

C A M P A I G N F O R

ACCOUNTABILITY

September 28, 2017

VIA Email

Honorable Mark A. Richardson
Prosecuting Attorney
Cole County
311 E High Street
3rd Floor
Jefferson City, MO 65101

Re: Request for Investigation of Paul Mouton

Dear Mr. Richardson:

Campaign for Accountability (CfA), a nonprofit watchdog group focused on public accountability, respectfully requests your office investigate whether Paul Mouton should be charged with a misdemeanor criminal offense for violating state lobbying laws.

Background

Earlier this week, Paul Mouton, an adviser to prominent Republican donor David Humphreys, was fined by the Missouri Ethics Commission for illegally lobbying in the state Capitol. During the 2016 and 2017 legislative sessions, Mr. Mouton was seen in the Capitol regularly.¹ At the same time, Senate President Ron Richard provided a parking space for Mr. Mouton in the Senate's private garage.² Mr. Mouton parked in the garage 19 times in April and May of 2016 and 13 times in January and February.³

According to press reports, on a number of days when Mr. Mouton had a parking spot reserved, the Senate took action on legislation supported by Mr. Humphreys, including the day the Senate considered SB 5, a bill to limit class action lawsuits.⁴ Mr. Humphreys' company has been facing a class action lawsuit for selling allegedly defective roof shingles. In April, CfA filed a complaint with the U.S. Attorney for the Western District of Missouri requesting an investigation into whether Sen. Richard and Mr. Humphreys violated federal law when Sen.

¹ Jason Hancock, *Ethics Panel Fines Adviser to Missouri Mega Donor at Center of Pay to Play Allegations*, *Kansas City Star*, September 27, 2017, available at <http://www.kansascity.com/news/politics-government/article/175615371.html>.

² *Id.*

³ *Id.*

⁴ *Id.*

Richard accepted a \$100,000 contribution from Mr. Humphreys just days after introducing the legislation.⁵

The Missouri Ethics Commission concluded that while Mr. Mouton “was not designated or engaged as a lobbyist by Mr. Humphreys or any other entity . . . in the course of his compensated duties [he] met at times with members of the General Assembly and their staff relating to the passage of and content of certain legislative matters pending in the General Assembly.”⁶ It also found that Mr. Mouton “failed to register as a legislative lobbyist” while representing Mr. during the 2016 and 2017 sessions of the General Assembly, he “failed to file monthly reports of lobbyist activity,” and he “failed to file four Lists of Principals and Legislative Action, due March 15, 2016, May 31, 2016, March 15, 2017, and May 30, 2017.”⁷ As a result, the Ethics Commission found “probable cause to believe” that Mr. Moulton violated Mo. Rev. Stat. § 105.473:

when during 2016 and 2017 he did not register as a lobbyist and did not file regular lobbyist disclosure reports, including the List of Principals and Legislative Action, with the Missouri Ethics Commission after he attempted to influence official actions on matters pending before the Missouri General Assembly.⁸

Rather than referring the matter for criminal prosecution, however, the Missouri Ethics Commission settled the matter by requiring Mr. Mouton to file the four reports he’d previously failed to file, imposing a \$2,000 fine, but staying all but \$200 so long as Mr. Mouton paid within 45 days and does not violate the lobbying laws again, and requiring him to register as a lobbyist and file the required reports for any future lobbying.⁹

In effect, Mr. Mouton regularly violated Missouri lobbying laws over a two-year period, lobbying the legislature on the behalf of one of the state’s top Republican donors, who was seeking legislation from which he stood to reap a significant financial benefit and the Ethics Commission did nothing more than issue a \$200 fine.

Ironically – given that Mr. Mouton violated government transparency laws to hide his work on behalf of Mr. Humphreys – Mr. Humphreys issued a statement calling Mr. Mouton “an advocate for open and honest practices, both in government and the private sector.”¹⁰

⁵ Letter from Campaign for Accountability Executive Director Daniel E. Stevens to Tom Larson, Acting U.S. Attorney, Western District of Missouri, April 19, 2017, available at <http://campaignforaccountability.org/wp-content/uploads/2017/04/Richard-Complaint.pdf>.

⁶ *Missouri Ethics Commission v. Paul Mouton*, Case No. 17-0041, 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, ¶ 6 (September 25, 2017) available at <https://mec.mo.gov/Scanned/CasedocsPDF/CMTS1210.pdf>.

⁷ *Id.* at ¶ 8.

⁸ *Id.* at ¶ 16.

⁹ *Missouri Ethics Commission v. Paul Mouton*, Case No. 17-0041, Consent Order, ¶¶ 2-5 (September 25, 2017) available at <https://mec.mo.gov/Scanned/CasedocsPDF/CMTS1210.pdf>.

¹⁰ Ken Newton, Ethics Commission Issues Finding on Consultant, *News-Press Now*, September 26, 2007, available at http://www.newspressnow.com/news/local_news/ethics-commission-issues-finding-on-consultant/article_b425cf71-bd1d-5a45-9b6a-f9e0506988e8.html.

Violation

As you know, violations of Missouri's lobbying law may be prosecuted criminally. Pursuant to Mo. Rev. Stat. §105.478, any person who knowingly violates Mo. Rev. Stat. §105.473 is guilty of a class B misdemeanor, and second and subsequent offenses constitute a class E felony. The misdemeanor conviction carries a term of up to six months in imprisonment and a fine up to \$1,000,¹¹ while the felony conviction carries a term of imprisonment of up to four years, and a fine of up to \$10,000.¹²

Here, there is ample evidence that Mr. Mouton knowingly violated Missouri's lobbying laws.

Significantly, Mr. Mouton is no political neophyte. According to press reports, in 2016 Mr. Mouton was viewed as such a regular presence that other lobbyists began complaining about his failure to register.¹³ In addition, Sen. Richards – who received \$100,000 from Mr. Humphreys at the time he introduced legislation in apparent exchange for introducing legislation in his financial benefit – has paid Mr. Mouton \$24,000 since 2014 for consulting and research, including payments made in 2017.¹⁴ Previously, Mr. Mouton was hired by the conservative super PAC American Crossroads to help run the campaign against Missouri Senator Claire McCaskill.¹⁵

As the Missouri Ethics Commission found – *which was uncontested by Mr. Mouton* – there was probable cause to believe Mr. Mouton violated Missouri law by failing to register and failing to file the required lobbying disclosure reports. Further, Mr. Mouton's long political experience indicates that his failure to follow Missouri's lobbying laws was no accident; it appears highly likely he knowingly failed to register as a lobbyist and file the required reports.

Given the probable cause finding by the Missouri Ethics Commission, it is now incumbent upon your office to investigate whether Mr. Mouton's conduct constitutes a criminal violation of Missouri law.

¹¹ Mo. Rev. Stat. § 558.011(7); § 558.002(3).

¹² Mo. Rev. Stat. § 558.011(5); § 558.002(1).

¹³ Jason Hancock, Missouri Pay-to-Play Allegations Heat Up Over New Links Between Lawmaker, Megadonor, *Kansas City Star*, May 26, 2017, available at <http://www.kansascity.com/news/politics-government/article152745344.html>; Who is Paul Mouton?, *Missouri Scouts*, February 26, 2016, available at <http://moscout.com/wednesday-february-24-2016/> ("Mouton was walking the halls, and one lobbyist grumbled that he seems to be in the building a lot for someone who isn't a registered lobbyist.").

¹⁴ *Id.*

¹⁵ David Catanese, Exclusive: Crossroads Strikes McCaskill, *Politico*, June 21, 2011, available at <http://www.politico.com/blogs/david-catanese/2011/06/exclusive-crossroads-strikes-mccaskill-036911>.

Conclusion

Ethical issues have loomed large over Missouri state politics recently. The governor, who campaigned on cleaning up the capitol, has himself been fined by the Missouri Ethics Commission for failing to disclose donors, and the relationship between Sen. Richard and Mr. Humphreys has been the subject of great controversy. Missourians have a right to expect that those who seek to influence political decisions follow the rules prescribed. In this case, it seems apparent that Mr. Mouton has not followed the law yet has been permitted to skate by with a fine so minimal it barely rises to the level of a slap on the wrist. To show Missourians that the rule of law does, indeed, count in Missouri, CfA respectfully requests that your office investigate Mr. Mouton's conduct to see if it merits criminal prosecution.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dan E Stevens", with a long horizontal flourish extending to the right.

Daniel Stevens
Executive Director