

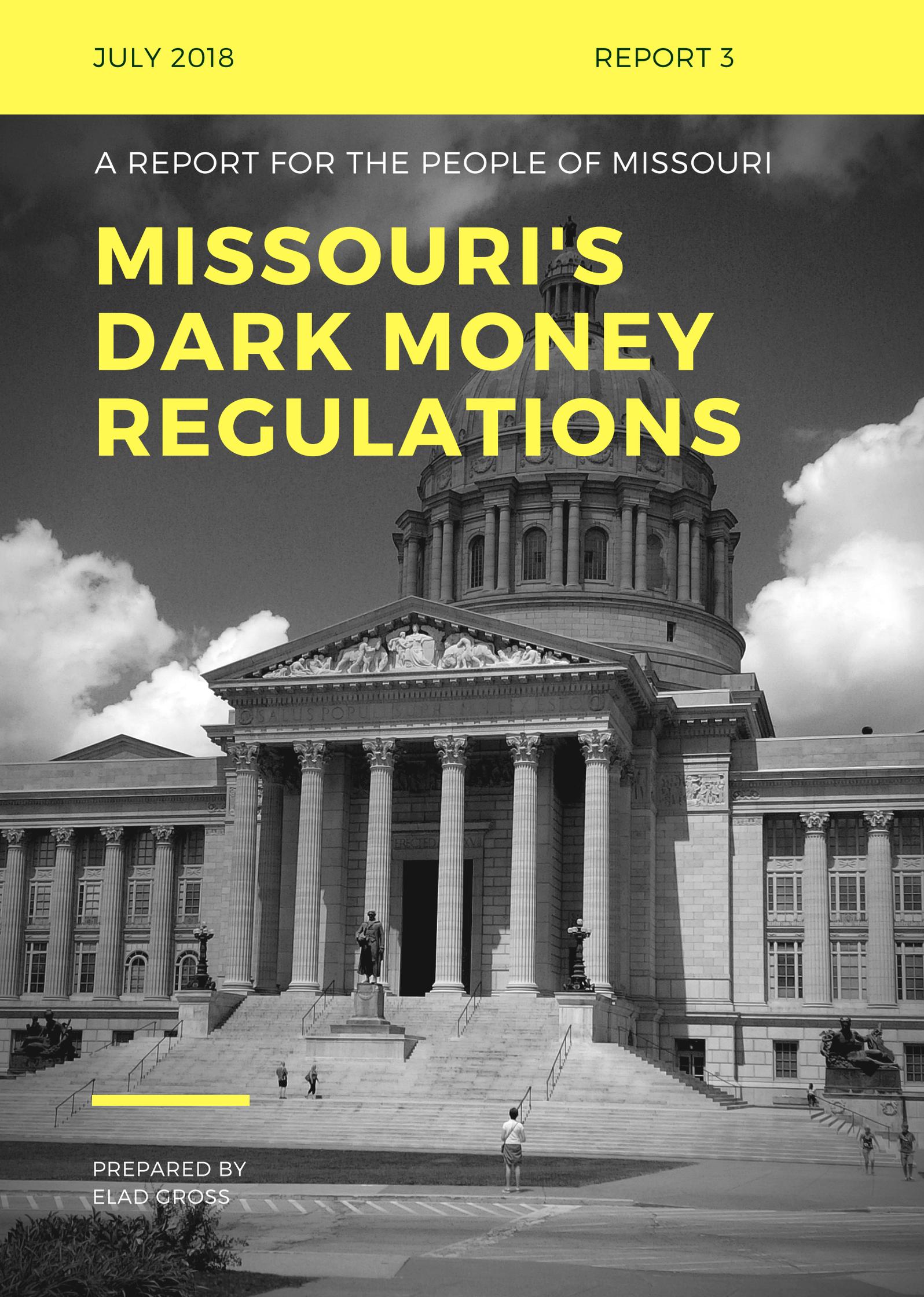
JULY 2018

REPORT 3

A REPORT FOR THE PEOPLE OF MISSOURI

# MISSOURI'S DARK MONEY REGULATIONS

PREPARED BY  
ELAD GROSS



---

# WHO CAN REGULATE DARK MONEY?

Despite the lack of enforcement against organizations using secretive donations to influence government, Missouri does have laws that can bring some light to dark money.

These laws empower six people and agencies: the Missouri Ethics Commission, the Missouri Attorney General, Missouri prosecutors, the federal government, the Internal Revenue Service, and the people of Missouri.



Although the state laws discussed in this report are specific to Missouri, similar laws may very well exist in other states.

# THE MEC



The Missouri Ethics Commission, often called the MEC, is responsible for regulating people and organizations participating in limited types of political activity in Missouri.

The MEC regulates "committees," which are people or groups who support or oppose candidates or ballot initiatives.

## **BUT THERE IS A DARK MONEY LOOPHOLE**

Organizations that:

- 1) Have a "primary purpose" other than participating in political activity, and
- 2) Do not accept "contributions" (but can accept "donations")

do not have to register as committees with the MEC.

"Contributions" are special donations earmarked specifically for political activity.

An organization that takes in general donations and claims to generally promote social welfare can participate in political activity without filing any reports with the MEC, revealing its donors, or publishing its expenditures.

# THE MISSOURI ATTORNEY GENERAL



The Missouri Attorney General has the authority and responsibility to investigate nonprofit organizations in Missouri under the Missouri Merchandising Practices Act.

The Missouri Merchandising Practices Act prohibits nonprofit organizations soliciting donations in Missouri from using deceptive tactics.

## The Attorney General can:



Initiate:

- 1) Civil investigations and
- 2) Criminal investigations

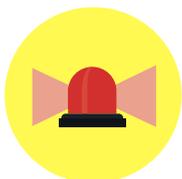


Enforce nonprofit registration requirements



Seek court orders:

- 1) Preventing actions by nonprofits, and
- 2) Requiring they produce documents



Issue emergency orders to nonprofits

# MISSOURI PROSECUTORS



Missouri prosecutors can:

Charge a Class E Felony for using nonprofits to defraud Missourians

Charge a Class A misdemeanor for using nonprofits to purposely avoid campaign finance law

# FEDERAL GOVERNMENT



Dark money organizations keep their donors hidden, but federal law prohibits foreign nationals from making donations or contributions in connection to elections.

The federal government can investigate dark money organizations suspected of soliciting foreign donors.

# INTERNAL REVENUE SERVICE



To keep their 501(c)(4) status, nonprofit organizations must provide the IRS with their tax returns. But nonprofits are only penalized if they do not turn in their returns for three years in a row.

Form <b>13909</b> (December 2016)		Department of the Treasury - Internal Revenue Service	
<b>Tax-Exempt Organization Complaint (Referral)</b>			
1. Name of referred organization			
Street address			
City	State	ZIP code	Date of referral
2. Organization's Employer Identification Number (EIN)			
3. Nature of violation			
<input type="checkbox"/> Directors/Officers/Persons are using income/assets for personal gain <input type="checkbox"/> Organization is engaged in commercial, for-profit business activities <input type="checkbox"/> Income/Assets are being used to support illegal or terrorist activities <input type="checkbox"/> Organization is involved in a political campaign <input type="checkbox"/> Organization is engaged in excessive lobbying activities <input type="checkbox"/> Organization refused to disclose or provide a copy of Form 990 <input type="checkbox"/> Organization failed to report employment, income or excise tax liability properly <input type="checkbox"/> Organization failed to file required federal tax returns and forms <input type="checkbox"/> Organization engaged in deceptive or improper fundraising practices <input type="checkbox"/> Other ( <i>describe</i> )			
4. Details of violation			
Name(s) of person(s) involved			
Organizational title(s)			
Date(s)	Dollar amount(s) ( <i>if known</i> )		
Description of activities			
5. Submitter information			
Name			
Occupation or business			
Street address			
City	State	ZIP code	Telephone number
<input type="checkbox"/> I am concerned that I might face retaliation or retribution if my identity is disclosed			

The IRS can take complaints about organizations, but it may be difficult for people to complain about activity they cannot see.

6. **Submission and documentation:** The completed form, along with any supporting documentation, may be mailed to IRS EO Classification, Mail Code 4910DAL, 1100 Commerce Street Dallas, TX 75242-1198, faxed to 214-413-5415 or emailed to [eoclass@irs.gov](mailto:eoclass@irs.gov). **Disclaimer Notice:** Your email submission of Form 13909 and attachments are not encrypted for security.

# THE PEOPLE OF MISSOURI



Although they do not have all the power of elected officials, the people of Missouri can use state law and each other to bring transparency to government.

## ORGANIZE



Missourians can work with each other, call their representatives, and make it politically beneficial for Missouri's elected officials to enforce current laws requiring transparency and pass more stringent ones targeting dark money.

## LEGAL ACTION



The IRS has indicated that nonprofit organizations seeking 501(c)(4) status should consider benefiting the wider public rather than an exclusive group of members.

In Missouri, dark money organizations – like other nonprofits without members – are required to provide the public with some transparency. Missourians can request an organization's financial records, board minutes, and other documents. If the organization refuses to provide the information, a court can order it to comply with Missouri law.

---

WHY ARE

# REGULATIONS FOR DARK MONEY IMPORTANT?

Dark money is used to influence government and the policies it makes. When it comes to campaigns, our laws require transparency so that everyone can see who is investing in candidates for elected office. But when it comes to dark money nonprofit organizations participating in the electoral process, that same transparency is not required.

Even in today's environment where dark money flows almost unregulated, we have laws that, if enforced, could bring about some transparency. Only an organized, committed electorate can generate the change needed to enforce current laws and pass new ones bringing dark money to the light.

---

**THE USE OF DARK MONEY HAS  
COMPROMISED MISSOURI. IT'S UP TO  
MISSOURIANS TO FIX IT.**



---

# WHAT YOU CAN DO

Dark money avoids transparency, and it is most effective when no one pays attention. You can help just by getting involved and making your voice heard. There is nothing more powerful than a united, determined people.

You can demand change from our elected officials.

Find your elected representatives at:

[http://www.senate.mo.gov/LegisLookup/default.aspx/leg\\_lookup.aspx](http://www.senate.mo.gov/LegisLookup/default.aspx/leg_lookup.aspx)

Ask Attorney General Josh Hawley to investigate A New Missouri, Inc. at 573-751-3321.

And if you want to get involved in reforming Missouri government, sign up at [www.NoMODarkMoney.org](http://www.NoMODarkMoney.org).

---

# ABOUT THIS REPORT

This report was written by Elad Gross, a constitutional attorney and former Assistant Attorney General of Missouri. He began investigating dark money in Missouri in 2017.

Several volunteers helped design and edit the final report. These volunteers, from different backgrounds and with different perspectives, gave many hours to help Missourians see the impact dark money is having on their state. No one was paid for any of the time they spent on this report.

Their work stands as a testament to what Missourians can do when they work together.

We hope that our work inspires others to get even more involved in making Missouri better.