a member of the public wanted to see
7 the lobbyist information, where would they go?**

8 A. There are several places on our website that
9 they go to. We have searches for lobbyists. We can
10 look for a lobbyist who is registered with the Missouri
11 Ethics Commissions on this search.

12 **Q. What if a member of the public wasn't
13 interested in a particular lobbyist but the actual
14 principal?**

15 A. We have other searches. They can search by
16 principal. You can search by expenditures made, by the
17 principal or by the -- on behalf of the public official.

18 **Q. If a nonprofit corporation does not have a
19 lobbyist registered with the Missouri Ethics Commission,
20 is there any way to report an expenditure or a lobbyist
21 principal report on behalf of that principal?**

22 A. No.

23 MR. DICKERSON: Objection. Again, it calls
24 for a legal conclusion.

25 MR. STOKES: No. I'm not asking legally.

1 BY MR. STOKES:

2 Q. Just practically speaking is there any way
3 for a lobbyist principal to do that?

4 CHAIR WEEDMAN: Overruled.

5 Answer as best you can.

6 THE WITNESS: No.

7 BY MR. STOKES:

8 Q. Is it fair to say that the Ethics
9 Commission's website has heavy traffic?

10 A. Yes.

11 MR. DICKERSON: Objection, characterization.

12 CHAIR WEEDMAN: What does heavy traffic mean?

13 BY MR. STOKES:

14 Q. How many visitors does the Ethics
15 Commission's website get?

16 A. How many visitors? Oh. Thousands. I'm
17 not -- I don't have an exact number right now.
18 Thousands.

19 MR. STOKES: Okay. No further questions.

20 CHAIR WEEDMAN: Just one.

21 QUESTIONS

22 BY CHAIR WEEDMAN:

23 Q. Can we find Mr. Calzone's name on the MEC
24 website anywhere?

25 A. Not to my knowledge.

1 FURTHER DIRECT EXAMINATION

2 BY MR. STOKES:

3 Q. Can we conduct the search right now?

4 A. Uh-huh.

5 When you search by lobbyist's last name, we
6 do not get any results.

7 Q. Okay. Can we search for Missouri First under
8 the principal search?

9 And did that search turn up anything?

10 A. No results.

11 Q. Okay. To the best of your knowledge the
12 system is up and running currently?

13 A. Yes.

14 MR. STOKES: No further questions.

15 CHAIR WEEDMAN: Any questions?

16 MR. DICKERSON: Yes.

17 Thank you, sir.

18 CROSS-EXAMINATION

19 BY MR. DICKERSON:

20 Q. Could you go to www.google.com and could you
21 type in Ron Calzone and hit enter.

22 MR. DICKERSON: I'd like the record to
23 reflect that the first return to search is Missouri
24 First, mofirst.org, followed by a number of images,
25 several of which are Mr. Calzone. And, yes, there are

1 128,000 results.

2 BY MR. DICKERSON:

3 Q. To your knowledge, ma'am, is Google a heavy
4 traffic website?

5 A. I don't -- I don't have the numbers on that.

6 Q. I understand that.

7 Could you now please go back to the Missouri
8 Ethics Commission and enter the name -- I apologize.

9 Could you look for the last name S-c-h-e-r-r
10 as a lobbyist.

11 A. As a lobbyist?

12 Q. Yes.

13 Now could you go back to Google and could you
14 put a new search for Randy J. Scherr, S-c-h-e-r-r, and
15 hit enter.

16 MR. DICKERSON: I'd like to reflect -- the
17 record to reflect that the first hit is for Randy J.
18 Scherr of Scherr Winter, LLC, Government Relations, and
19 there are 318,000 results for that.

20 MR. STOKES: I'd also like the record to
21 reflect that there are over twice as many results for
22 Randy Scherr as there are for Mr. Calzone.

23 MR. DICKERSON: I will concede that there are
24 additional hundreds of thousands results.

25 I have no further questions.

1 CHAIR WEEDMAN: Any followup?

2 MR. STOKES: None.

3 CHAIR WEEDMAN: Ms. Byers, you are excused.

4 THE WITNESS: Okay.

5 CHAIR WEEDMAN: Does the Commission have any
6 further evidence?

7 MR. STOKES: No further evidence.

8 I just wanted To make sure Exhibit 4 was
9 admitted. I forgot to confirm that already.

10 That's the Secretary of State Articles of
11 Incorporation and --

12 MR. DICKERSON: I believe those were admitted
13 without objection.

14 CHAIR WEEDMAN: I think they were previously
15 admitted.

16 MR. STOKES: I just wanted to confirm that,
17 wanted to make sure.

18 COMMISSIONER MUNICH: 4 and 5?

19 MR. STOKES: Yes.

20 CHAIR WEEDMAN: Yes.

21 There is no further evidence from the
22 Commission.

23 Okay. Does the Respondent have any evidence?

24 MR. DICKERSON: I would like to move the
25 admission of the affidavits intended as Exhibits A

1 through C of our Motion to Dismiss.

2 MR. STOKES: I would object under 536.070.

3 These affidavits are in the form of an affidavit. They
4 also contain legal conclusions.

5 Under Section 536.070 affidavits are
6 admissible but they must be served on the opposing party
7 seven days ahead of the hearing. These affidavits were
8 provided this week.

9 We have had no opportunity to depose or
10 otherwise cross-examine the proponents of these
11 affidavits.

12 CHAIR WEEDMAN: Mr. Dickerson, what do you
13 say about that?

14 MR. DICKERSON: Might I have one minute with
15 my client to determine whether or not we intend to rest
16 on this record?

17 CHAIR WEEDMAN: Certainly. We're going to
18 hold you to that.

19 MR. DICKERSON: Thank you.

20 (OFF THE RECORD.)

21 MR. DICKERSON: The Respondent will rest on
22 the record provided by the Commission.

23 CHAIR WEEDMAN: Okay. Does either side wish
24 to make some closing remarks?

25 MR. STOKES: I can make a very brief closing.

1 CHAIR WEEDMAN: Okay. And, Mr. Dickerson, I
2 assume you want to reserve the right to make some
3 closing remarks also?

4 MR. DICKERSON: I would, yes. Thank you.

5 CHAIR WEEDMAN: Your closing remarks will be
6 no longer than Mr. Stokes.

7 MR. STOKES: Ten minutes tops. Tops.

8 CHAIR WEEDMAN: Oh, I was thinking much less
9 than that. Maybe five.

10 MR. STOKES: I'll go for five.

11 CHAIR WEEDMAN: Okay.

12 MR. STOKES: Okay. The Missouri Ethics
13 Commission is tasked with enforcement of Section 105.470
14 and 473. It requires lobbyists to register.

15 There are three levels of transparency, and
16 they're all very important and they're all available
17 on -- through the Missouri Ethics website.

18 The first level of transparency is that
19 lobbyists tell you, my name is, you know, Randy Scherr
20 or my name is Ron Calzone. I represent these
21 corporations, A, B, C.

22 The second level of transparency is the
23 expenditure reports. They say I'm a lobbyist and either
24 I or my principals have spent this amount of dollars
25 with these particular legislators or legislative

1 committee groups.

2 The third level of transparency is the
3 legislative principal report that says we are ABC
4 Corporation. We are interested in legislation affecting
5 us in this way, this way, this way on the report.

6 It's really -- there is really two pieces to
7 the transparency, both the lobbyist and lobbyist
8 principal.

9 The purpose of that is you don't want
10 nonprofit corporations going in -- or any corporation,
11 not necessarily a nonprofit corporation -- any
12 corporation to go in and begin influencing the
13 legislative process without identifying who is acting on
14 their behalf.

15 And by identifying who is acting on their
16 behalf, you know, okay, this person represents these
17 interests and they're required to file expenditure
18 reports.

19 There's a certain level of trust when a
20 nonprofit corporation sends a lobbyist and that lobbyist
21 says I spent zero dollars on legislators between January
22 and May of 2015.

23 A member of the public can look on the
24 Missouri Ethics website and get confirmed, signed under
25 oath documents saying I have not spent money on behalf

1 of my lobbyist principal for these matters that are
2 currently pending before the Missouri Legislature.

3 Mr. Calzone cannot say that. Missouri First
4 cannot say that. There's Google results, but you can
5 google anything. Not everything you can trust on the
6 internet is true. I think Abraham Lincoln said that in
7 1954.

8 On the Missouri Ethics website you can't find
9 Missouri First and you can't find Ron Calzone, but
10 Missouri First is a nonprofit corporation.

11 Its vowed purpose under its Charter is to
12 engage in legislative lobbying. It invites members to
13 join Missouri First for the express purpose of
14 influencing legislation and increasing their clout and
15 attempting to influence legislation.

16 They want to keep their members updated on
17 legislation. That's what they do on their blog posts.

18 They represent the members of Missouri First.
19 That's an express reason for joining. You can rest
20 assured -- Missouri First tells its members, you can
21 rest assured that we are representing your interest
22 before the Missouri Legislature.

23 When they sign up, they're designating
24 Missouri First and Ron Calzone to go to the Missouri
25 Legislature and influence legislation.

1 When Missouri First -- if any other nonprofit
2 corporation, if the president and a secretary who
3 comprises the entire corporate suite of the corporation,
4 says, you know, you go out and lobby. You're our
5 lobbyist. You go testify before this committee. You go
6 meet with legislators. You go meet with legislative
7 staff in the hallways. That's designation right there.

8 If Mr. Calzone, when he was the president,
9 the secretary and a member of the Board of Directors,
10 didn't designate himself as the lobbyist when he signed
11 up on the lobbyist witness form saying my name is Ron
12 Calzone and I'm appearing on behalf of Missouri First,
13 the word designate has lost all meaning.

14 Because when the president and the secretary
15 and the member of the Board of Directors says, Ron
16 Calzone, you are here on behalf of Missouri First,
17 that's a designation.

18 Mr. Calzone tried to impeach Randy Scherr
19 saying, well, you know, you can't designate yourself.
20 Well, Mr. Scherr is not, you know, a member of the
21 board -- of the board's appropriations that he works
22 for. He's not an officer.

23 Mr. Calzone is. Mr. Calzone can designate
24 himself because he is an officer and a member of the
25 Board of Directors for Missouri First.

1 So in conclusion, Mr. Calzone designated
2 himself as a lobbyist for Missouri First. He's
3 authorized to do so.

4 Second, Mr. Ron Calzone should register as a
5 lobbyist. It's not hard. You saw Mr. Scherr testify
6 that it took him just a few minutes to file the reports.

7 So what we're asking is an order for
8 Mr. Calzone to register and file reports, to cease and
9 desist from attempting to influence legislation before
10 the Missouri Legislature on behalf of Missouri First or
11 any other organization until he registers, and to assess
12 any appropriate fee.

13 Section 105.961 authorizes up to a thousand
14 per violation. We think that's probably the benchmark.
15 Maybe you can look at somewhere of up to a thousand
16 dollars for the violation.

17 And actually I've got just a brief outline of
18 the proposed Order and the actual request for fees here,
19 and we'll share it among the Commission and the
20 Respondent and let you read through that as part of our
21 request.

22 CHAIR WEEDMAN: Okay. Mr. Dickerson, would
23 you like to make some closing remarks?

24 MR. DICKERSON: I would, sir.

25 I wonder if I might first ask that the motion

1 filed as Motion to Dismiss be incorporated as argument,
2 as part of my closing.

3 CHAIR WEEDMAN: It may be.

4 MR. DICKERSON: Thank you, sir.

5 This order would be a travesty.

6 This is a case where on the face of the
7 Complaint a nonnatural person filed a Complaint in clear
8 violation of the statute.

9 We have heard evidence today that that
10 Complaint was directly politically motivated, called for
11 and motivated by elected members of the Legislature,
12 that the timing of the Complaint was intended to affect
13 the outcome of an election in the sense that it was
14 filed on election day so that it wouldn't be press, that
15 might hurt someone's reelection chances.

16 This is precisely the danger in reading a
17 word like designate in such a broad way. It's that
18 there will inevitably be selective prosecution of
19 individuals who have not been designated under any
20 understanding of corporate law or otherwise, where there
21 is no specific act of the corporation which designated
22 that person or that person has received no compensation,
23 that person has no made no expenditure.

24 And nonetheless that person will be dragged
25 in front of this Commission and asked to prove the case

1 for the Commission by his own testimony.

2 This didn't have to happen. The statute is
3 clear that designation -- that a lobbyist principal must
4 compensate or employ the individual who is lobbying.

5 The construction of the statute suggested by
6 the Commission's counsel is a bottomless pit, and there
7 will be more cases like this that will be brought by all
8 sides of the political spectrum in an attempt to harass
9 people.

10 And this is an opportunity for the Commission
11 to put that to bed, to issue an Order that does not even
12 address that universe of factors, that it does not even
13 address the statutory arguments that have been made.

14 To say nothing of the constitutional
15 objections which would be raised on appeal, would be a
16 real travesty of the obligation of an administrative
17 agency to justify its reasoning.

18 And that is to say nothing of the problems
19 with the evidence today. There is no evidence in the
20 record, none, that Mr. Calzone did anything other than
21 testify in front of hearings of the General Assembly and
22 post things on a website.

23 Attempts were made to suggest that other
24 things had happened. All of that was inadmissible
25 hearsay.

1 Aside from the attempt to prove that central
2 fact of the violation by Mr. Calzone's own testimony,
3 which is precisely the reason we have a Fifth Amendment,
4 is to provide for the State requiring to come in with
5 some sort of prima facie case, some sort of argument,
6 some reason to believe, some, you know, probable cause
7 of a violation before asking the citizen to come in
8 front of a governmental body, and that fundamental
9 principle was violated today.

10 So there's no evidence that he has done
11 anything that qualifies for lobbying under the statute,
12 full stop.

13 Second of all, we've spoken about the problem
14 with the definition of a lobbyist principal. We have
15 spoken about the fact that the State has had an
16 opportunity to prove its allegation and simply hasn't.

17 I've objected throughout these proceedings to
18 the fact of the theory that Mr. Calzone self-
19 designated, which is sort of a strange theory under the
20 plain text of the act and certainly is not something
21 people would have notice of in advance, was sprung upon
22 us today, is not present on the face of the Complaint.

23 And finally just the fact that he never did
24 designate himself.

25 Even if for some reason we are to ignore the

1 fact the statute says you cannot be a lobbyist or
2 testify in front of the Legislature, even if we ignore
3 that, the fact of the matter is he never designated
4 himself as a lobbyist for Missouri First.

5 This is one of the reasons we pointed out the
6 fact that there are multiple types of forms here, forms
7 where there was a space for a lobbyist to self-
8 designate. He did not do so.

9 The places where you have a suggestion that
10 he is testifying on behalf of someone else, or the
11 shorter forms where there is just an individual and you
12 just declare any affiliation you might have.

13 I might put Boy Scouts of America. That's
14 not enough for the Boy Scouts to have designated me as
15 their lobbyist under Missouri law. That principle is
16 absurd and has no end point.

17 And finally, I mean, I think there is a
18 really important principle at stake here, which is -- I
19 understand that the constitutional arguments would have
20 to be heard in another court, and I've given you reasons
21 why we believe the statute simply can't reach this
22 activity, both the activity and the fact that it's
23 uncompensated.

24 But it is a dangerous principle to say that
25 the people's right to know who is influencing their

1 government extends to the people themselves, that
2 individuals who are coming up who have not been paid,
3 have not been compensated and not been designated, have
4 just shown up at the Capitol to talk to and petition
5 their own government may on that basis alone be required
6 to register with the State.

7 And that is a principle of law that no court
8 has ever articulated, that is a principle this
9 Commission never stood by, and I suggest this is not the
10 time to start.

11 Thank you.

12 COMMISSIONER WEEDMAN: May I ask a question,
13 Mr. Chairman, very briefly?

14 CHAIR WEEDMAN: Yes.

15 COMMISSIONER MUNICH: Mr. Dickerson, you made
16 a couple of references to the requirement that the
17 lobbyist be paid or compensated.

18 Can you point out in the statute where you
19 find that?

20 MR. DICKERSON: Yes, of course.

21 That is Missouri Revised Statute,
22 Section 105.470, Sub 7.

23 COMMISSIONER MUNICH: Sub what?

24 MR. DICKERSON: Sub 7.

25 COMMISSIONER MUNICH: Sub 7.

1 MR. DICKERSON: Which states that a lobbyist
2 principal employs, contracts for pay or otherwise
3 compensates.

4 CHAIR WEEDMAN: Page 12.

5 COMMISSIONER MUNICH: Okay.

6 MR. DICKERSON: That's the definition under
7 the statute of law.

8 COMMISSIONER MUNICH: The lobbyist principal.
9 Okay. Thank you.

10 MR. DICKERSON: Thank you, sir.

11 COMMISSIONER DIRKS: I have a question
12 actually for both counsel.

13 Are either of you aware of any Missouri
14 authority that talks about what the meaning of the word
15 designate is in any context?

16 MR. STOKES: I did a words and phrases search
17 on Westlaw. There is no Missouri law on that.

18 I did find the Webster's Third New
19 International Dictionary, which is the Missouri Supreme
20 Court's preferred dictionary, does have a definition. I
21 can provide that.

22 COMMISSIONER DIRKS: I've seen it.

23 MR. STOKES: Can I pass a copy of that out to
24 anybody who is interested in looking at that?

25 COMMISSIONER MUNICH: Sure.

1 MR. STOKES: And Webster's, apparently, they
2 use a six-point font. So I actually provided a cleaner
3 copy for everybody.

4 COMMISSIONER MUNICH: The Commission
5 appreciates that.

6 Mr. Stokes, what's your response to the
7 argument that a lobbyist principal has to be a person,
8 entity, et cetera, who employs, contracts for pay or
9 otherwise compensates a lobbyist?

10 MR. STOKES: I think you have to look at the
11 statute not alone. You have to look at it in the
12 broader context.

13 And the definition of legislative lobbyist
14 has got -- there are four provisions there. There's the
15 first part, which is anybody acting in the ordinary
16 course of employment. It's anybody engaged for pay,
17 which really -- I mean, that covers the entire universe
18 of economic transactions. You're either an employee or
19 you're paid and you're not an employee.

20 C talks about anybody designated to act.
21 That provision, that word, designated to act, would be
22 redundant if being paid were a requirement to be a
23 lobbyist.

24 And as we all know, the Missouri Supreme
25 Court prefers to interpret statutes so that no provision

1 is superfluous or unnecessary.

2 And that provision -- if you read the
3 requirement to be a lobbyist requiring some kind of
4 compensation being paid to a lobbyist, that provision,
5 the designated act, would be unnecessary. So that's --

6 COMMISSIONER MUNICH: Is it possible for one
7 to be a lobbyist if they are working without
8 compensation but not to have a principal?

9 MR. STOKES: I think it is. I think it is.
10 You're acting on behalf of another person in that
11 situation.

12 And what I compare it to is a lawyer entering
13 an appearance on somebody's else's behalf. Lawyers
14 represent other people before courts, before the
15 legislative branches of government, but to do so in the
16 judicial context we have to have a license, we have to
17 identify who our client is and whatnot.

18 It's a very similar provision here.
19 Obviously the bar is much lower for a legislative
20 lobbyist. It probably should be.

21 But when you're representing somebody else in
22 front of the Legislature, the Legislature, the public
23 and lobbyists really are entitled to know when you look
24 at that statute as a whole who is standing behind them.

25 You know, they might come in and say I'm

1 acting on behalf of XYZ Corp. There should be some
2 formality there that says this person actually is acting
3 on behalf of XYZ Corp and they're registered to do so
4 and XYZ Corp is authorizing, designating them to do so.

5 Without that requirement to identify a
6 lobbyist principal, you know, and the person on whose
7 behalf you're acting, it really --

8 COMMISSIONER MUNICH: You've answered my
9 question.

10 MR. DICKERSON: May I respond to that, sir,
11 two points?

12 COMMISSIONER MUNICH: Sure.

13 MR. DICKERSON: One, that line of reasoning
14 begs a question, which is whether or not you are, in
15 fact, operating on behalf of someone else, which is the
16 entire question here, and where there is no evidence
17 that Mr. Calzone has been.

18 But secondly, just looking at the statutory
19 construction question. I would suggest there is an
20 understanding of the statute which could be read
21 properly as referring only to people who are paid.

22 First of all, there's the fact that being a
23 lobbyist without a lobbyist principal is an absurdity in
24 its own terms, and presumably the Missouri Supreme Court
25 doesn't like absurdities in statutory interpretation.

1 The Missouri Supreme Court does not like
2 absurdities in statutory interpretation any more than it
3 likes to not give effect to the terms of the statute.

4 And the way to resolve those two statutory
5 difficulties is to understand that, A, Subsection A of
6 105.470.5 refers to people acting in the ordinary course
7 of employment.

8 It is not true that Subsection A refers to
9 the entire universe of economic transactions. It's
10 simply not true.

11 It determines people who are acting in the
12 ordinary course of employment, and the question is
13 whether it's their primary purpose of that employment to
14 lobby or not.

15 What B does, it says if you have someone who
16 is an employee or someone who is in some way affiliated
17 with you and it is not the ordinary course of their
18 employment to lobby in any way, you have a secretary,
19 you have a vice-president for legal affairs who is
20 generally a litigator, and that person is designated for
21 purposes of a particular bill, a particular question or
22 a particular act, at that point B kicks in.

23 It's a way to prevent Section A. It's a way
24 to allow Section A to reach all economic activity.

25 Otherwise if someone was being paid to lobby

1 and it was not within the ordinary course of their
2 employment, they would not be a registered lobbyist.

3 So I think actually the correct reading of
4 both the lobbying principal statute and definition,
5 which very clearly says you have to be compensated in
6 some way, and Subsection B, is just this is someone who
7 as a one-off thing who is an employee of yours is
8 designated to go and lobby on your behalf, full stop.

9 This isn't difficult. I think that's
10 actually the best reading of the statute, because
11 otherwise the lobbyist principal portion becomes an
12 absurdity.

13 COMMISSIONER MUNICH: Thank you.

14 MR. STOKES: And actually --

15 COMMISSIONER MUNICH: I'm sorry to open this
16 can of worms.

17 MR. STOKES: I just remembered, we currently
18 have on appeal a lobbyist who terminated all of his
19 lobbyist principals but maintained his lobbyist
20 registration.

21 And he's contesting a late fee for his
22 monthly report. And he was saying, even though when you
23 searched on our website you saw this individual's name
24 on the website, he didn't have any lobbyist principals
25 listed but he did have an active lobbyist registration

1 with the Missouri Ethics Commission.

2 So it is a possibility to have a lobbyist
3 without a lobbyist principal, because you're just not
4 reporting on behalf of the principals. You're also
5 reporting expenditures. You're reporting your contact
6 information. You're reporting if you have any employees
7 or any staff or anybody who is also working with you.

8 It's not just, you know, the lobbyist. There
9 is more to the transparency than just identifying --

10 CHAIR WEEDMAN: Mr. Dickerson, one last bite.

11 MR. DICKERSON: Commission, counsel has
12 consistently tried to take the mistakes of individuals
13 or practice of individuals or whatever else as evidence
14 of what the statute means. That's not how statutes
15 work.

16 The Missouri General Assembly defined
17 lobbyist and it defined lobbyist principal. It is
18 obvious those terms were intended to be read together.

19 The only way to read them together on this
20 record is to dismiss the Complaint and to explain it in
21 the future, this sort of mech-- this sort of mecha--
22 this sort of situation won't be tolerated.

23 CHAIR WEEDMAN: Okay. This concludes the
24 evidentiary portion of the hearing. The Commission is
25 going to deliberate. I cannot tell you with assurance

1 that we are going to reach a decision today. We will
2 attempt to, but such decision will be in writing and
3 announced publicly.

4 And, Mr. Calzone, you and your counsel will
5 be given copies of our decision.

6 I am not telling you whether you want to stay
7 or leave. We do have some other business, but I cannot
8 assure you that this afternoon we are for sure going to
9 make a decision.

10 Many times we make the decision and we're
11 able to announce it a half hour later and tell you about
12 it, but I don't want to keep you here if you have other
13 things to do, but I can't tell you for sure that we're
14 going to make a decision this afternoon.

15 MR. CALZONE: Can you e-mail the decision?

16 CHAIR WEEDMAN: I believe the decision can be
17 e-mailed to you, but it may not be today is what I'm
18 saying.

19 Okay. With that the evidence portion of the
20 hearing is concluded, and we are still in closed session
21 and we're going to deliberate, as well as conduct some
22 other business.

23 (A RECESS WAS TAKEN; DELIBERATIONS.)

24 CHAIR WEEDMAN: Back on the record.

25 In the matter of Ron Calzone, the Commission

1 has considered the violations, and the order is entered
2 as of September 3rd, 2015 today as follows: The
3 Missouri Ethics Commission finds probable cause that
4 Respondent Calzone violated and has knowingly violated
5 Sections 105.473.1 and 105.473.2, Revised Statutes of
6 Missouri.

7 The Commission orders Respondent Calzone to
8 register as a lobbyist and to file accurately all
9 necessary lobbyist expenditure disclosure reports
10 pursuant to Sections 105.961.4(2) and 105.961.5(3),
11 Revised Statutes of Missouri.

12 The Commission orders Respondent Calzone to
13 cease and desist from acting to attempt to influence any
14 pending or potential legislation on behalf of Missouri
15 First, Inc. or any other person until filing an annual
16 lobbyist registration report and filing all necessary
17 lobbyist expenditure disclosure reports pursuant to
18 Sections 105.961.4(1) and 105.961.5(1), Revised Statutes
19 of Missouri.

20 The Missouri Ethics Commission further orders
21 a fee be imposed against Respondent Calzone in the
22 amount of \$1,000 pursuant to Section 105.961.4(6),
23 Revised Statutes of Missouri.

24 So ordered this 3rd day of September 2015.
25 Charles Weedman, Chair.

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WHEREIN, the hearing concluded at 2:50 p.m.

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CERTIFICATE OF REPORTER

I, Patricia A. Stewart, CCR, a Certified Court Reporter in the State of Missouri, do hereby certify that the testimony that appears in the foregoing transcript was taken by me to the best of my ability and thereafter reduced to typewriting by me; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.



Patricia A. Stewart

CCR No. 401

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EXHIBIT E



MISSOURI ETHICS COMMISSION

P.O. Box 1370

Jefferson City, MO 65102

www.mec.mo.gov

(573) 751-2020 / (800) 392-8660

James Klahr
Executive Director

September 11, 2015

Allen Dickerson
Center for Competitive Politics
124 S. West St., Suite 201
Alexandria VA 22314

RE: 14-0005-I

Dear Mr. Dickerson:

Please find attached the Missouri Ethics Commission's Findings of Fact, Conclusions of Law and Order filed in the above referenced case.

Sincerely,

A handwritten signature in cursive script, appearing to read "James Klahr".

James Klahr
Executive Director

Enclosure

Filed
SEP 11 2015
Missouri Ethics
Commission

**BEFORE THE
MISSOURI ETHICS COMMISSION**

MISSOURI ETHICS COMMISSION,)
)
) Petitioner,)
) Case No. 14-0005-I
v.)
)
RON CALZONE,)
)
) Respondent.)

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

This is the decision and order of the Missouri Ethics Commission following a hearing on a complaint filed by Petitioner by and through counsel, pursuant to Section 105.961, RSMo, and Chapter 536, RSMo. The hearing was conducted before the following members of the Missouri Ethics Commission: Charles Weedman, John Munich, Bill Deeken, Eric Dirks, Nancy Hagan, and Bill Stoltz.

A closed hearing took place on Thursday, September 3, 2015, at the offices of the Missouri Ethics Commission at 3411A Knipp Drive, Jefferson City, Missouri 65109. The Commission was represented by attorney Curt Stokes. Respondent Calzone appeared in person with counsel, Allen Dickerson and David E. Roland.

The Commission admitted into evidence Petitioner's Exhibits 1 (with the exception of pages 13 through 19), 2, 3, 4, 6, 7 and 8; testimony of Randy Scherr, Secretary, Missouri Society of Governmental Consultants; Della Luaders, Senior Field Investigator; Betsy Byers, Director of Business Services; and Ron Calzone, Respondent and Respondent's Exhibit 9. Respondent Calzone exercised his Fifth Amendment privilege against self-incrimination when called to

testify. Having considered all the competent and substantial evidence upon the whole record, the Commission finds by a vote of 6-0 as follows:

FINDINGS OF FACT

1. The Missouri Ethics Commission 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 105, RSMo.

2. Respondent Calzone is an incorporator and director of Missouri First, Inc.

3. Respondent Calzone is the President, Secretary, and registered agent of Missouri First, Inc.

4. Missouri First, Inc. is a non-profit, public benefit corporation formed in or around 2006, and registered with the Missouri Secretary of State.

5. Pursuant to Section 105.961, RSMo, the Commission's staff investigated a complaint filed with the Commission and reported the investigation findings to the Commission.

6. Based on the report of the Commission's staff, the Commission determined that there were reasonable grounds to believe that violations of law occurred, and it therefore authorized a hearing in this matter pursuant to Section 105.961.3, RSMo.

7. Missouri First, Inc., asks Missourians to join its organization on its website, stating:

By joining Missouri First, you place your name and influence on the *right* side of issues affecting Missourians. The old saying, "there is strength in numbers" holds true, especially when lobbying Missouri House and Senate members. You may be certain that Missouri First is working hard to represent your values in the

issues that touch your life All we ask is that you agree with the principles outlined in our Charter and fill out the form below We ask this form to be completed that we may better keep you informed on Missouri issues, and to bolster our [your] clout when fighting the war for sovereignty.

A copy of this page from the website for Missouri First, Inc., is included at Appendix 1.

8. The Charter for Missouri First, Inc., states as follows:

Missouri First will give priority to educating and mobilizing the public to meet our objectives. Media advertising, public oratory, informational seminars, legislative lobbying, and citizen involvement may be used to teach or to influence public policy Missouri First will campaign for legislative and ballot issues, as well as specific candidates who further our stated objectives, but will not lobby or campaign for a particular political party.

A copy of this page from the website for Missouri First, Inc., is included at Appendix 1.

9. Missouri First, Inc., invites Missourians to fill out “witness forms” on its website, permitting an individual to identify a particular piece of legislation, whether he or she supports or opposes it, and to record his or her comments regarding the legislation. Missouri First, Inc., states that it will present all witness forms to the appropriate committee of the Missouri General Assembly.

10. Since 2013, Respondent Calzone has been designated by the actions of Missouri First, Inc., and its constituent members for the purpose of attempting to influence official action on the bills, resolutions, amendments, and other matters, when Respondent Calzone, acting

consistent with the purpose of Missouri First, Inc., and its members, met with legislators and legislators' staff to support or oppose matters pending before the Missouri Legislature, testified in opposition or support of matters pending before the Missouri Legislature, submitted witness forms as requested by individuals who provided those forms to Respondent Calzone through Missouri First, Inc., and by appearing as a witness before committees of the Missouri Legislature for the purpose of representing the interests of Missouri First, Inc., and its members.

11. The Commission heard testimony that Respondent Calzone has been seen in the Missouri House and Missouri Senate, particularly on the third and fourth floors of the Missouri Capitol, where most legislators' offices are located, and has been seen meeting with legislators individually in their offices.

12. Ms. Luaders, the Ethics Commission's investigator, testified that Respondent Calzone told her that he met with legislators individually, outside of committee hearings, to discuss legislation and policy, and that Respondent Calzone described Missouri First, Inc., as a think tank made up of like-minded individuals who mostly dealt with politics and spent a lot of time commenting on legislation and public policy.

13. Ms. Luaders testified that Respondent Calzone told her that he "clearly lobbied," but felt that he did not fall within the definition of legislative lobbyist.

14. Ms. Luaders testified that Mr. Calzone stated that he was aware that people complained to Respondent Calzone and had voiced opinions that Respondent Calzone should be registered as a lobbyist.

15. Respondent Calzone appeared before legislative committees of the Missouri House and the Missouri Senate, identifying himself as appearing on behalf of Missouri First, Inc.

16. The witness appearance forms before the Missouri House, required by Section 105.473.2, and the Hearing Minutes before the Missouri Senate, are included in Appendix 2.

17. Respondent Calzone appeared before the General Laws Committee of the Missouri House on March 6, 2013, on behalf of Missouri First, Inc., regarding HB 436.

18. Respondent Calzone appeared before the General Laws Committee of the Missouri Senate on March 12, 2013, on behalf of Missouri First, Inc., regarding SB 325.

19. Respondent Calzone appeared before the Health Care Policy Committee of the Missouri House on March 12, 2013, on behalf of Missouri First, Inc., regarding HJR 19.

20. Respondent Calzone appeared before the General Laws Committee of the Missouri Senate on January 28, 2014, on behalf of Missouri First, Inc., regarding SB 613.

21. In taking the actions to influence official action on legislation as alleged above, Respondent Calzone acted on behalf of Missouri First, Inc., and its members, as stated on the website for Missouri First, Inc.

22. In taking the actions to influence official action on legislation as alleged above, Respondent Calzone has acted consistent with the Charter for Missouri First, Inc., which states that "legislative lobbying . . . may be used to teach or to influence public policy." A copy of this page from the website for Missouri First, Inc., is attached hereto as Appendix 1.

CONCLUSIONS OF LAW

23. A Missouri lobbyist shall "not later than January fifth of each year or five days after beginning any activities as a lobbyist, file standardized registration forms, verified by a written declaration that it is made under the penalties of perjury, along with a filing fee of ten dollars, with the commission." § 105.473.1, RSMo.

24. The registration form “shall include the lobbyist's name and business address, the name and address of all persons such lobbyist employs for lobbying purposes, the name and address of each lobbyist principal by whom such lobbyist is employed *or in whose interest such lobbyist appears* or works.” § 105.473.1, RSMo (emphasis added); *see also* Missouri Ethics Commission Opinion 1994.06.113 (“...that principal being the person by who is employed or in whose interest he appears or works.”); Missouri Ethics Commission Opinion 1995.03.114; Missouri Ethics Commission Opinion 1998.01.101.

25. In addition, “[e]ach person shall, before giving testimony before any committee of the general assembly, give to the secretary of such committee such person's name and address and the identity of any lobbyist or organization, if any, on whose behalf such person appears.” §105.473.2, RSMo.

26. Lobbyists must regularly file monthly reports disclosing expenditures by the lobbyist or lobbyist principals made on behalf of all public officials. § 105.473.3, RSMo.

27. Twice per year, lobbyists must provide to the Ethics Commission a “general description of the proposed legislation or action by the executive branch or judicial branch which the lobbyist or lobbyist principal supported or opposed.” § 105.473.12, RSMo.

28. A “lobbyist” is “any natural person defined as an executive lobbyist, judicial lobbyist, elected local government official lobbyist, or a legislative lobbyist.” § 105.470(6), RSMo.

29. A “legislative lobbyist” is any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, resolution, amendment, nomination, appointment, report or any other action or any other matter pending or proposed in a legislative committee in either house of the general assembly, or

in any matter which may be the subject of action by the general assembly and in connection with such activity, meets the requirements of any one or more of the following:

- (a) Is acting in the ordinary course of employment, which primary purpose is to influence legislation on a regular basis, on behalf of or for the benefit of such person's employer, except that this shall not apply to any person who engages in lobbying on an occasional basis only and not as a regular pattern of conduct; or
- (b) Is engaged for pay or for any valuable consideration for the purpose of performing such activity; or
- (c) Is designated to act as a lobbyist by any person, business entity, governmental entity, religious organization, nonprofit corporation, association or other entity; or
- (d) Makes total expenditures of fifty dollars or more during the twelve-month period beginning January first and ending December thirty-first for the benefit of one or more public officials or one or more employees of the legislative branch of state government in connection with such activity. . . .

§ 105.470(5), RSMo.

30. The term "designate" is defined by *Webster's Third New International Dictionary* as "to make known directly as if by sign; to distinguish as to class; Specify, stipulate; to declare to be; to name esp. to a post or function." WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 612 (1986). "Designate may apply to choosing or detailing a person or group for a certain post by a person or group having power or right to choose." *Id.*

31. A "legislative lobbyist" shall not include any member of the general assembly, an elected state official, or any other person *solely* due to such person's participation in any of the following activities:

- a. Responding to any request for information made by any public official or employee of the legislative branch of government;
- b. Preparing or publication of an editorial, a newsletter, newspaper, magazine, radio or television broadcast, or similar news medium, whether print or electronic;
- c. Acting within the scope of employment of the legislative branch of government when acting with respect to the general assembly or any member thereof;
- d. Testifying as a witness before the general assembly or any committee thereof;

§ 105.470(5), RSMo (emphasis added).

32. The term "lobbyist principal" means "any person, business entity, governmental entity, religious organization, nonprofit corporation or association who employs, contracts for pay or otherwise compensates a lobbyist." § 105.470(7), RSMo. The term "employ" means "To make use of the services of; to give employment to; to entrust with some duty or behest..." WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY (1986); *see also State v. Rhoads*, 399 S.W. 3d 905, 907 n.1 (for purposes of the Missouri Constitution's prohibition against nepotism, the court notes "that the Constitution does not even make an exception for a public official who appoints a relative to employment and the relative receives no pay for the services.").

33. There is probable cause to believe that Respondent Calzone violated Sections 105.473.1 and 105.473.2, RSMo, when during 2013 and 2014 he did not register as a lobbyist and did not file regular lobbyist disclosure reports with the Missouri Ethics Commission after he attempted to influence official action on matters pending before the Missouri Legislature in 2013 and 2014, and while doing so acted on behalf of Missouri First, Inc. and its members, as a regular pattern of conduct and consistent with a Charter purpose of Missouri First, Inc., and that Respondent Calzone knowingly did not register as a lobbyist.

ORDER

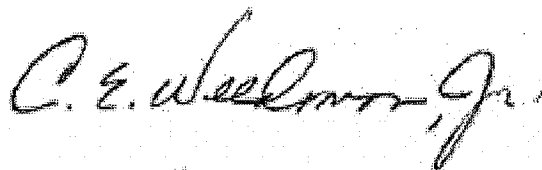
The Missouri Ethics Commission finds probable cause that Respondent Calzone violated, and has knowingly violated, Sections 105.473.1 and 105.473.2, RSMo.

The Commission orders Respondent Calzone to register as a lobbyist and to file accurately all necessary lobbyist expenditure disclosure reports pursuant to Sections 105.961.4(2) and 105.961.5(3), RSMo.

The Commission orders Respondent Calzone to cease and desist from acting to attempt to influence any pending or potential legislation on behalf of Missouri First, Inc., or any other person, until filing an annual lobbyist registration report and filing all necessary lobbyist expenditure disclosure reports pursuant to Sections 105.961.4(1) and 105.961.5(1), RSMo.

The Missouri Ethics Commission further orders a fee be imposed against Respondent Calzone in the amount of \$1,000 pursuant to Section 105.961.4(6), RSMo.

SO ORDERED this 11th day of September, 2015.



Charles E. Weedman, Jr., Chair
MISSOURI ETHICS COMMISSION

Appendix 1

To Findings of Fact, Conclusions of Law, and Order



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Ron Calzone explains what a "constitutional republic" is at the Day of Discovery in Hannibal, MO May 8, 2010.

Eminent Domain - also at the Day of Discovery in Hannibal, MO May 8, 2010.

Conclusion and efforts to preserve the people's reserved power to the petition process.

Witness Form

Dedicated to the Sovereignty of Missourians

370 Ron Calzone



Dedicated to the Sovereignty of Missourians



Charter

Statement of Purpose

Because we recognize man's dependence on God, **Missouri First** concurs with the Missouri State Constitution, which says, *"We the people of Missouri, with profound reverence for the Supreme Ruler of the Universe, and grateful for His goodness, do establish this constitution. for the better government of the state."*

Missouri First recognizes that *"Rugged individualism, buffered by a Godly concern for others"*, is the essence of our state's character. Sovereignty is essential if we are to preserve this character.

Because we recognize that there exists a multiplicity of values, characters, and aspirations among these great united states, as well as the rest of the world, and that not all are congruent with those of Missourians, **Missouri First** seeks to assert and defend the appropriate sovereignty of Missourians. **Missouri First** maintains that the people of Missouri retain all rights of sovereignty, except those they have expressly delegated to the Federal Government in accordance with the original intent of the US Constitution of 1787 and the state of Missouri in her Constitution.

Missouri First affirms that Missouri is not a universal state and that mankind has no claim to her; that to be a Missourian is to first love her hills and mountains, fields and forests, streams and rivers, towns and cities, to cherish her history and traditions, and to share common memories with her people. To be a Missourian is to love liberty. **Missouri First** asserts that these Missourians are the heirs of this land, and they will determine for themselves what course she will take.

Scope of Operation

Because there are issues on the international, national, state, and local levels which can impact the sovereignty of Missourians, there are no particular limits to the scope of operation of **Missouri First** as long as the issues being dealt with are in compliance with the intent and the spirit of this charter.

Missouri First does not trod the well traveled roads, but rather seeks out the rugged, long forgotten paths which lead back to the founding principles of our land. Consequently, **Missouri First** prefers to deal with the issues neglected by others, but will work in the areas where it can make the most difference.

Methods of Operation

Missouri First will give priority to educating and mobilizing the public to meet our objectives. Media advertising, public oratory, informational seminars, legislative lobbying, and citizen involvement may be used to teach or to influence public policy. Realizing that our children represent our future, **Missouri First** will work with public, private, and home

schools.

Missouri First will campaign for legislative and ballot issues, as well as specific candidates who further our stated objectives, but will not lobby or campaign for a particular political party.

Guiding Principles

Whereas:

- This union of states was originally founded upon Christian principles...
- The role of the Federal government is limited to those powers specifically delegated to it by the U.S. Constitution and "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."...
- The Federal Government has entangled the nation in unwholesome international relationships...
- The Federal Government has usurped the sovereign, constitutional rights of the States and individual citizens...
- In an affront to the liberty of Missourians, and in contradiction to the original intent of the Constitution, the Federal Government has directly levied taxes on citizens...
- The State government has usurped the rights of local entities and individual citizens...
- The specific role of state and local governments is to do those things of common interest which can not be done or can not be practically done by individuals. Citizens should be most affected by the governmental body nearest them, since it is most easily held accountable...
- Citizens and businesses are overtaxed, thus inhibiting the proper exercise of individual liberty and responsibility...
- Our ideals and character are being diluted and corrupted...
- The express God-ordained purpose of government is to be "a minister of God to you for good" and to act as "an avenger who brings wrath upon the one who practices evil". (ROM 13:4) **Justice is expected by God...**

Therefore Missouri First will:

- Teach about the Christian and Constitutional heritage of this nation and dispel the false notions about 'separation of church and state' and the authority of the Federal government over Missouri's handling of religious matters.
- Work against unwholesome international relationships and promote state, local, and individual sovereignty so local residents can establish public policy that promotes local values without interference from outside influences.
- Promote proper application of the Bill of Rights.

- Cultivate a demand for public policy which will promote **Missouri First's** Goals.

Membership

Membership is available by invitation by the Board to Missourians.

Honorary membership is available to non-Missourians by invitation of the Board.

Special Advisor to the Board affiliation is available to Missourians and non-Missourians by invitation of the Board.

Special Spokesman for the Board status is available by invitation of the Board.

Organization

- Missouri First will be governed by the Board of Directors within the constraints of this charter.
- Normal operational decisions will be decided upon by a simple majority vote, but a conviction objection by one or more board members will nullify the decision.
- Changes to the charter will be only upon unanimous consent of the Board.
- Removal of any Board member may be accomplished by unanimous consent of the remaining Board members.
- Addition of new Board members may be accomplished by unanimous consent of the existing Board members up to a maximum of seven members..
- Removal of any member may be accomplished by unanimous consent of the Board.

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Missouri First

Dedicated to the Sovereignty of Missourians

MO Rep/Sen



Join Missouri First!

Why Join? - By joining Missouri First, you place your name and influence on the *right* side of issues affecting Missourians. The old saying, "there is strength in numbers" holds true, especially when lobbying Missouri House and Senate members. You may be certain that Missouri First is working hard to represent your values in the issues that touch your life.

Aren't there enough organizations fighting the same battle? - Although there are a number of organizations we are in sympathy with, and although they are performing essential functions, they are typically not focused on sovereignty issues alone. It is our intention to focus on the *root* of the problem. We want to work in conjunction with these organizations by helping them to deal with their issues through the assertion of sovereignty.

What is Asked of Me? - All we ask is that you agree with the principles outlined in our Charter and fill out the form below. Missouri First assures you that we take your personal information seriously and under no circumstances will this information be sold, traded, or used in some commercial endeavor. We ask this form to be completed that we may better keep you informed on Missouri issues, and to bolster our [your] clout when fighting the war for sovereignty.

How Much Does it Cost? - Nothing. There are no dues in Missouri First. Of course, we do accept donations to keep our operation running, and we may - from time to time - ask for funds for special projects [which you will *never* be obligated to provide.] Your act of membership is worth more than money can represent, and you will always be valued for your association with Missouri First.

What's in it for me? - In addition to the satisfaction of knowing that you are adding to the numbers of Missourians who demand freedom, we will include you in our email list so you can stay informed about the efforts to that end. And, if you like, we will invite you to participate in events and efforts of Missouri First; we can become an outlet for your special talents.

To join, simply fill out this form and click the **Submit** button.

Please use the name and address for which are are registered to vote. That will allow us to look up you legislative districts and keep you informed about your own state Rep and Senator.

(* indicates a required field)

First
Name: *

Last
Name: *

Address1: *

Address2:

City: *

State: *

Zip: *

Phone:

Fax:

Email: *

Please list any special talents or resources at your disposal that might be available to assist our cause.

Resources:

Comments:

Where did you hear about Missouri First?

Source:

To prevent automated submissions, please answer:

What's 5 plus 5?

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Appendix 2

To Findings of Fact, Conclusions of Law, and Order



MISSOURI HOUSE OF REPRESENTATIVES
WITNESS APPEARANCE

PLEASE PRINT OR TYPE

<input checked="" type="checkbox"/> HOUSE <input type="checkbox"/> SENATE	DATE March 6, 2013
	COMMITTEE General Laws
	BILL NUMBER HB 436 -- Second Amendment Preservation Act

WITNESS INFORMATION

NAME OF WITNESS
Ron J Calzone

HOME ADDRESS
33867 HWY. E

CITY Dixon	STATE MO	ZIP 65459
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HOME PHONE NUMBER
(573) 368-1344

BUSINESS ADDRESS

CITY	STATE	ZIP
------	-------	-----

BUSINESS PHONE NUMBER

SPEAKING (check one) FOR AGAINST OTHER Informational

ORGANIZATION INFORMATION

Government Agency, Person, Business, Lobbyist, or Organization, if any, on whose behalf I am appearing:
Missouri First, Inc.

TESTIMONY

If written testimony is not provided, please summarize very briefly the testimony to be presented.

Fidelity to the constitution of both Missouri and the United States requires that all parties involved strive to maintain the proper jurisdiction of the various polities. Failure to do so will result in corrupting centralization of power, diminished liberty, and eventual, but certain, disintegration of the union of the states.

The federal government was granted few and well-defined powers by the People of the several states, but it has long usurped the powers inherent in the People and reserved for them and the states, severally, by the Tenth Amendment to the U.S. Constitution.

Although we are a long-suffering people, the constant threats to the most basic right to self-protection has reached the limits of our patience. It is time to reclaim the powers belonging to the People and the states but never granted to the federal government. It is time for the People to bind, once again, the federal government they created with the chains of the Constitution. It is time for the People, acting through their nearest representatives in state government, to declare null and void the unconstitutional and extra-jurisdictional edicts from the federal government which infringe on the unalienable right to keep and bear arms.

Members of the Missouri General Assembly, who took an oath to defend the constitution of our state and of the United States, are DUTY BOUND to interpose on behalf of the People. HB 436 is the tool with which they can perform their duty.

THE INFORMATION ON THIS FORM IS PUBLIC INFORMATION UNDER CHAPTER 610 RSMO.



MISSOURI HOUSE OF REPRESENTATIVES
WITNESS APPEARANCE

PLEASE PRINT OR TYPE

<input checked="" type="checkbox"/> HOUSE <input type="checkbox"/> SENATE	DATE March 12, 2013
	COMMITTEE Health Care Policy
	BILL NUMBER HJR 19 -- Health Care Freedom Amendment

WITNESS INFORMATION

NAME OF WITNESS
 Ron J Calzone

HOME ADDRESS
 33867 HWY. E

CITY Dixon	STATE MO	ZIP 65459
---------------	-------------	--------------

HOME PHONE NUMBER
 (573) 368-1344

BUSINESS ADDRESS

CITY	STATE	ZIP
------	-------	-----

BUSINESS PHONE NUMBER

SPEAKING (check one) FOR AGAINST OTHER Informational

ORGANIZATION INFORMATION

Government Agency, Person, Business, Lobbyist, or Organization, if any, on whose behalf I am appearing:
 Missouri First

TESTIMONY

If written testimony is not provided, please summarize very briefly the testimony to be presented.

72% of Missouri voters expect the General Assembly to do more to protect them from Obamacare.

This amendment will force the courts to use a higher standard of review when citizens use the provisions of Prop C to defend their rights.

It is the duty of the General Assembly to at least allow the People of Missouri to adopt stronger constitutional protections.

THE INFORMATION ON THIS FORM IS PUBLIC INFORMATION UNDER CHAPTER 610 RSMO.

000004

SENATE COMMITTEE MINUTES

Bill No.: SB 325
Sponsor: Nieves
Hearing Date: 3/12/2013

COMMITTEE: General Laws	
CHAIRMAN: Nieves	
DATE REFERRED: 2/28/2013	DATE HEARING REQUESTED: 3/28/2013

STAFF:

Dave Bailey
Jim Ertle
Jessica Johnson

WITNESSES GIVING INFORMATION:

WITNESSES FOR:

Ron Calzone - Missouri First
Abram Messer - Mo Family Network
Michael Kilgus
Debra Kohl - Concerned Women for America
Bev Ehlen - Warren County Patriots
John-Paul Fagot
Marcus Baylis
Dan Sexson
Robert See
Timothy J. Bartin
Marilyn Bartin
John Bartin

WITNESSES AGAINST:

000009

SENATE COMMITTEE MINUTES

Bill No.: SB 613
Sponsor: Nieves
Hearing Date: 1/28/2014

COMMITTEE: General Laws	
CHAIRMAN: Nieves	
DATE REFERRED: 1/16/2014	DATE HEARING REQUESTED: 1/16/2014

STAFF:

Dave Bailey
Jim Ertle
Heidi Geisbuler
Jessica Johnson
Courtney Lauer
Dustin Schnieders

WITNESSES GIVING INFORMATION:

Jim Nichols - Citizen of MO

WITNESSES FOR:

John Carr - Citizen of MO
James Higginbottan - Citizen of MO
Tony Shephard - Abate
Luke Daniel Shoemaker
David Ermeling
Ron Calzone - Missouri First
Kenny Parks - Gun Rights Across America
Richard Hagendorf - Second Amendment friends Group
Mitchell Hubbard - Citizen of MO
Frank Rice - Citizen of MO
Michael Strait - Citizen of MO

WITNESSES AGAINST:

Robert Flood - Moms Demand Action
Virginia Wasliuk Lay
Dixi Buford - Moms Demand Action
Melissa Brooks - Moms Demand Action
Otto Fajen - NEA
Sheldon Lineback - MO Police Chief Asso

CERTIFICATE OF SERVICE

I hereby certify that on the 1st of March, 2016, I caused a copy of the forgoing to be delivered to the Administrative Hearing Commission and counsel for the Missouri Ethics Commission:

Curtis R. Stokes
Attorney, Missouri Ethics Commission
P.O. Box 1370
Jefferson City, MO 65102
(573) 751-2020 (phone)
(573) 522-2226 (fax)
Curt.Stokes@mec.mo.gov
Attorney for Respondent



David E. Roland
Attorney for Petitioner

Dated: March 4, 2016