

**IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI
AT JEFFERSON CITY, MISSOURI**

**The Missouri House of Representatives
Special Investigative Committee on
Oversight,**

Petitioners,

v.

Case No.:

A New Missouri, Inc,

and

Greitens for Missouri,

Respondents.

PETITION TO ENFORCE SUBPOENAS DUCES TECUM

Petitioner, The Missouri House of Representatives Special Investigative Committee on Oversight (“The Committee”), by and through undersigned counsel, petitions this Honorable Court to enforce the subpoenas duces tecum issued by the Speaker of the House of Representatives to Respondents and to compel Respondents to produce the documents requested or show cause why the subpoena should not be enforced. In support of its Petition, The Committee states as follows:

I. Missouri Law Vests The Committee with Authority to Issue Subpoenas in Support of Its Duly Authorized Investigation.

1. The Committee is a duly constituted committee of the Missouri House of Representatives. [House Resolution No. 5565, Lines 1-2] (Attached hereto as *Exhibit A* and incorporated by reference).

2. As such, The Committee operates with independent Constitutional authority to conduct the affairs of the co-equal legislative branch of Missouri government.

3. The Committee's charge is to investigate allegations against Gov. Eric R. Greitens. [House Resolution No. 5565, Lines 4 - 7]

4. The Missouri House of Representatives adopted rules of procedure to govern that investigation and hearings of The Committee. [House Resolution No. 5565, Lines 50 – 53]

5. Those rules provide that “[t]he [C]ommittee may compel the attendance of witnesses and the production of any paper or document...” [House Resolution No. 5565, Lines 99 – 100]. Those rules further provide that “[s]ubpoenas for the appearance of witnesses and subpoenas duces tecum for the production of any paper or document shall be issued by the Speaker of the House of Representatives, upon request of [T]he [C]ommittee, in the manner prescribed by law. A subpoena or subpoena duces tecum may be enforced by statutory or common law, or by applying to a judge of the circuit court of Cole County for an order to show cause why the subpoena or subpoena duces tecum should not be enforced.” [House Resolution No. 5565, Lines 108 – 113]

6. The Chair of The Committee, as a member of the House of Representatives, “has an absolute right to have a subpoena issue to obtain evidence concerning an offense over which the house of representatives has jurisdiction.” *In re Marshall*, 478 S.W.2d 1, 3 (Mo. 1972). *See also* § 21.400, RSMo (granting the Speaker of the House the authority to authorize subpoenas).

7. The impeachment of an executive officer of Missouri, including a governor, is an offense over which the House of Representatives has jurisdiction. MO. CONST. ART. VII, §1.

II. Respondents Greitens For Missouri, A New Missouri, Inc and the Connection Between Them.

8. Greitens For Missouri is a candidate committee organized under Chapter 130 of the Revised Missouri Statutes. Greitens For Missouri filed its Statement of Committee Organization with the Missouri Ethics Commission on February 24, 2015. A copy of said Statement of Committee Organization signed by Eric R. Greitens is attached hereto as *Exhibit B*, and incorporated by reference.

9. A New Missouri, Inc. is a nonprofit corporation organized under the laws of the State of Missouri.¹ A New Missouri Inc. claims to be a tax-exempt organization under Internal Revenue Code section § 501(c) (4).

10. According to public reports and records, Greitens For Missouri and A New Missouri, Inc. operate out of the same office and the same “money people” that operate Greitens for Missouri also operate A New Missouri, Inc. Specifically,

(1) Jeff Stuerman has acted as the Treasurer of Greitens For Missouri *and* as the registered agent for A New Missouri, Inc.;

¹ Pursuant to § 355.025, R.S.Mo., a nonprofit corporation may be organized for “political” purposes.

(2) Meredith Gibbons has acted as a fundraiser for both Greitens For Missouri *and* A New Missouri, Inc.;

(3) Michael Adams has acted as the attorney for Greitens For Missouri before the Missouri Ethics Commission *and* as the incorporator of A New Missouri, Inc.;

(4) Austin Chambers, a senior advisor to Greitens For Missouri, has stated publicly that he would be working not only for Greitens for Missouri but also A New Missouri, Inc. and the governor's official office itself.²

11. Austin Chambers has further confirmed that the role of A New Missouri, Inc. is “to advocate for and promote the governor’s agenda” and to “make sure Missourians know what the governor is doing and what he is trying to get passed.”

12. Emails uncovered by the committee demonstrate that within weeks of becoming governor, Eric R. Greitens, Meredith Gibbons and Austin Chambers participated in meetings with his “staff” and “team” designed to solicit donations for a 501 (c) (4) organization believed to be a New Missouri, Inc. from a large donor.

III. The Committee’s Investigation into Violations of Missouri’s Campaign Finance Laws and the Subpoenas at Issue.

13. Greitens For Missouri, which was and is at all times under the control of Greitens, recently admitted to:

² It should be noted Greitens For Missouri, A New Missouri and Austin Chambers are represented by the same counsel on matters related to the current subpoenas issued by The Committee.

- (1) acquiring a list of persons who made donations to a § 501 (c) (3) charitable organization;
- (2) using the list to contact potential donors for political purposes--specifically Greiten's gubernatorial campaign; and,
- (3) not disclosing its acceptance or use of the list on the required disclosure report for the period when it was used (or at any time prior to his election as Governor).

See Joint Stipulation of Facts, Waiver of Hearing Before The Missouri Ethics Commission, And Consent Order With Joint Proposed Findings of Fact and Conclusions of Law attached hereto as *Exhibit C*, and incorporated by reference.

14. The Committee has heard testimony from witnesses who acted as paid campaign personnel responsible for fundraising for Greitens For Missouri. That testimony described directives from Eric Greitens in the months between January and March 2015 "...to have conversations with donors who intended to raise significant amounts of money and conceal the donors, conceal the identity of donors." Hafner Testimony, pg. 40, attached hereto as *Exhibit D*, and incorporated by reference.

Furthermore, according the same witness, the Greitens For Missouri campaign conceived and carried out a strategy to conceal donors. Hafner Testimony, pg. 45, attached hereto as *Exhibit D*.

14. The Committee has uncovered documentary evidence in the form of a confidential memorandum dated July 9, 2016 from Will Scharf, a former campaign staffer for Catherine Hanaway's gubernatorial campaign and now a senior advisor to

Greitens, sent to Michael Hafner indicating that Greitens engaged in a scheme to conceal donors by channeling contributions through shell LLCs in violation of § 130.031.3 R.S.Mo. See July 9, 2016 Scharf Memorandum attached hereto as *Exhibit E* and incorporated by reference. This memorandum details \$30,000 of contributions allegedly concealed in December 2015.

15. The Committee's investigation, thus, includes determining whether Eric R. Greitens has been involved in utilizing other organizations such as Greitens For Missouri and A New Missouri, Inc. to circumvent Missouri's campaign finance disclosure laws.

16. Accordingly, on May 3, 2018, The Committee issued a subpoena to Greitens For Missouri, a copy of which is attached as *Exhibit F* hereto and incorporated by reference.

17. Likewise, on May 3, 2018, the Committee issued a subpoena to A New Missouri, Inc., a copy of which is attached as *Exhibit G* hereto and incorporated by reference.

18. On May 9, 2018, Greitens For Missouri and a New Missouri, Inc., represented by the same counsel, responded the subpoenas. See *Exhibit I*, May 9, 2018 letter from Catherine Hanaway and *Exhibit H*, Greitens For Missouri Response to Subpoena for Production of Documents, attached hereto and incorporated by reference.

19. Greitens For Missouri refused to comply with The Committee's subpoena and produce documents in response to requests nos. 2 and 6, which state:

2. All documents and communications to, from, about, or relating to A New Missouri, Inc. or any employee, agent, contractor, or associate of A New Missouri, Inc.;

6. All documents describing policies or guidance concerning coordination or communication between Greitens For Missouri and A New Missouri, Inc. and employees or agents of A New Missouri, Inc.

20. A New Missouri, Inc. refused to produce anything in response to The Committee's subpoena, even after The Committee agreed to provide a list of search terms to streamline the production and further agreed that it would not, at least at the present time, seek the identity of donors that have made contributions to A New Missouri, Inc.

21. The stated basis for the respondents' refusal to comply with the subpoenas is that they "seek irrelevant information." *See Exhibit I.*

IV. The Court Should Enforce the Subpoenas.

22. The Missouri Constitution and Chapter 130 R.S.Mo. set forth Missouri's Campaign finance disclosure laws. Those laws prohibit contributions to a "committee" with the intent to conceal the identity of the actual source of the contribution. MO. CONST. Art. VIII, § 23; §§ 130.031, 130.081 RSMo.; *See also* Missouri Ethics Commission, Advisory Opinion No. 2018.05.CF.004, attached hereto as *Exhibit J* and incorporated by reference. Those laws further prohibit the knowing and willful acceptance of such a contribution, making such conduct a class A misdemeanor.

23. Committees governed by Chapter 130, R.S.Mo. and MO. CONST. Article VIII, § 23 are subject to the reporting requirements and donation limitations set forth therein. They must file a statement of committee organization pursuant to RSMO 130.021.5 and further must file required reports to the Missouri Ethics Commission.

24. Section 130.011 and MO. CONST. Art. VIII, § 23.7 define committee as

a person or any combination of persons, who accepts contributions or makes expenditures for the primary or incidental purpose of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates or the qualification, passage or defeat of any ballot measure or for the purpose of paying a previously incurred campaign debt or obligation of a candidate or the debts or obligations of a committee or for the purpose of contributing funds to another committee.

25. Non-profit corporations, such as A New Missouri, Inc., are “persons” for the purposes of Article VIII, § 23 and Chapter 130. MO. CONST. Article VIII, § 23.7, ¶ 19; Missouri Ethics Commission, Advisory Opinion No. 2018.05.CF.004.

26. Because A New Missouri, Inc. meets the definition of a “person,” it qualifies as a committee if the aggregate expenditures made or aggregate contributions received during a calendar year exceeds \$500 dollars or if a single contributor has made a donation exceeding \$250 for the primary or incidental purpose of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates or the qualification, passage, or defeat of any ballot measure. MO. CONST. Article VIII, Section 23.7 (4); Missouri Ethics Commission, Advisory Opinion No. 2018.05.CF.004.

27. Throughout 2017 and 2018, A New Missouri, Inc. spent monies on advertisements in support of Eric Greitens and has allegedly spent money on his travel.

28. Additionally, A New Missouri, Inc. has made at least 5 contributions totaling \$2,000,000 to committees that are required to file reports with the Missouri Ethics Commission. Those committees have been organized with the purpose of supporting and

opposing various initiative petitions dealing with the policy matter known colloquially as “Right-to-Work.”

29. These contributions have only come to light because the recipient committees have complied with state law requiring disclosure of contributions to the Missouri Ethics Commission. The reports to the Missouri Ethics Commission list A New Missouri, Inc. as the contributor.

30. For instance, “Missourians for Worker Freedom” is a campaign committee organized for the purpose of supporting and opposing various initiative petitions and is correspondingly a “committee” required to file reports with the Missouri Ethics Commission within forty-eight hours of receiving a contribution from a single contributor exceeding \$5,000. On August 7th, 2017 a New Missouri, Inc. made a \$100,000 contribution to Missourians for Worker Freedom, reported by Missourians for Worker Freedom on August 8th, 2017. Then on July 17th, 2017 A New Missouri, Inc., made another \$250,000 contribution to Missourians for Worker Freedom, reported by Missourians for Worker Freedom on July 17th, 2017.

31. “Freedom to Work” is a campaign committee organized for the purpose of supporting and opposing various initiative petitions and is correspondingly a “committee” required to file reports with the Missouri Ethics Commission within forty-eight hours of receiving a contribution from a single contributor exceeding \$5,000. On May 8th, 2018 A New Missouri, Inc. made a \$500,000 contribution to Freedom to Work, reported by Freedom to Work on May 9th. On January 3rd, 2018 A New Missouri, Inc. made a \$750,000 contribution to Freedom to Work, reported by Freedom to Work on January 5th.

Then on January 31st, 2018 A New Missouri, Inc. made a \$400,000 contribution to Freedom to Work reported by Freedom to Work on February 1st.

32. There is, thus, substantial evidence that A New Missouri, Inc. engages in activities designed for the primary or incidental purpose of influencing or attempting to influence the action of voters or a campaign for a ballot measure. Indeed, the organization exists to support Eric Greitens and the “Right-to-Work” ballot initiatives. Moreover, Austin Chambers has confirmed “coordination between the nonprofit, the governor’s campaign, and the governor’s official state office.”

33. Despite these activities, A New Missouri, Inc. conceals the identity of its donors and does not make reports and disclosures to the Missouri Ethics Commission.

33. A New Missouri, Inc. was formed for the express purpose of promoting the governor’s political agenda, is run by persons subject to the governor’s control, and is represented here by the same counsel who also represents the governor’s candidate committee, Greitens for Missouri. Unquestionably, there exists a reasonable basis for The Committee to investigate the relationship between Eric R. Greitens, Greitens For Missouri and A New Missouri, Inc. as part of its investigation of Eric R. Greitens.

34. The Committee’s Subpoenas to Greitens For Missouri and A New Missouri, Inc. are authorized and directed precisely at the issues The Committee has been charged with investigating. Respondents may neither substitute their judgment for that of the House of Representatives as to what is relevant to a House investigation undertaken pursuant to Constitutional mandate nor ignore the Committee’s duly authorized

subpoenas in their efforts to continue to keep the governor's and A New Missouri, Inc.'s activities cloaked in the shadows.

Wherefore, Petitioners pray the Court for its Order enforcing the subpoenas duces tecum issued by the Speaker of the House of Representatives to Respondents and compelling Respondents to produce the documents requested.

Respectfully Submitted,

BARTIMUS FRICKLETON ROBERTSON RADER

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ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on May 17, 2018, a true and accurate copy of the foregoing was filed with the Clerk of the Court, and served via Email to:

Catherine Hanaway
Husch Blackwell
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St. Louis, MO 63105
catherine.hanaway@huschblackwell.com

A handwritten signature in black ink, appearing to read "Catherine Hanaway", is written over a horizontal line.