

**IN THE CIRCUIT COURT  
OF JACKSON COUNTY, MISSOURI  
AT INDEPENDENCE**

**STATE OF MISSOURI, ex inf.** )  
**JEAN PETERS BAKER,** )  
**PROSECUTING ATTORNEY** )  
) )  
**Relator,** )  
) )  
**vs.** )  
) )  
**Franklin D. Tatro,** )  
) )  
**Respondent.** )

**Case No. 1616-CV  
Division**

**PETITION IN QUO WARRANTO**

**COMES NOW**, the State of Missouri, by and through Assistant Prosecuting Attorney, Caleb Clifford, and moves this Honorable Court to immediately issue a Preliminary Order in Quo Warranto pursuant to Mo. Sup. Ct. R. 98.04-05, order an emergency hearing for April 4, 2016, pursuant to Mo. Sup. Ct. R. 98.01, and ultimately issue a Judgement in Quo Warranto against the Respondent pursuant to § 531.010 RSMo. In support thereof, the State of Missouri offers the following:

**STATEMENT OF FACTS**

1. Relator is the elected Prosecuting Attorney of Jackson County, Missouri.
2. Relator brings this action under the authority granted to it by State Statutes §§ 531.010-060 RSMo and pursuant to Missouri Supreme Court Rules 98.01-06. (*See* State’s Exhibit’s 6, 8)
3. Relator brings this cause of action on Relator’s own official information.
4. On or about December 15, 2015, the Respondent was provided and acknowledged receipt by signing and dating a document entitled “Notice(,)” that stated, in part:

- a. “No person shall qualify as a candidate for elective public office in the state of Missouri who has been found guilty of or pled guilty to a felony or misdemeanor under the federal laws of the United States of America or to a felony under the laws of this state or an offense committed in another state that would be considered a felony in this state(,)” and;
  - b. “By signing a declaration of candidacy you are attesting that you possess all the qualifications required for the office you seek and are not disqualified from seeking election to that office.” (*See State’s Exhibit 1*)
5. On or about, December 15, 2015, the Respondent filed a “Declaration of Candidacy” for the elected office of City Council, 1<sup>st</sup> District, of the City of Lee’s Summit, Missouri. (*See State’s Exhibit 2*)
  6. On April 1, 2016, the Lee’s Summit Police Department forwarded documents a “Notice” and “Declaration of Candidacy,” both of which signed by the Respondent, to the Jackson County Prosecutor’s Office. (*See State’s Exhibit 1-2*)
  7. On April 1, 2016, in addition to the aforementioned exhibits, the Lee’s Summit Police Department stated that the Respondent was a “convicted felon.”
  8. On April 1, 2016, the Jackson County Prosecutor’s Office conducted a criminal history inquiry of the Respondent and confirmed that the Respondent was found guilty in case number CR5941810F of the class C Felony of Stealing in Jasper County, Missouri, on or about April 30, 1996.
    - a. Respondent was sentenced to five years in the Missouri Department of Corrections. The execution of the Respondent’s sentence was

suspended pending the successful completion of his sentence, but was ultimately revoked. (See State's Exhibit 4)

9. Lee's Summit's Municipal Elections are scheduled to take place on April 5, 2016. (See State's Exhibit 3)

### LAW

10. "No person shall qualify as a candidate for elective public office in the state of Missouri who has been found guilty of or pled guilty to a felony or misdemeanor under the federal laws of the United States of America or to a felony under the laws of this state or an offense committed in another state that would be considered a felony in this state." § 115.306 RSMo. (See State's Exhibit 5)
11. "Section 531.010 permits the attorney general or the prosecuting attorney of a particular county to institute quo warranto proceedings (. . . )" *State v. Young*, 362 S.W.3d 386, 393 (Mo. 2012) (See State's Exhibit 6)
12. "The sole purpose of a quo warranto proceeding is to "prevent an officer or a corporation or persons purporting to act as such from usurping a power which they do not have." *State v. Kinder*, 89 S.W.3d 454, 457 (Mo. banc 2002) (quoting *State ex inf., McKittrick v. Murphy*, 347 Mo. 484, 148 S.W.2d 527, 530 (Mo. banc 1941)).
13. "An inquiry into [the candidate's] eligibility for office would properly be by quo warranto." *State v. Young*, 362 S.W.3d 386, 393 (Mo. 2012) (quoting *Kasten v. Guth*, 395 S.W.2d 433, 437-38 (Mo. 1965)).
14. "Proceedings in quo warranto in a circuit court shall be as prescribed in this Rule 98 (. . . ) In all particulars not provided for by the foregoing provisions, proceedings in quo warranto shall be governed by and

conform to the rules of civil procedure and the existing rules of general law upon the subject and the court may, by order, direct the form of such further details of procedure as may be necessary to the orderly course of the action or to give effect to the remedy.” Mo. Sup. Ct. R. 98.01 (Emphasis added) (*See State’s Exhibit 7*)

15. “If the relator is the attorney general or the prosecuting attorney, filing upon personal information, the court shall issue a preliminary order in quo warranto.” Mo. Sup. Ct. R. 98.04 (*See State’s Exhibit 7*)
16. “The preliminary order in quo warranto shall require the respondent to file an answer within the time fixed by the order. The clerk shall forthwith deliver a copy of the preliminary order, together with a copy of the petition, for service to the sheriff or other person specially appointed to serve it. Service may be as provided in Rule 43.01 or Rule 54.” Mo. Sup. Ct. R. 98.05 (*See State’s Exhibit 7*)
17. “The court in which any information shall be exhibited shall allow to the relator and the defendant such convenient time to answer, reply or make a motion as shall seem just and reasonable.” § 531.060 R.S.Mo.
18. “It is certainly in the public interest that ineligible candidates be excluded from the ballot. This for the reason that if such a candidate should receive the highest number of votes the election, in effect, would have been a nullity and the county and other candidates would be put to the expense and trouble of another election. And, even if the ineligible candidate did not receive the highest number of votes there would be the undesirable result that those who voted for him were, in effect,

disfranchised.” *State ex rel. Danforth v. Alford*, 467 S.W.2d 55, 57 (Mo. 1971)

**WHEREFORE**, the Relator prays that this Honorable Court immediately issue a Preliminary Order in Quo Warranto, order an emergency hearing for April 4, 2016, and ultimately issue a Judgement in Quo Warranto against the Respondent, and any other relief the Court deems appropriate.

Respectfully submitted,

Jean Peters Baker  
Jackson County Prosecutor

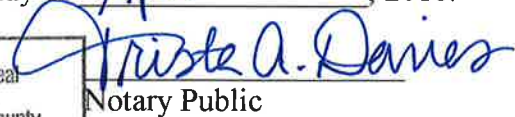
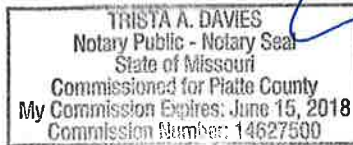
By:



Caleb J. Clifford, (Bar No. 64784)  
Assistant Prosecuting Attorney  
415 East 12th Street, Floor 11  
Kansas City, Missouri 64106  
Phone: (816) 881-3555  
Fax: (816) 881-3821  
Email: cclifford@jacksongov.org  
**ATTORNEYS FOR RELATOR  
STATE OF MISSOURI**

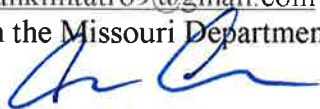
Subscribed and sworn to before me this 3<sup>rd</sup> day of April, 2016.

My Commission Expires:  
June 15, 2018

  
Notary Public

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document was transmitted electronically through the Missouri e-Filing System on April 3, 2016 and was electronically sent to the Relator at [franklintatro9@gmail.com](mailto:franklintatro9@gmail.com) (email address provided to the Lee’s Summit City Clerk and on the Missouri Department of Revenue’s Form 5120).



Caleb J Clifford (#64784)