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December 21, 2018

Mr. Frank Jung
General Counsel
Missouri Secretary of State's Office
600 W. Main Street
Jefferson City, Missouri 65101
Frank.Jung@sos.mo.gov

Dear Mr. Jung:

In a letter dated last Friday, you asked for various document/records as part of your investigation of the complaint filed by the American Democracy Legal Fund just days before the November General Election against Attorney General Josh Hawley and the Attorney General's Office (AGO). This was at least the fourth complaint by this group filed against Attorney General Hawley during the 2018 election campaign. You asked for document/records that relate to meetings or discussions between employees of the AGO and any outside consultants working for the Attorney General; document/records authored by employees of the AGO questioning whether they must report to outside consultants; and any records of direct expenditures of public funds to consultants. We are pleased to respond voluntarily to your requests. Attached please find the documents that we have located in the possession, custody, and control of the AGO that are responsive to the first two requests in your letter of December 14, 2018. I note that in response to your third request—*i.e.*, for "[a]ll direct expenditures of public funds by the Attorney General's Office to outside consultants for services related to promoting or advocating Attorney General Josh Hawley's opioid or human trafficking policy"—a diligent search has discovered no responsive records.

We are simultaneously providing copies of these documents to the State Auditor's Office. In the interest of transparency, we are also publicly releasing all documents, with two exceptions. Two documents, separately attached here, are prohibited from public disclosure. The first such document is a personnel file that contains personal work history and work evaluations protected from disclosure by law. And the second is a document protected from disclosure by federal law. We have stamped those documents "Confidential – Privileged – Closed Record." We provide these documents to you in full.

As you will see, these documents confirm that the partisan and harassing allegations made by the American Democracy Legal Fund are utterly false and baseless. *No* public funds were ever expended by the AGO for any political campaign. *No* public funds were expended for services of outside consultants. And *no* AGO staff participated in any campaign activity. In fact, no campaign for U.S. Senate even existed at the time the complaint alleges the AGO was spending taxpayer dollars to support it. Instead, the documents reflect ordinary consulting services by outside consultants giving advice on achieving AGO priorities, not paid for by taxpayers. As I stated in my previous letter, to argue that the AGO expended public funds on a U.S. Senate campaign on the theory that the advice of outside aides indirectly contributed to achieving AGO priorities, which then indirectly benefited an electoral campaign that did not exist at the time in question, is absurd. In fact, Missouri law explicitly authorizes and approves the use of state political committee resources to aid the effective functioning of a public office, and as these documents demonstrate, that is exactly what happened here. § 130.034.2, RSMo.

The American Democracy Legal Fund does not even attempt to come forward with actual evidence of its baseless and partisan accusations. In response to your request for evidence of its allegations, ADLF replied that it had nothing to submit beyond the accusations themselves. This complaint, one in a series of frivolous complaints filed by this group against Attorney General Hawley, is plainly not based on “facts of the alleged offense, sworn to, under penalty of perjury,” as required by § 115.642.1, RSMo. Mr. Woodhouse is a well-known liberal political operative and has now admitted he has no independent knowledge of the allegations in his complaint. Instead, he relied solely on media reports. Without facts attested under oath, based on actual knowledge, the complaint is meritless as a matter of law. Partisan operatives like Mr. Woodhouse should not be permitted to abuse the complaint process under § 115.642 to retaliate against and harass their political opponents.

In addition, the complaint in this case is legally deficient on its face, for the reasons we have discussed. The complaint does not allege—and the attached documents do not reflect—*any* taxpayer-funded public communication that “advocated, supported, or opposed” *any* candidate for office, as required by § 115.646, RSMo. The complaint does not allege—and the attached documents do not reflect—*any* “direct” contribution or expenditure of public funds in support of any political activity, as § 115.646 requires. And the Attorney General is not an officer, employee, or agent of any “political subdivision,” as § 115.646 also requires.

For these reasons, the Secretary of State should dismiss the complaint as frivolous. We look forward to your speedy resolution of this inquiry.

Sincerely,



D. John Sauer
First Assistant and Solicitor

cc: Michael Moorefield, Missouri State Auditor's Office
Encls.