

**IN THE CIRCUIT COURT OF COLE COUNTY
NINETEENTH JUDICIAL CIRCUIT
STATE OF MISSOURI**

RON CALZONE,)	
Relator,)	
vs.)	Case No. _____
)	
ADMINISTRATIVE HEARING COMMISSION)	Division _____
and COMMISSIONER SREENIVASA)	
DANDAMUDI,)	
Respondents.)	

INDEX OF WRIT EXHIBITS

<u>Exhibit</u>	<u>Page #</u>
Exhibit A: Cover Letter of Michael A. Dallmeyer, Nov. 4, 2014	1
Exhibit B: Complaint Form, Filed By Missouri Society of Governmental Consultants, Nov. 4, 2014	3
Exhibit C: Selected Pages of Transcript of Hearing Before Missouri Ethics Commission, September 3, 2015	7
Exhibit D: Administrative Hearing Commission Order of February 5, 2016	18
Exhibit E: Administrative Hearing Commission Order of April 8, 2016	23
Exhibit F: Discovery Requests of the Missouri Ethics Commission of December 28, 2015	30
Exhibit G: Motion for Protective Order, Filed By Ron Calzone, of March 1, 2016, Including Calzone’s Exhibit A, Missouri Ethics Commission Requests for Non-Party Discovery	43

Dated: April 14, 2016

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 Relator

**pro hac vice admission pending*

EXHIBIT A

Carver & Michael

Gaylin Rich Carver
gaylin@carvermichael.net

712 East Capitol Avenue.
 Jefferson City, MO 65101

Sara C. Michael
sara@carvermichael.net

Michael A. Dallmeyer
mike@carvermichael.net

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

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:

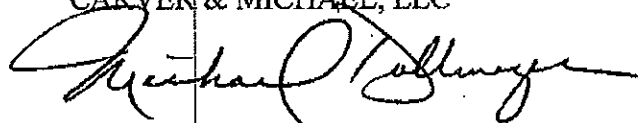
Enclosed herewith for filing and action by MEC is the complaint, along with supporting Exhibits A-E, against Ron Calzone for violating the requirements imposed on lobbyists by Missouri law that I am submitting on behalf of our client, Missouri Society of Governmental Consultants.

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

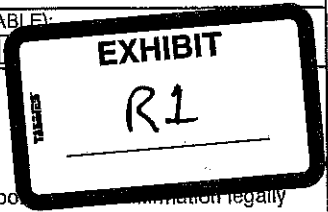
ADDRESS: 33867 Highway E

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.

Michael A. Dallmeyer
 Signature of Complainant

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

THERESA M. SCHAEFER
 Notary Public - Notary Seal
 STATE OF MISSOURI Expires: 12-9-17
 Cole County
 Commission # 13452968
 My Commission Expires: 12-09-2017

Theresa M. Schaefer
 Notary Public

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

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 **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 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 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
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

EXHIBIT D



STATE OF MISSOURI
ADMINISTRATIVE HEARING COMMISSION

P.O. BOX 1557, JEFFERSON CITY, MO 65102
573-751-2422
FAX: 573-751-5018

FACSIMILE TRANSMITTAL SHEET

DATE: February 5, 2016

TO: Allen Dickerson

FAX NO.: (703) 894-6811

OF PAGES INCLUDING COVER: 4

RE: 15-1450 EC

NOTES/COMMENTS:

20
Before the
Administrative Hearing Commission
State of Missouri



RON CALZONE,
Petitioner

vs.

MISSOURI ETHICS COMMISSION,
Respondent

No. 15-1450 EC

ORDER

We deny Ron Calzone's motion for decision on the pleadings. Both parties continue to provide exhibits outside the original pleadings that are not in the form of admissible evidence and cannot be considered by this Commission. Therefore, we request the parties to file motions for summary decision, and, we issue a scheduling order therefor. We grant the Missouri Ethics Commission's (MEC) motion to file an amended answer and deny Calzone's motion to strike as moot.

On September 25, 2015, Calzone filed a complaint appealing an order issued by the MEC finding probable cause that Calzone violated § 105.473.1 and .2.¹ On December 18, 2015, Calzone filed a motion for decision on the pleadings with attached exhibits. On February 1, 2016, MEC filed its opposition to the motion. On February 2, Calzone filed a reply to MEC's

¹ RSMo Supp. 2010.

opposition. On February 3, 2016, we held oral arguments on the motion and left the record open for MEC to supplement an exhibit² to the motions. Later on February 3, 2016, MEC filed a sur-reply brief, amended answer, and motion to file amended answer. MEC's amended answer contained exhibits beyond the exhibit for which we kept the record open for a decision on the pleadings. On February 4, 2016, Calzone filed a motion to strike, for leave to file a response to MEC's sur-reply brief, and to substitute exhibit.

Regulation 1 CSR 15-3.446(4) allows us to grant a decision on the pleadings "based solely on the complaint and the answer." Here, the parties continue to provide exhibits³ and arguments. Therefore, we deny Calzone's motion for decision on the pleadings. In addition, we deny Calzone's motion to strike as moot. We grant MEC's motion to file an amended answer and deem it filed February 3, 2016.

We agree with the parties that a hearing may not be necessary. For that reason, we provide this scheduling order for the parties to submit motions for summary decision, which are to be accompanied with admissible evidence.⁴ In these motions for summary decision, we suggest the parties limit their recitation of the facts to relevant facts that pertain 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.

We request that each party's legal arguments address each of these three issues in three concise sections. Of these three sections, we suggest the parties focus on whether the MEC's finding of

² This exhibit was the complaint filed with MEC by Michael A. Dallmeyer in the underlying case before MEC.

³ MEC does so through its amended answer.

⁴ 1 CSR 15-3.446(6)(B). For the purposes of summary decision motions, we have traditionally accepted exhibits authenticated by affidavits as admissible evidence.

probable cause should be reversed based on Calzone's three legal arguments in his motion for decision on the pleadings:

- a) Dispute of MEC's jurisdiction over Calzone;
- b) Dispute of Calzone's self-designation as a lobbyist; and
- c) Dispute as to whether monetary expenditures must be made solely to legislators.

For the convenience of this Commission, we ask that the parties subdivide this specific legal section into three clear and concise subparts. If additional legal arguments arise by either party, we ask that an additional, clear, and concise subpart be created for each legal argument.

Calzone shall file his motion for summary decision by March 4, 2016. MEC shall file its opposition to Calzone's motion by March 25, 2016. Calzone shall file his reply by April 8, 2016.

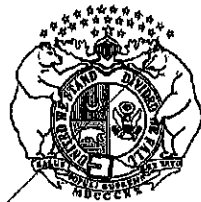
We cancel the hearing and will reschedule if necessary.

SO ORDERED on February 5, 2016.


SREENIVASA RAO DANDAMUDI
Commissioner

EXHIBIT E

Before the
Administrative Hearing Commission
State of Missouri



RON CALZONE,
Petitioner

vs.

MISSOURI ETHICS COMMISSION,
Respondent

No. 15-1450 EC

ORDER

We deny Ron Calzone's motion for protective order¹ and grant, in part, the Missouri Ethics Commission's (MEC) motion to compel discovery.²

Procedure

On February 5, 2016, we denied Calzone's motion for decision on the pleadings. In the same order, we set a schedule for the parties to file a motion for summary decision and responses. On March 1, 2016, Calzone filed a motion for protective order. On March 4, 2016

¹ This motion is titled, "Petitioner Ron Calzone's Motion for Protective Order and Memorandum in Support of Motion."

² This motion is titled, "Motion to Compel Discovery Responses from Petitioner Calzone and Motion to Compel Deposition and Subpoena *Duces Tecum* of Missouri First, Inc. (Response to Petitioner's Motion for Protective Order)."

Missouri Ethics Commission
APR - 8 2016
Received by Fax

Calzone filed his motion for summary decision. On March 14, 2016, MEC filed its motion to compel and response to Calzone's motion for protective order. On March 18, 2016, Calzone filed his opposition to MEC's motion to compel. Also on March 18, 2016, MEC filed a motion to extend the briefing schedule on the motion for summary decision. On March 21, 2016, Calzone filed his opposition to extending the briefing schedule on the motion for summary decision. Also on March 21, 2016, we granted MEC's motion to extend the briefing schedule, which allows MEC to file its response to Calzone's motion for summary decision on April 25, 2016 and allows Calzone to file his reply by May 10, 2016.

At issue in this order is Calzone's motion for protective order and MEC's motion to compel discovery.

Calzone's Motion for Protective Order

Calzone seeks a motion for protective order under Missouri Supreme Court Rule 56.01(c) barring discovery. Regulation 1 CSR 15-3.420(1) makes the Supreme Court rules of discovery applicable to cases before this Commission. Supreme Court Rule 56.01 provides:

(c) Protective Orders. Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the court may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) that the discovery not be had[.]

Calzone's motion for protective order relies on the following five arguments:

1) Neither this Commission nor MEC has subject matter jurisdiction of this case or the power to enforce a subpoena. Therefore all discovery would be undue discovery and under discovery should be barred under *State ex. rel. Ford Motor Co. v. Messina*.³

³ 71 S.W.3d 602, 607 (Mo. 2002).

2) The time for discovery has passed because MEC had the opportunity to conduct discovery in its underlying case which is currently on appeal with this Commission and prior to the filing of motions for summary decision in this case. Therefore, any discovery would be excessive discovery that should be curtailed under *Messina*.⁴

3) The case before this Commission is not an opportunity for MEC to cure any defects in its underlying case as to whether it had probable cause against Calzone under § 105.961.⁵ Therefore, MEC's discovery requests are not relevant.

4) MEC's discovery requests, served on a non-party, are unnecessary and overly burdensome.

5) Expansive discovery of non-parties is strongly disfavored.

Calzone's first three arguments misinterpret our role in this case as reviewing MEC's decision. As the Supreme Court explained:

[T]he provision in § 105.961 for appeal of the probable cause determination to the AHC actually indicates that the legislature intended for the AHC to render the agency's decision in the event that the subject of a complaint disagreed with the MEC's probable cause determination. The AHC exercises independent and impartial decision-making authority in disputes between agencies and those persons affected by their actions. In that role, the AHC functions as a hearing officer and fulfills the same functions as any administrative hearing officer authorized to hear contested cases within an agency. The AHC "simply determines, on evidence heard, the administrative decision of the agency involved." And here, that is precisely what the statute intends. Subsection 5 of § 105.961 permits the subject of any complaint received by the MEC to have the MEC's proposed action reviewed by the AHC, indicating that, if the AHC's jurisdiction is invoked, the MEC's decision does not become final until after AHC review.⁶

As *Impey* explains, we do not affirm or reverse MEC's decision, but decide it *de novo*. Since the case before us is being heard *de novo*, what occurred in the MEC proceeding has no effect.

⁴ *Messina* at 607.

⁵ RSMo Supp. 2010.

⁶ *Impey v. Missouri Ethics Comm'n*, 442 S.W.3d 42, 47 (Mo. banc 2014) (internal citations omitted).

Calzone's fourth and fifth arguments are directed towards the service of a subpoena *duces tecum* upon a non-party to the case. In the fourth argument, Calzone goes into detail of specific requests for production of documents that were served on the non-party. Calzone may renew these arguments in circuit court, in the event MEC attempts to obtain an order of enforcement of the subpoena *duces tecum*.

For the reasons stated above in response to Calzone's first three arguments, we deny his motion for protective order.

MEC's Motion to Compel Discovery

In response to Calzone's motion for protective order, MEC filed a motion to compel discovery. Specifically, MEC propounded three interrogatories and five requests for production of documents on Calzone. We go through each interrogatory and request individually. In making our determination, we must apply our own analysis of whether each interrogatory and request is relevant because MEC simply made general statements in support of all of its discovery requests and Calzone made similar general statements against these discovery requests in his opposition to MEC's motion to compel.

Interrogatory 1 Please state your full name, date of birth, and the address of your present place of residence.

Interrogatory 1 is boilerplate language that is better directed towards an individual representing an entity. Here, the opposing party is an individual, not an entity, and MEC already knows this individual's name. His date of birth is not relevant and MEC communicates with the individual through his attorney. Accordingly, Calzone's present place of residence is irrelevant.

Interrogatory 2 List and identify: Each person you intend to call as an expert witness at trial, stating for each such expert...

Missouri Ethics Commission

APR - 8 2016

Received by Fax

The information requested in interrogatory 2 is discoverable, may lead to relevant information, and not overly burdensome for Calzone to answer.

Interrogatory 3 List and identify each person you intend to call as a fact witness at trial...

The manner in which information is requested in interrogatory 3 delves into mental impressions and work product. Therefore, interrogatory 3 is objectionable. Despite Calzone's failure to make a specific objection for each interrogatory, we will sustain his objection for interrogatory 3.

Request for Production 1 All communications between you and the Missouri Ethics Commission...

The documents requested in request for production 1 are discoverable, may lead to relevant information, and not overly burdensome for Calzone to produce.

Request for Production 2 All communications between you and any expert witness...

The documents requested in request for production 2 are discoverable, may lead to relevant information, and not overly burdensome for Calzone to produce.

Request for Production 3 All communications...between you and any fact witness...

The documents requested in request for production 3 are discoverable, may lead to relevant information, and not overly burdensome for Calzone to produce.

Request for Production 4 All communications, from January 2012 to present, between you and any member of Missouri First, relating to legislation or proposed legislation in the Missouri General Assembly (House of Representatives or Senate), including without limitation emails, letters, facsimiles, newsletters, fliers, postcards, phone calls, or other material.

These documents are discoverable and relevant in determining whether Calzone was designated as the lobbyist for Missouri First. Consequently, they are relevant in making our *de*

Missouri Ethics Commission
APR - 8 2016
Received by Fax

novus determination as to whether MEC's finding of probable cause in the underlying case should be reversed.

Request for Production 5 All communications, from January 2012 to present, between you and any member of the General Assembly or staff of the General Assembly, or staff of any member of the General Assembly, relating to legislation or proposed legislation in the Missouri General Assembly, including without limitation emails, letters, facsimiles, newsletters, fliers, postcards, phone calls, or other material.

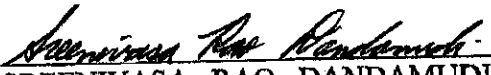
These documents are discoverable and relevant in determining whether Calzone acted as a lobbyist. Consequently, they are relevant in making our *de novo* determination as to whether MEC's finding of probable cause in the underlying case should be reversed.

For the foregoing reasons, we grant, in part, MEC's motion to compel as to interrogatories 2 and 3; and all requests for production.

Conclusion

We deny Calzone's motion for a protective order. We deny MEC's motion to compel as to interrogatory 1. We grant MEC's motion to compel as to interrogatories 2 and 3; and all five requests for production of documents. Calzone shall respond to these requests by April 18, 2016.

SO ORDERED on April 8, 2016.


SREENIVASA RAO DANDAMUDI
Commissioner

Missouri Ethics Commission

APR - 8 2016

Received by Fax

EXHIBIT F


BEFORE THE ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

RON CALZONE,)	
)	
Petitioner,)	
)	Case 15-1450 EC
v.)	
)	
MISSOURI ETHICS COMMISSION,)	
)	
Respondent.)	

**Respondent Missouri Ethics Commission's
First Set of Interrogatories
Directed to Petitioner Calzone**

COMES NOW Respondent, the Missouri Ethics Commission, and pursuant to 1 CSR 15-3.420 (2011) and Missouri Rules of Civil Procedure 56.01 and 57.01, propounds the following, its first set of interrogatories direct to Petitioner Calzone.

Respectfully submitted,



 Curtis R. Stokes #59836
 P.O. Box 1370
 Jefferson City, MO 65102
 (573) 751-2020 (telephone)
 (573) 522-2226 (facsimile)
 Curt.Stokes@mec.mo.gov
 Attorney for Respondent
 Missouri Ethics Commission

Instructions

1. Please type your answers to the following Interrogatories in the space provided on this form where possible; an electronic copy of these Interrogatories has been provided to facilitate this request. If the space is not sufficient, please reply by affidavit, clearly indicating in the space provided, and attach the affidavit to the interrogatories.
2. Your responses must be signed under oath.
3. The original signed response must be served on Respondent Missouri Ethics Commission, through undersigned counsel.
4. You must seasonably amend your response to these Interrogatories if you learn that the response is in some material respect incomplete or incorrect and if the additional or corrective information has not otherwise been made known to all other parties during the discovery process or in writing.
5. You must respond to these interrogatories within thirty (30) days. If you wish to request an extension in the time to respond, please contact the undersigned counsel for Respondent Missouri Ethics Commission in writing with a request for the extension, along with a brief description of the reason(s) for the request.

Interrogatories

Interrogatory 1 Please state your full name, date of birth, and the address of your present place of residence.

Response:

Interrogatory 2 List and identify:

(a) Each person you intend to call as an expert witness at trial, stating for each such expert:

(i) name;

(ii) address;

(iii) occupation;

(iv) place of employment;

(v) qualifications to give an opinion.

(b) For each expert listed, state the subject matter on which that expert is expected to testify and the expert's hourly deposition fee.

Response:

Interrogatory 3 List and identify each person you intend to call as a fact witness at trial, together with the general topic on which the witness will testify and the address, phone number and phone number that each witness may be reached.

Response:

County of)
)
State of) ss.

I, _____, first being duly sworn and under oath and affirmation, have read the above responses, I am personally familiar with the facts stated therein, and I further certify that the responses are true, correct, and complete.

Affiant

Subscribed and sworn to before me this _____ day of _____, 2013.

Notary Public

[SEAL]

Certificate of Service

I hereby certify that on Monday, December 28, 2015, the original of foregoing interrogatories, together with two copies and an electronic copy on CD-ROM in Microsoft word .docx format, was served via email and U.S. Mail, postage prepaid, to the following:

David E. Roland
Freedom Center of Missouri
P.O. Box 693
Mexico, MO 65265
dave@freedom.org

Allen Dickerson
Center for Competitive Politics
124 S. West St., Suite 201
Alexandria, VA 22314
adickerson@campaignfreedom.org

Attorneys for Petitioner Calzone



Curtis R. Stokes

BEFORE THE ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

RON CALZONE,)	
)	
Petitioner,)	
)	Case 15-1450 EC
v.)	
)	
MISSOURI ETHICS COMMISSION,)	
)	
Respondent.)	

**Respondent Missouri Ethics Commission's
First Set of Requests for Production of
Documents and Things
Directed to Petitioner Calzone**

COMES NOW Respondent, the Missouri Ethics Commission, and pursuant to 1 CSR 15-3.420 (2011) and Missouri Rules of Civil Procedure 56.01 and 58.01, propounds the following, its first set of requests for production of documents and things to Petitioner Calzone:

Respectfully submitted,



Curtis R. Stokes #59836
P.O. Box 1370
Jefferson City, MO 65102
(573) 751-2020 (telephone)
(573) 522-2226 (facsimile)
Curt.Stokes@mec.mo.gov
Attorney for Respondent
Missouri Ethics Commission

Instructions

1. Please produce all documents and items to above-signed counsel on or before January 27, 2015, at the offices of the Missouri Ethics Commission, 3411A Knipp Drive, Jefferson City, Missouri, 65109. If this time and place are not possible, please contact the above-signed counsel for Respondent Missouri Ethics Commission in writing with a request for a replacement time and place of production.

2. Please produce all documents as they are kept in the usual course of business and/or organize and label them to correspond with the categories in the request.

3. Please produce the documents to Respondent Missouri Ethics Commission through its counsel, at the address indicated in the attorney's signature block on the first page of these requests.

4. If copies are produced, please produce legible copies of paper documents on the same size paper as the original paper document.

5. If copies are produced, please produce copies of electronic documents and electronically stored information in native format for commonly used mediums and in either .tiff or .pdf format for uncommonly used mediums. Examples of commonly used mediums include Microsoft Office files such as Word, PowerPoint, and Excel. If you have any question whether an electronic document or electronically

stored information is in a commonly used medium, please contact
counsel for Petitioner.

Requests for Production of Documents and Things

Request 1 All communications between you and the Missouri Ethics

Commission from January 2012 to present, including without

limitation:

(a) All emails, letters, and facsimiles relating to lobbying or lobbying

disclosure reports.

Response:

Request 2 All communications between you and any expert witness

identified in your response to Interrogatories served herewith.

Response:

Request 3 All communications, from January 2012 to present, between you

and any fact witness identified in your response to Interrogatories

served herewith.

Response:

Request 4 All communications, from January 2012 to present, between you and any member of Missouri First, relating to legislation or proposed legislation in the Missouri General Assembly (House of Representatives or Senate), including without limitation emails, letters, facsimiles, newsletters, fliers, postcards, phone calls, or other material.

Response:

Request 5 All communications, from January 2012 to present between you and any member of the Missouri General Assembly or staff of the General Assembly, or staff of any member of the Missouri General Assembly, relating to legislation or proposed legislation in the Missouri General Assembly, including without limitation emails, letters, facsimiles, newsletters, fliers, postcards, phone calls, or other material.

Response:

Certificate of Service

I hereby certify that on Monday, December 28, 2015, the original of foregoing requests for product of documents and things, together with two copies and an electronic copy on CD-ROM in Microsoft word .docx format, was served via email and U.S. Mail, postage prepaid, to the following:

David E. Roland
Freedom Center of Missouri
P.O. Box 693
Mexico, MO 65265
dave@freedom.org

Allen Dickerson
Center for Competitive Politics
124 S. West St., Suite 201
Alexandria, VA 22314
adickerson@campaignfreedom.org

Attorneys for Petitioner Calzone



Curtis R. Stokes

EXHIBIT G

IN THE ADMINISTRATIVE HEARING COMMISSION

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

**PLAINTIFF RON CALZONE’S MOTION FOR PROTECTIVE ORDER AND
MEMORANDUM IN SUPPORT OF MOTION**

Plaintiff Ron Calzone, pursuant to Rule 56.01(c), moves the Administrative Hearing Commission (“AHC” or “Commission”) for a protective order precluding certain discovery propounded by Defendant Missouri Ethics Commission (“MEC”) and forestalling additional discovery requests.

INTRODUCTION

On February 24, 2016—last Wednesday—the MEC filed a subpoena *dues tecum* against a non-party, Missouri First, Inc.¹ As discussed *infra*, this subpoena² orders Missouri First, Inc.’s corporate designee to appear at the Ethics Commission’s office in Jefferson City, Missouri on March 8, 2016—four days after Petitioner’s motion for

¹ The MEC first raised the possibility of discovery at this late date, and the possibility specifically of third-party discovery, by means of a telephone message left Friday, February 19, 2016 with the office manager for the Center for Competitive Politics. Counsel for Mr. Calzone and the MEC conferred telephonically on Monday, February 22, at which time Mr. Calzone’s counsel expressed his intention to file this motion if the MEC chose to proceed with discovery. At the MEC’s request, and to permit Mr. Calzone’s attorneys to cross-examine any third-party witness required to testify, counsel for the parties also exchanged potential availability for an early-March deposition date.

² A copy of the MEC’s subpoena is appended to this Motion.

summary decision in this matter is due—and to produce an enormous range of documents irrelevant to the matters before the Administrative Hearing Commission.

Missouri First has no funds with which to hire separate counsel, and the Missouri rules of civil procedure explicitly permit a party to move for a protective order barring discovery directed at a non-party. Rule 56.01(e) (“The party serving a subpoena on a non-party shall provide a copy of the subpoena to every party as if it were a pleading. A party objecting to the subpoena may seek a protective order under Rule 56.01(c)”); Rule 56.01(c) (“Upon motion *by a party or* by the person from whom discovery is sought, and for good cause shown, the court may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense...”) (emphasis supplied).³

Accordingly, because the MEC’s subpoena would impose annoyance, embarrassment, oppression, and an undue burden and expense upon non-party Missouri First, and because this subpoena will further delay Mr. Calzone’s case while simultaneously increasing the overall burden and expense of the litigation, Petitioner moves to quash the MEC’s subpoena and for a protective order barring further discovery.

Nature and Stage of the Proceedings

The Missouri Society of Governmental Consultants filed its complaint against Mr. Calzone on November 4, 2014—roughly 15 months ago. The Missouri Ethics

³ The Rules are clear. But to the extent necessary, Mr. Calzone moves to intervene for purposes of challenging the MEC’s subpoena. *See State ex rel. Lichtor v. Clark*, 845 S.W.2d 55, 59 (Mo. Ct. App. 1992) (where third-party expert witness was subject to discovery in personal injury action, and sought a writ of prohibition against such discovery, party in original action permitted to intervene).

Commission conducted a full investigation, which concluded in January of 2015. On the basis of that investigation—and without ever contacting Missouri First, Inc. to request any of the information demanded in the subpoena challenged here—the MEC filed a complaint against Mr. Calzone.

A hearing was held on September 3, 2015, eight months later, in Jefferson City, Missouri. Third-party discovery was available to the Ethics Commission to prepare its case. 1 C.S.R. 50-2.050; 1 C.S.R. 50-2.060. It chose to forego all discovery. Nonetheless, the MEC found probable cause that Mr. Calzone had violated Missouri law respecting the regulation of legislative lobbyists.

Petitioner filed for this Commission’s review, specifically noting that the MEC’s original finding of probable cause, upon the record available to it when it made that finding, was in error, and further arguing that the Ethics Commission has never had jurisdiction to pursue this matter because the originating complaint was filed by a non-natural person. Pet. for Admin. Review at 22-27 (Counts I-VI).

On September 28, 2015, this Commission notified the parties that it had “scheduled a hearing at 9:00 AM, Wednesday, February 3, 2016,” and that “[t]his notice should give the parties ample time to conduct discovery and prepare for hearing.” On December 28, 2015—two months later—the Ethics Commission issued discovery requests directed only at Mr. Calzone. On January 15, 2016, Mr. Calzone filed objections to those discovery requests, and in accordance with this Commission’s regulations, notified the MEC of those objections. The Ethics Commission never responded.

On January 4, 2016, in light of Petitioner's filing of a motion for judgment on the pleadings on December 18, 2015, the Ethics Commission sought a continuance of the February 3, 2016 hearing date. The February 3, 2016 hearing was limited to oral argument on the merits of Petitioner's motion for judgment on the pleadings. Consequently, on January 28, 2016, the parties met and conferred and agreed to stay discovery pending the outcome of the hearing for judgment on the pleadings. That discussion specifically addressed the fact that discovery would be irrelevant if this Commission ruled that the MEC lacked jurisdiction to pursue this matter.

The February 3 hearing was held, and the parties and Commission agreed to hold the record open, per the MEC's request, to submit "the complaint filed with MEC by Michael A. Dallmeyer in the underlying case." Order of the Administrative Hearing Commission of February 5, 2016 ("AHC Order") at 2, n.2. However, after the hearing, the MEC filed an "amended answer [which] contained exhibits beyond the exhibit for which [the Commission] kept the record open for a decision on the pleadings." AHC Order at 2. Because "the parties continue[d] to provide exhibits and arguments," this Commission denied a motion for judgment on the pleadings. *Id.*

Nevertheless, the AHC "agree[d] with the parties that a hearing may not be necessary" and promulgated "a scheduling order for the parties to submit motions for summary decision, which are to be accompanied with admissible evidence." *Id.* This Commission also confined briefing to limited arguments and "suggest[ed that] the parties focus on whether the MEC's finding of probable cause should be reversed based on Calzone's three legal arguments in his motion for judgment on the pleadings." *Id.* at 2-3.

This Commission ordered Petitioner to “file his motion for summary decision by March 4, 2016.” *Id.* at 3.

It is only now, more than a year after this litigation began and on the eve of summary decision, that the MEC seeks, for the first time, non-party discovery addressed to Missouri First, Inc. For the reasons given below, this discovery—and any further discovery—should be disallowed.

I. Neither the MEC nor this Commission has Subject-Matter Jurisdiction to Issue or Enforce a Subpoena.

From this case’s inception, the Ethics Commission—and by extension this body, *Bauer v. Missouri Ethics Comm’n*, 2008 Mo. Admin. Hearings 287 (Mo. Admin. Hearings 2008)—has lacked subject-matter jurisdiction. The complaint in this matter was filed by a nonprofit corporation. Since complaints can only be filed by natural persons, and since corporations are not natural persons, the complaint was legally defective. RSMo § 105.957(2) (“Complaints filed with the commission shall be in writing and filed *only* by a natural person”) (emphasis supplied); Pet. at 23, ¶ 173 (“Hearing Exhibit 9, as well as the testimony of Mr. Randy Scherr, demonstrates that a non-natural person, the Missouri Society of Governmental Consultants, truly brought the complaint against Mr. Calzone”). Absent subject-matter jurisdiction, there cannot be jurisdiction to issue or enforce a subpoena against either Petitioner or a non-party.

This case ought to be resolved on the basis of the Ethics Commission’s lack of jurisdiction, and no aspect of its proposed discovery is remotely likely to obtain evidence that would cure that fatal flaw. Permitting discovery against a non-party under these

circumstances is inherently burdensome and manifestly improper. The Missouri Rules of Civil Procedure give its courts and the Commission discretion to issue protective orders “to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.” Rule 56.01(c). Under Rule 56, “[a] protective order”, including an order “that discovery not be had,” Rule 56.01(c)(1), “should issue if annoyance, oppression, and undue burden and expense outweigh the need for discovery.” *State ex rel. Ford Motor Co. v. Messina*, 71 S.W.3d 602, 607 (Mo. 2002). Accordingly, the rules of discovery give courts and the Commission discretion “to control the combination of interrogatories, requests for admissions, [and] production requests . . . permitted in a given case.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 595 n.13 (2007); *State ex rel. Upjohn Co. v. Dalton*, 829 S.W.2d 83, 85 (Mo. Ct. App. 1992) (noting discretion and duty to prevent discovery abuse).⁴

Indeed, the lack of subject-matter jurisdiction disempowers this body from enforcing the Ethics Commission’s subpoena. “[T]he subpoena power of a [commission] cannot be more extensive than its jurisdiction. It follows that if [the commission] does not have subject-matter jurisdiction over the underlying action, and [if] the process [i]s not issued in aid of determining that jurisdiction, then the process is void...” *U.S. Catholic*

⁴ Missouri courts draw on federal precedent because “Missouri has, for all practical purposes, adopted the federal rules and the modern philosophy of pre-trial discovery almost verbatim.” *State ex rel. Kawasaki Motors Corp. v. Ryan*, 777 S.W.2d 247, 251 (Mo. Ct. App. 1989). If anything, discovery is narrower in Missouri than in the federal system because Missouri requires greater facts in the initial complaint and “the same emphasis is not placed on the discovery process to sharpen and define the issues.” *State ex rel. Papin Builders, Inc. v. Litz*, 734 S.W.2d 853, 858 (Mo. Ct. App. 1987), overruled on other grounds *State ex rel. Krigbaum v. Lemon*, 854 S.W.2d 72, 75 (Mo. Ct. App. 1993).

Conf. v. Abortion Rights Mobilization, 487 U.S. 72, 76 (1988). “The challenge in this case goes to the subject-matter jurisdiction of the” Commission. *Id.* at 77. “[S]ubject-matter jurisdiction . . . is not a mere nicety of legal metaphysics. It rests . . . on the central principle of a free society that [adjudicative bodies] have finite bounds of authority . . . which exist to protect citizens from the very wrong asserted here, the excessive use of [adjudicative] power.” *Id.*

This Commission has an “affirmative duty and obligation to prevent” discovery from becoming “overbroad, oppressive, burdensome and intrusive.” *State ex rel. Kawasaki Motors Corp. v. Ryan*, 777 S.W.2d 247, 251 (Mo. Ct. App. 1989) (denying motion to compel discovery responses). Courts and the Commission should issue protective orders to “limit discovery to the reasonable parameters of the petition allowing discovery of relevant and temporal subject matter that has not already been discovered.” *State ex rel. Ford Motor Co. v. Nixon*, 160 S.W.3d 379, 381 (Mo. 2005). A court or the Commission may restrict intrusive, burdensome, and expensive discovery “even though the information sought is properly discoverable.” *State ex rel. Anheuser v. Nolan*, 692 S.W.2d 325, 328 (Mo. Ct. App. 1985).

Such an order is not merely appropriate, but necessary, where the very jurisdiction of this body is in question. *U.S. Catholic Conf.*, 487 U.S. at 76-77 (ordering district court to determine subject-matter jurisdiction first, and if no jurisdiction is present, holding that “the subpoenas *duces tecum* are void”). None of the Ethics Commission’s discovery requests are relevant to demonstrating its jurisdiction. *U.S. Catholic Conf.*, 487 U.S. at 79 (“Nothing we have said puts in question the inherent and legitimate authority of the court

to issue process and other binding orders, including orders of discovery directed to nonparty witnesses, as necessary for the court to determine and rule upon its own jurisdiction, including jurisdiction over the subject matter”). Moreover, in this case, the relevant facts are not disputed and the question whether the Society acting through counsel was the original complainant is a question of law. *Messina*, 71 S.W.3d at 606 (“Corporations act only through natural persons”).

Accordingly, this Commission must resolve the question of jurisdiction before permitting the enforcement of the Ethics Commission’s subpoena.

II. The Time For Discovery Has Passed.

The Ethics Commission has had numerous opportunities to seek discovery in this matter, which it has failed to take. Now, in the midst of briefing on summary decision, the MEC demands a substantial amount of discovery from a non-party in order to backfill its failure to provide evidence supporting probable cause at its hearing below. The breadth of its discovery request is a virtual admission that the MEC has never obtained *any* evidence that Mr. Calzone was designated as a lobbyist for Missouri First, Inc. or *any* communications that could arguably constitute lobbying by Mr. Calzone.⁵ This is plain from the document requests themselves, which will be discussed individually *infra*.

⁵ As opposed to evidence that Mr. Calzone has testified before committees of the Missouri General Assembly, as the MEC’s entire case—with the exception of an adverse inference based upon invocation of the Fifth Amendment—relied upon below. Pet. at 12-13, ¶ 84 (Commission’s counsel arguing that Mr. Calzone’s mention of affiliation with Missouri First when testifying before legislative committees, “alone shows designation”); Pet. at 10, ¶ 65 (“The Commission’s Complain...relied upon specific examples of Mr. Calzone’s testimony as evidence he was likely in violation of the lobbyist registration and reporting statute”). Of course, as Petitioner has repeatedly noted throughout these

In determining whether to curtail excessive discovery, a court or the Commission may “consider whether other methods of discovery have been pursued; the proponent’s need for [the] discovery . . . ; and the burden, expense, annoyance, and oppression” to the party to whom the demand is made. *Messina*, 71 S.W.3d at 607. Here, discovery is demanded after this body has ordered briefing on summary decision and more than a year after this affair began. None of the discovery requested of Missouri First, Inc. will go to the issues that this body has ordered briefed: jurisdiction, “Calzone’s self-designation as a lobbyist,” or “whether monetary expenditures must be made solely to legislators.” *Nixon*, 160 S.W.3d at 381 (protective orders should “limit discovery to the reasonable parameters of the petition...”); *also State ex rel. Horenstein v. Eckelkamp*, 228 S.W.3d 56, 57 (Mo. Ct. App. 2007) (“Rule 56.01(b)(1) limits discovery to matters reasonably calculated to lead to the discovery of admissible evidence.’ A party issuing a subpoena ‘shall take reasonable steps to avoid imposing undue burden or expense on a non-party subject to the subpoena.’”) (quoting Rules 56.01(b)(1) and 57.09(b)(1)).

In this case, the MEC has had ample opportunity to pursue discovery, including an invitation from this Commission that has expired. AHC Notice of Complaint/Notice of Hearing (“We have scheduled a hearing...February 3, 2016...This notice should give the parties ample time to conduct discovery and prepare for hearing”). The MEC should not be permitted to further burden innocent parties in a last-ditch attempt to save its case.

proceedings, testimony before committees of the General Assembly are an exception to lobbying activity. RSMo § 105.470(5)(d)(d).

III. None of the Ethics Commission's Demands are Relevant

The question before this Commission is whether the MEC was entitled to find probable cause that Mr. Calzone committed a violation of Missouri laws concerning the registration of legislative lobbyists. Pet. for Admin. Review at 22-27 (Counts I-VI). By definition, that is a backward-looking inquiry that asks whether the evidence *before the Ethics Commission* supported its ruling. This proceeding is not an opportunity for the MEC to start from scratch and attempt to cure its mistakes below. Those mistakes are the subject of these proceedings. Consequently, none of the requested discovery—which requests documents and testimony unavailable to the Ethics Commission when it made its probable cause determination—can possibly lead to relevant evidence here.

Moreover, even if the sole question before this Commission were not the probable cause finding below, it is difficult to divine how the demanded discovery relates to the Ethics Commission's theory of the case—which hinges upon the idea that Missouri law permits a member of a corporation's board to “self-designate” as a lobbyist without any formal designation by any lobbyist principal. In demanding discovery into the workings of Missouri First, Inc., the MEC appears to be abandoning this core contention of its case. Basic principles of due process, notice, and fundamental fairness counsel against permitting the MEC to once again alter its theory of this case.

The MEC bears the burden of demonstrating relevance, something it cannot do. Rule 56.01(b)(1) (“The party seeking discovery shall bear the burden of establishing relevance”). Consequently, a protective order is appropriate.

IV. The Ethics Commission's Demands Ought To Be Precluded As Unnecessary And Overly Burdensome.

Even if the MEC's discovery demands were calculated to lead to relevant evidence, which they are not, they are so overly broad and burdensome that they should be disallowed on that basis alone.

The Ethics Commission has issued six specific requests for documents.⁶ These requests are difficult to follow—they are extraordinarily vague, and the MEC has provided no definitions explaining what it is looking for with any precision. But to the extent the requests can be understood, they impose a tremendous burden upon an organization with no resources,⁷ particularly in light of the expedited deadline that the Ethics Commission has requested. Moreover, the harm to Mr. Calzone imposed by these requests is considerable, given that—if permitted—Missouri First, Inc. will be providing an enormous number of documents to the MEC that his counsel will be forced to review, a review that must occur only after Mr. Calzone's opening brief on summary decision.

⁶ The scope of the MEC's proposed deposition is similarly broad, although for purposes of brevity this Motion addresses itself principally to the scope of documentary discovery. Naturally, these arguments apply with similar force to the deposition itself, and are intended to apply thereto.

⁷ Undersigned counsel has been informed that, during the period for which the Ethics Commission seeks discovery and continuing until the present, Missouri First, Inc. has never had more than ten dollars in its checking account. To the extent that the Commission's decision on this Motion turns or relies upon this representation, Mr. Calzone does not object to discovery directed solely at relevant and properly-redacted bank records establishing this fact.

To begin, the Ethics Commission demands that Missouri First, Inc.'s corporate designee drive to Jefferson City and meet the MEC at its own offices. No offer to pay expenses, including the time and expense of travel, has been proffered. Such a demand is inherently burdensome and expensive, but is made much more so by the MEC's decision to continue the deposition "from day to day at the same place and time until completed."

But the greatest part of the MEC's demand is for six categories of documents covering an enormous range of topics. The time required to sift these documents, determine those that are responsive, undertake review for privilege, trade secrets, personally-identifying information, and similar protected categories, and then provide them to the MEC in person at a deposition, is an enormous burden on a lightly-resourced and volunteer-staffed entity. The MEC has taken no account of these burdens, despite an affirmative duty to "take reasonable steps to avoid imposing undue burden or expense on a non-party subject to the subpoena." Rule 58.02(e).

These requests merit separate consideration.

Document Request #1

The MEC's first request is as follows:

All documents from 2013 to present relating to the operation, management, or governance of Missouri First, Inc., including any Charter, Operating Agreement, Management Contract, Constitution or By-Laws.

"[R]equests that begin 'any and all,'" as is the case for a number of the MEC's demands, "fail to describe items with reasonable particularity." *Upjohn Co.*, 829 S.W.2d at 85. Rather, requests for "any" and "all" documents are an "overreach[]" in discovery that "subvert[s] the proceedings into a 'war of paper.'" *State ex rel. Whitacre v. Ladd*,

701 S.W.2d 796, 799 (Mo. Ct. App. 1985). Because such requests are “so broad as to be defectively oppressive, burdensome and intrusive,” *Ryan*, 777 S.W.2d at 252 (quotation marks and citation omitted), courts and tribunals have an “affirmative duty and obligation” to protect against them, *Ladd*, 701 S.W.2d 799.

All but one of the MEC’s document requests begins with a demand for “all [documents]” But a demand for “all documents... relating to the operation, management, or governance of Missouri First, Inc.” is especially problematic since arguably *any* document created by a corporation relates in some way to its operations. Such breadth, repeated in differing form in subsequent requests, is evidence that the MEC wishes complete access to all aspects of Missouri First, Inc. It is engaged in a classic fishing expedition.

Moreover, the MEC seeks documents outside of the statute of limitations. Requested discovery must be limited to a time frame relevant to the subject matter of the case. *Cf. Ryan*, 777 S.W.2d 253. Any document created more than two years before November 4, 2014, when the complaint was filed, is not relevant. *See* RSMo § 105.957(3).

Counsel for Mr. Calzone is willing to stipulate to the existence of a Charter for Missouri First, Inc. that is substantially similar to the document that the Ethics Commission introduced below, and which it has extensively relied upon in its briefing before this body. Discovery of this document—already in the record—is plainly unnecessary, and additional documents will only burden Missouri First and Mr. Calzone without providing any relevant evidence worth the candle.

Document Request #2

The MEC's second request is:

All meeting minutes of any meeting of the Board of Directors of Missouri First, Inc., occurring from January 2013 to present, relating to legislation pending in the Missouri General Assembly in 2013 and 2014, or relating to the websites www.mofirst.org or libertools.org [sic].

As a preliminary matter, the website “libertytools.org” has nothing to do with Missouri First, Inc. It is solely a personal project of Mr. Calzone's. Requesting documents related to that site from a non-party is emblematic of the MEC's confusion and overreach. Similarly, with regard to “www.mofirst.org”, it is far from clear how every Board discussion of an entity's website could possibly be related to the subject matter of this litigation.

But more importantly, internal discussion documents—especially those concerning protected First Amendment activity—are highly sensitive. Asking Missouri First, Inc. to turn over its discussions of matters before the General Assembly during any given session is tantamount to handing over to the government Missouri First's internal thoughts and strategies regarding its mission.

It has long been held that all Americans have “the right to pursue their lawful private interests privately and to associate freely with others in so doing.” *NAACP ex rel. Patterson v. Alabama*, 357 U.S. 449, 466 (1958). “The freedom of members of a political association to deliberate internally over strategy and messaging is an incident of associational autonomy.” *Perry v. Schwarzenegger*, 591 F.3d 1126, 1142 n.9 (9th Cir. 2010). “Implicit in the right to associate with others to advance one's shared political

beliefs is the right to exchange ideas and formulate strategy and messages, and to do so in private.” *Id.* at 1142. Accordingly, an order “that the discovery not be had” should issue here. Rule 56.01(c)(1) (protective order to quash). The MEC does not merely seek board minutes related to the designation of Mr. Ron Calzone as a legislative lobbyist for the group, but to the internal records of discussions related to *any legislation at all* during 2013-2014.

Courts must be particularly careful that abusive discovery practices do not further chill protected First Amendment activity. Thus, courts and the Commission must show care that laws do not “‘chill’ constitutionally protected speech.” *Virginia v. Hicks*, 539 U.S. 113, 119 (2003). They do so by providing “expansive remed[ies]” that invalidate enforcement of overbroad laws, *id.*, and by “resolv[ing] disputes quickly without chilling speech through the threat of burdensome litigation,” *FEC v. Wis. Right to Life, Inc.*, 551 U.S. 449, 469 (2007). To thus resolve disputes quickly, the Commission should encourage “minimal” discovery necessary to resolve the disputes in the case and “give the benefit of any doubt to protecting rather than stifling speech.” *Id.* at 470, 482. In short, discovery must be limited not only to such information as would fall within the rules of procedure in their routine application, but must also reflect sensitivity to the deterrent effect broad or invasive discovery may have on future discussion.

Finally, it is Mr. Calzone who is accused of being a lobbyist, not Missouri First, Inc. which, as a non-natural person, *cannot* be a lobbyist. RSMo § 105.470(5). Demanding the corporation’s internal discussions is simply irrelevant.

Document Request # 3

The MEC's third document request is as follows:

All documents presented to, considered by, authored, adopted, or rejected by the Board of Directors of Missouri First, Inc., during any of its meetings from January 2013 to present of the Board of Directors *[[sic]*, including any contract, memorandum, or resolution relating to management or governance of Missouri First, Inc. or legislation pending in the Missouri General Assembly during 2013 or 2014, or relating to the websites www.mofirst.org or libertools.org.

This request seeks all documents put before the Missouri First, Inc. board of directors over a period of over three years. There is no other conceivable interpretation. While enormously burdensome, and starkly invasive, there is no reason to believe that this request will lead to anything relevant to the MEC's theory of this case, and in particular to its jurisdiction in this matter.

Document Request #4

The MEC's fourth request reads:

All letters from January 2013 to present addressed to any member of the Missouri General Assembly (House of Representatives or Senate) on Missouri First, Inc. letterhead, or bearing a return address of Missouri First, Inc.

Seeking the contents of all of Missouri First, Inc.'s mailed communications with members of the Missouri General Assembly from the past three years has nothing to do with whether or not Mr. Ron Calzone is a legislative lobbyist within the meaning of Missouri law. Missouri First cannot be a lobbyist, as was stated above.

Again, the request is stunningly broad. It seeks any communication on letterhead, whether sent or not, whether in draft form or not. It is not limited to communications involving Mr. Calzone. Such discovery covers a huge swath of potential documents, and

will likely produce a confusing and fractured record. Moreover, the MEC seeks communications from one non-party to other non-parties, further compounding its improperly invasive approach.

Document Request #5

The MEC's fifth request is:

All emails from January 2013 to present with both an address ending in "@mofirst.org" in the "from" field and an address ending in "@house.mo.gov" or "@senate.mo.gov" in the "to," "cc" or "bcc" fields.

The Ethics Commission's request seeks a tremendous universe of communications. This, once again, indicates that the Ethics Commission does not know quite what it is looking for, but believes that if it is permitted to leaf through three years of electronic communications it may find something.

This discovery is not targeted at any conduct at issue in this case. Instead, the MEC seeks to violate the privacy not only of a non-party, but potentially of a number of members of the General Assembly and legislative staff. All of the objections concerning First Amendment privilege raised with regard to Document Request 2 apply with great force here as well. *See also United States v. Finance Committee to Re--Elect President*, 507 F.2d 1194, 1201 (D.C. Cir. 1974) ("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."); *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).

Moreover, the request is punitive in its scope, as it requires an organization with no resources to rapidly review potentially thousands of documents without inadvertently producing irrelevant or privileged communications. There is no reason to cavalierly impose such burdens.

Discovery Request # 6

The MEC's final request is for:

Letters, emails, faxes, messages, memoranda, and phone logs, from January 2013 to present, relating to management or governance of Missouri First, Inc., or legislation pending in the General Assembly during 2013 and 2014, or relating to the websites www.mofirst.org or libertools.org [*sic*] in which both: a) the sender/caller is any member of the Board of Directors of Missouri First, Inc.; any officer of Missouri First, Inc.; or Ron Calzone; and b) the recipient is any member of the Board of Directors of Missouri First, Inc.; any officer of Missouri First, Inc.; or Ron Calzone.

The request does not distinguish between personal and non-personal communications, and accordingly also seeks private email records, cell phone call records, and other personal data. This is compounded by the vague term "message," which arguably includes Facebook, personal chat, Instant Messenger, and text message records.

Moreover, this request seeks communications about, *inter alia*, the functionality of Missouri First's website and a non-Missouri First project, rote questions related to board management, purely personal discussions about the General Assembly, and much more.

Obviously, compliance with this request would impose a great burden on Missouri First, Inc. and many others, especially if compliance must occur by the Ethics Commission's preferred date of March 8th. But there is a greater harm here than that—

this request specifically reaches communications having *nothing to do* with Mr. Calzone. How else is one to read the demand for communications from other officers and directors of Missouri First to which he is not a party?

This goes beyond a fishing expedition. It is “designed to drain the pond and collect the fish from the bottom.” *Upjohn Co.*, 829 S.W.2d at 85. It is inconsistent with Missouri First’s status as a non-party and the Ethics Commission’s responsibility to *minimize* the burdens placed upon that group. Rule 58.02(e). Plainly, the Ethics Commission has no concrete idea what it is looking for but, having failed to do its due diligence before acting upon a politically-motivated and legally insufficient complaint, hopes that sufficient dredging will give it some basis upon which to maintain its action against Mr. Calzone.

V. Expansive Discovery Of Non-Parties Is Strongly Disfavored.

The Missouri Rules of Civil Procedure impose limits upon subpoenas *duces tecum* issued against non-parties. In particular, the Rule require the party “responsible for the issuance and service of a subpoena [to] take reasonable steps to avoid imposing undue burden or expense on a non-party subject to the subpoena.” Rule 58.02(e); *State ex rel. Pooker v. Kramer*, 216 S.W.3d 670, 672 (Mo. 2007) (noting protections for non-parties). This Rule is not unusual, “nonparties enjoy considerable protection from excessive discovery.” RYAN W. SCOTT, MINIMUM CONTACTS, NO DOG: EVALUATING PERSONAL JURISDICTION FOR NONPARTY DISCOVERY, 88 Minn. L. Rev. 968, 974 (2004); *see also Collins & Aikman Corp. v. J.P. Stevens & Co.*, 51 F.R.D. 219, 221 (D.S.C. 1971) (“Deering Milliken is not a party and is entitled to considerable protection from the court to prevent needless compromise and injury to it”).

Plainly, no such “reasonable steps” as required by Rule 58.02(e) were taken here. Instead, the Ethics Commission has decided to break apart and minutely examine a non-party corporation, including demanding extensive record of internal business communications irrelevant to this matter yet generally protected by the First Amendment. The Ethics Commission’s requests are also astonishingly open-ended—by their plain language—including personal discussions between friends over private email, Facebook, or text message merely because those individuals happen to be directors of a corporation. The requests seem designed to find some way to rescue the MEC’s flawed case or, in the alternative, impose enough pain on Mr. Calzone and Missouri First that future findings of probable cause may not be challenged.

The MEC has had more than a year to conduct discovery and has chosen not to do so. It now targets Missouri First, Inc., a non-party whose internal workings are both private and, according to the MEC’s own theory of “self-designation,” irrelevant. It seeks enormous quantities of sensitive material on short notice from an organization without the resources to properly comply. These actions are precisely the sort that necessitate the protections of Rule 58.02(e), and which require this Commission’s intervention.

CONCLUSION

Accordingly, this Commission should issue a protective order barring additional discovery in this case, including the non-party discovery recently sought by the Missouri Ethics Commission.

In the alternative, this Commission should limit discovery to such documents and things as are relevant to demonstrating the Ethics Commission’s jurisdiction, excuse

Missouri First, Inc. from appearing at any deposition and limit discovery to appropriate business records as contemplated by Rule 57.09(c) and, pursuant to Rule 57.09(b), order the Ethics Commission to advance the full expense, considering both monetary outlays and the value of the relevant individuals' time, required to comply with its subpoena.

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*

EXHIBIT A

**BEFORE THE ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI**

Ron Calzone)	
)	
)	Petitioner,
)	
v.)	No. 15-1450 EC
)	
Missouri Ethics Commission)	
)	
)	Respondent.

To: Missouri First, Inc.

Notice of Deposition

Please take notice that the deposition of the corporate designee of Missouri First, Inc., in the above-styled cause, on Tuesday, March 8, 2016, at 9:00 a.m. at 3411A Knipp Drive, Jefferson City, Missouri, before a notary public or other person authorized to take oaths. Said deposition is to be continued from day to day at the same place and time until completed.

The matters on which the examination is requested are as follows:

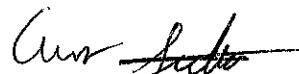
- Documents requested in the attached subpoena *duces tecum* directed to Missouri First, Inc.
- Operation, management, control, and governance of Missouri First, Inc.
- The identity of persons with authority and access to create, edit, and otherwise operate the websites <http://www.mofirst.org> and

<http://libertytools.org>.

- Legislation referred to in the website <http://www.mofirst.org>, from 2013 and 2014.
- Membership of the board of directors of Missouri First, Inc., from 2013 to present.
- Meetings and decision of the Board of Directors of Missouri First, Inc., from 2012 and 2014 relating to legislation pending in the Missouri General Assembly during 2013 or 2014, or relating to the websites www.mofirst.org or libertools.org.
- Any undertaking by Missouri First, Inc., or any officer or director of Missouri First, Inc., to provide to members of Missouri First, Inc., any telephone contact or e-mail contact with members of the Missouri General Assembly, regarding legislation or potential legislation, from 2013 or 2014.

The above-referenced party is required to designate one or more officers, directors, or managing agents, or other persons who consent to testify on Missouri First Inc.'s behalf and may set forth, for each person designated, the matters on which the person will testify. The persons so designated shall testify as to matters known or reasonably available to the organization.

Best regards,



Curtis R. Stokes #59836
Missouri Ethics Commission
P.O. Box 1370
Jefferson City, MO 65102
(573) 751-2020 (tel.)
(573) 522-2226 (fax)
Curt.Stokes@mec.mo.gov
Attorney for Petitioner
Missouri Ethics Commission

Certificate of Service

I HEREBY CERTIFY that on February 24, 2016, a true and correct copy of the foregoing was served via email and U.S. Mail, postage prepaid, on the following:

David E. Roland
Freedom Center of Missouri
P.O. Box 693
Mexico, MO 65265
dave@mofreedom.org

Allen Dickerson
Center for Competitive Politics
124 S. West St., Suite 201
Alexandria, VA 22314
adickerson@campaignfreedom.org

Attorneys for Petitioner Calzone



Curtis R. Stokes

Before the
Administrative Hearing Commission
State of Missouri



SUBPOENA

Calzone, Ron, Petitioner v. Missouri Ethics Commission, Respondent
Case 15-1450 EC

STATE OF MISSOURI

TO: Missouri First, Inc.

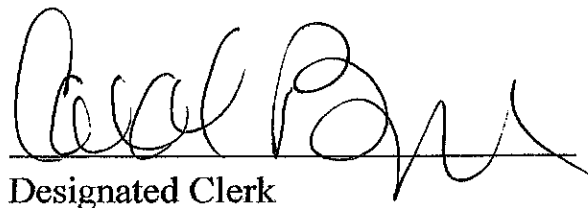
GREETINGS:

You are required to appear at 3411A Knipp Drive, Jefferson City, MO
to give deposition testimony in this matter.

on March 8, 2016 at 9.00 a.m. to testify in this matter on
behalf of the Missouri Ethics Commission

and your failure to do so will subject you to penalty of law.

My signature is affixed in the City of Jefferson, County of Cole, State of
Missouri.


Designated Clerk

Attorney Requesting:
Curt Stokes
P.O. Box 1370
Jefferson City, MO 65109
Attorney for Respondent

Petitioner Attorney:

David E. Roland
FreedomCenter of MO
P.O. Box 693
Mexico, MO 65265

Allen Dickerson
Center for Competitive Politics
124 S. West Street, Suite 201
Alexandria, VA 22314

RETURN

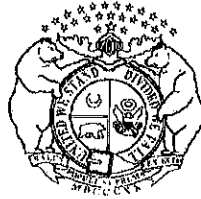
Served the within subpoena this _____ day of _____.

20____, upon _____ at _____

by _____

Before the
Administrative Hearing Commission

State of Missouri



SUBPOENA DUCES TECUM

Calzone, Ron, Petitioner v. Missouri Ethics Commission, Respondent
Case 15-1450 EC

STATE OF MISSOURI

TO: Missouri First, Inc.

GREETINGS:

You are required to appear at 3411A, Knipp Drive, Jefferson City, MO
to give deposition testimony in this matter.

on March 8, 2016 at 9:00 a.m., and to bring with you:

Documents identified in Exhibit A, attached hereto.

Attorney Requesting:

Curt Stokes
P.O. Box 1370
Jefferson City, MO

Attorney for Respondent

Petitioners Attorney:

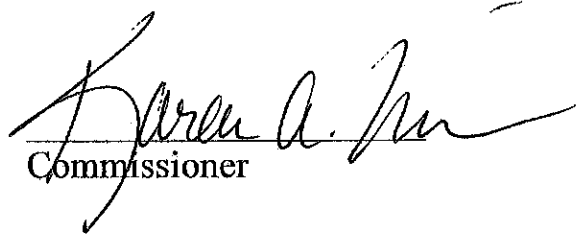
David E. Roland
Freedom Center of MO
P.O. Box 693
Mexico MO 65265

Allen Dickerson
Center for Comp Politics
124 S. West St.
Suite 201
Alexandria, VA 22314

To testify in this matter on behalf of the Missouri Ethics Commission

And your failure to do so will subject you to penalty of law.

My signature is affixed in the City of Jefferson, County of Cole, State of Missouri.


Commissioner

RETURN

Served the within subpoena this _____ day of _____.

20____, upon _____ at _____

by _____

Exhibit A to Subpoena *Duces Tecum*

1. All documents from 2013 to present relating to the operation, management, or governance of Missouri First, Inc., including any Charter, Operating Agreement, Management Contract, Constitution, or By-Laws.

2. All meeting minutes of any meeting of the Board of Directors of Missouri First, Inc., occurring from January 2013 to present, relating to legislation pending in the Missouri General Assembly during 2013 or 2014, or relating to the websites www.mofirst.org or libertools.org.

3. All documents presented to, considered by, authored, adopted, or rejected by the Board of Directors of Missouri First, Inc., during any of its meetings from January 2013 to present of the Board of Directors, including any contract, memorandum, or resolution relating to management or governance of Missouri First, Inc., or legislation pending in the Missouri General Assembly during 2013 or 2014, or relating to the websites www.mofirst.org or libertools.org.

4. All letters from January 2013 to present addressed to any member of the Missouri General Assembly (House of Representatives or Senate) on Missouri First, Inc., letterhead, or bearing a return address of Missouri First, Inc.

5. All emails from January 2013 to present with both an address ending in "@mofirst.org" in the "from" field and an address ending in "@house.mo.gov" or "@senate.mo.gov" in the "to," "cc" or "bcc" fields.

6. Letters, emails, faxes, messages, memoranda, and phone logs, from January 2013 to present, relating to management or governance of Missouri First, Inc., or legislation pending in the Missouri General Assembly during 2013 or 2014, or relating to the websites www.mofirst.org or libertools.org, in which both: a) the sender/caller is any member of the Board of Directors of Missouri First, Inc.; any officer of Missouri First, Inc.; or Ron Calzone; and b) the recipient is any member of the Board of Directors of Missouri First, Inc.; any officer of Missouri First, Inc.; or Ron Calzone.

**BEFORE THE ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI**

Ron Calzone)	
)	
)	
)	
v.)	No. 15-1450 EC
)	
Missouri Ethics Commission)	
)	
Respondent.)	

Request for Production of Business Records Affidavit

Respondent Missouri Ethics Commission requests that Missouri First, Inc. produce with the subpoenaed items a business records affidavit of the custodian of records of Missouri First, Inc. at the time of the disclosure of the items. This request is made pursuant to Missouri Rule of Civil Procedure 58.02, in regard to the subpoena issued to Missouri First, Inc., a nonparty to this matter, for production of documents and things.

Best regards,



Curtis R. Stokes #59836
Missouri Ethics Commission
P.O. Box 1370
Jefferson City, MO 65102
(573) 751-2020 (tel.)
(573) 522-2226 (fax)
Curt.Stokes@mec.mo.gov
Attorney for Petitioner
Missouri Ethics Commission

Certificate of Service

I HEREBY CERTIFY that on February 24, 2016, a true and correct copy of the foregoing was served via email and U.S. Mail, postage prepaid, on the following:

David E. Roland
Freedom Center of Missouri
P.O. Box 693
Mexico, MO 65265
dave@mofreedom.org

Allen Dickerson
Center for Competitive Politics
124 S. West St., Suite 201
Alexandria, VA 22314
adickerson@campaignfreedom.org

Attorneys for Petitioner Calzone



Curtis R. Stokes

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 1, 2016