

AFFIDAVIT

I, Linda Simkins, being duly sworn, hereby make the following declarations pursuant to §106.230 RSMo:

1. I am a resident of Springfield, County of Greene, Missouri and am over the age of eighteen.
2. All events, herein described, occurred in Greene County, Missouri.
3. I have standing to file this affidavit with the Clerk of the Court as “any person” pursuant to §106.230 RSMo.
4. Robert Cirtin (hereinafter “Cirtin”) is the duly elected Presiding Commissioner of Greene County, Missouri, having been elected by the voters of Greene County and sworn into office on January 1, 2015.
5. The County Commission of Greene County has specific duties and responsibilities as set forth by Missouri statutes including, but not limited to: enacting resolutions and policies, supervising the activities of county departments, fixing salaries, adopting the annual budget, providing for construction and other services, and conducting hearings on planning and zoning matters.
6. On September 1, 2017, Cirtin caused to be formed the Invest in Greene County PAC (hereinafter “PAC”), and later directed a Statement of Organization to be filed with the Missouri Ethics Commission in order to raise funds for the passage of a half cent general revenue sales tax on the November 2017 ballot.
7. Cirtin organized, supervised and performed work on both the campaign for public education efforts and the campaign for the PAC’s advocacy of the tax, simultaneously, with the majority of the PAC advocacy work performed in public offices during normal business hours.
8. Cirtin failed to devote his time, personally, to the performance of the duties of his office and he intentionally failed to act, contrary to his known duties, by:
 - a. Devoting hours, days and weeks over a two-month period during normal County working business hours to facilitate the business of the PAC and the advocacy of the tax in neglect of his duties as Presiding Commissioner to the citizens of Greene County, Missouri. The testimony of Trysta Herzog and other County employees will establish this fact. Furthermore, he failed to attend a scheduled tour of agricultural assets of Greene County on October 27th with other commissioners and writes “Didn’t go. Working all day on tax advertising.” See Exhibits A and B.
9. Cirtin committed willful, corrupt or fraudulent violations or neglect of his official duties as subscribed by statute, including, but not limited to the following:

a. Violating campaign election ethics law by using public funds, such as public employee time, public computers and servers, and other public resources to advocate for the tax while knowing it was official duty not to do so;

b. Using public funds through the approval of a County contract with a consultant in the amount of \$5418.50 (with additional costs for printing) for preparation of “educational” materials that advocated rather than educated the public to vote for the tax;

c. Coercion and intimidation of public employees to advocate for the tax while on public duty, including raising funds, collecting funds at county offices, preparing campaign materials, writing radio ads and other activities. See Exhibit A;

d. Using public resources of the taxpayers to advocate for the tax, including, but not limited to, county servers, county employee time, county telephones, county computers and other resources;

e. By unauthorized use of the County’s sales tax exemption certificate to fraudulently obtain a sales tax refund for a purchase by the PAC. See Exhibits C, D and E;

f. By violating Chapter 610 of the Missouri Revised Statutes in conducting meetings to discuss and decide county business without including other commissioners and without filing the proper notice as required by law. See Exhibit F;

g. By directing County employees to draft letters to the editor of the local newspaper to be signed and submitted by PAC supporters to advocate for the tax. See Exhibit G;

h. By using public funds to pay the County’s outside counsel to author a legal opinion on “political action committees,” which was the first question posed in Mr. Coulter’s August 29th email to John Housley and is the “RE” line of Housley’s September 7th letter. See Exhibits H and I;

i. By creating and maintaining a hostile and intimidating work environment for County employees and fellow officeholders and initiating hostile investigations of officeholders, including retaliation of employees. See Exhibits J and K. Also see Exhibit L re “consequences to pay” referencing Hough voting against the ½ cent tax and an investigation into Hough’s payment of personal property taxes.

10. Cirtin’s misconduct was willful, intentional and self-determined in that he continued to neglect his official duties and continued to act in violation of his official duties and the law by reason of the fact that he had knowledge of what his duties were, that he was warned numerous times by County officeholders, County employees, and the County counsel that he was in violation of the law and in neglect of his official duties, but continued his conduct. This conduct demonstrates a continuing pattern and practice of misconduct in office and is demonstrated by:

a. The numerous occasions where Cirtin was using public resources to discuss advocacy efforts, such as at open meetings, huddles, staff meetings, and daily briefings as described by Ms. Herzog. Cirtin was cautioned not to do so by Ms. Herzog, County Administrator Chris Coulter, County Clerk Shane Schoeller, and Commissioners Bengsch and Hough. See Exhibits A, J and Q;

b. His comment in “I understand your ‘abundance of caution’ statement,” Cirtin wrote. “That’s what we pay you for. However, what would you speculate could be the consequence if we do it anyway.”;

c. Pressuring Ms. Herzog to do work for the PAC, including on her “lunch hour or vacation time.” See Exhibit M;

d. The nearly daily work by Cirtin for two months on the PAC during normal County office hours as demonstrated by supporting documents.

11. By reason of his repeated willful and intentional conduct the public is led to believe that Cirtin may be capable of disregarding any law or official duty and has thus eroded the public trust.

12. It is also requested that the special prosecutor investigate whether or not Cirtin has been guilty of any willful, corrupt or fraudulent violations or neglect of any official duty or of any violation of criminal law by the following:

a. Investigate the name of the account holder of the credit card used to pay for expenditures, such as the KICK, KTTS and Facebook expenditures, and determine if it was a personal credit card or a PAC credit card and not a County credit card. See Exhibits N and O;

b. Investigate whether Cirtin violated §36.159 RSMo by causing to intimidate, threaten, command or coerce county employees to engage in political activity. If it is determined the statute applies solely to state employees, it is believed his actions would still constitute a misconduct in office;

c. Investigate whether Cirtin violated conflict of interest statutes by accepting funds as Presiding Commissioner while performing his official duties to promote the tax on the Facebook page of his business, Robert Cirtin Investigations, thereby potentially financially benefitting him or receiving a pecuniary value by way of free advertisement of his business in that his business name was promoted to every individual in Greene County from the age of 15 – 65+ within 25 miles of Greene County. See Exhibit P;

d. Whether or not Cirtin violated nepotism laws by voting, in his position as Presiding Commissioner and Chair of the Ozarks Transportation Board (OTO), to hire his wife, Brenda Cirtin, in November 2016 as an administrative assistant for OTO.

13. Potential witnesses, in addition to Ms. Herzog, with knowledge of the facts set forth in this Affidavit include, but are not limited to the following: Commissioners Harold Bengsch and Lincoln Hough, County Clerk Shane Schoeller, County Collector Leah Betts, Prosecuting Attorney Dan Patterson, County Auditor Cindy Stein, County Administrator Chris Coulter, and Erin Hudlun, Public Information Officer at Emergency Management.

14. Numerous other public documents support the facts alleged in this Affidavit and are incorporated herein as supporting documents.

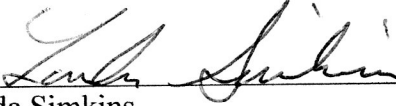
15. Affiant states the facts set forth in this Affidavit constitute an intentional malfeasance and willful misconduct in the performance of official duties and constitutes a basis under law for the removal of the right of Presiding Commissioner Robert Cirtin to hold office in order to protect the public interest.

16. Affiant requests that a special prosecuting attorney be appointed to perform an investigation and file a petition in quo warranto for removal of Cirtin from office.

VERIFICATION

State of Missouri)
County of Greene)


I, Linda Simkins, being first duly sworn under oath, state that I know the contents of this affidavit and that the information contained in the affidavit is true to the best of my knowledge and belief.



Linda Simkins

Subscribed and sworn to before me this 8 day of February, 2018.

My Commission expires: 11/06/2018



Notary Public

TYLER SCHMIDT
Notary Public – Notary Seal
STATE OF MISSOURI
Greene County
My Commission Expires Nov. 6, 2018
Commission #14631384