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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

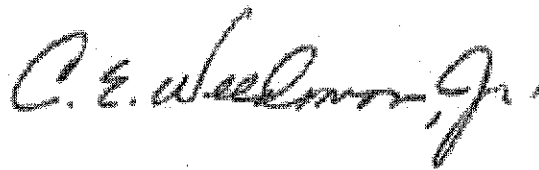
The Missouri Ethics Commission finds probable cause that Respondent Calzone violated, and has knowingly violated, Sections 105.473.1 and 105.473.2, RSMo.

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