

**INDIANA STATE RECOUNT COMMISSION**

**MINUTES OF THE JUNE 14, 2011 MEETING**

**MEMBERS PRESENT:** Thomas E. Wheeler, II, Chairman of the Indiana State Recount Commission (“the Commission”); Gordon Durnil, Member; Bernard L. Pylitt, Member

**MEMBERS ABSENT:** None

**STAFF ATTENDING:** Mark Palmer, Recount Director; J. Bradley King, Majority Counsel; Leslie Barnes, Minority Counsel

**OTHERS ATTENDING:** Mr. Jim Bopp; Mr. Carl Brizzi; Ms. Karen Celestino-Horseman.

**1. CALL TO ORDER:**

The chair called the meeting of the Commission to order at 2: 00 p.m. at Indiana Government Center South, Conference Center Room A, 402 West Washington Street, Indianapolis, Indiana.

**2. COMMISSION BUSINESS:**

The Commission transacted the business and took the official actions set forth in the Transcript prepared by Rhonda C. Hobbs, Connor + Associates, Inc., which is incorporated by reference into these minutes.

The Commission approves the Transcript, with the following corrections:

Page 2, line 10, replace “INDIANA ELECTION DIVISION” with “RECOUNT COMMISSION”.

Page 8, line 4, replace “2000-61” with “2006-01”.

Page 16, line 25, replace “down” with “drawn”.

Page 17, line 7, replace “Durnill” with “Durnil”.

Page 24, line 18, replace “untorrid” with “untoward”.

Page 29, line 11, replace “Kreasing’s (Phonetic)” with “Secret’s”.

Page 76, line 15, replace “Check” with “Act”.

Page 79, line 14, replace “Miss” with “Ms.”

**3. ADJOURNMENT:**

There being no further business before the Commission, the Commission adjourned at 3:41 p.m.

**APPROVED:**

*Thomas E. Wheeler, II*  
Thomas E. Wheeler, II *by [Signature]*  
Pursuant to Order 2011-15 of  
The Indiana State Recount Commission

# Original

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INDIANA RECOUNT COMMISSION  
PUBLIC SESSION NOTICE

Conducted On: Tuesday, June 14, 2011

Location: Indiana Government Center South  
Conference Center  
302 West Washington Street  
Indianapolis, Indiana 46204

A STENOGRAPHIC RECORD BY:  
Rhonda J. Hobbs, RPR  
Notary Public  
Stenographic Reporter

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**Connor + Associates, Inc.**  
1650 One American Square  
Indianapolis, IN 46282  
(317) 236-6022

**A P P E A R A N C E S**

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**INDIANA RECOUNT COMMISSION:**

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Mr. Thomas Wheeler - Chairman

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Mr. Bernard L. Pylitt - Commission Member

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Mr. Gordon Durnil - Commission Member

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Mr. Bradley Skolnik - Recount Director

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**INDIANA ELECTION DIVISION STAFF:**

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Ms. Leslie Barnes - Minority Counsel

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Mr. Bradley King - Majority Counsel

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1           **CHAIRMAN T. WHEELER:** We'll call this  
2 meeting of the Indiana Recount Commission to  
3 order. We're here in the Indiana Government  
4 Center South Conference Room A pursuant to a  
5 notice previously issued. I would note that we  
6 have a full quorum of commission members,  
7 Commissioner Durnil and Commissioner Pylitt.

8           With respect to this particular meeting, I'm  
9 going to turn the microphone over to Brad King, who  
10 is acting in lieu of our recount director to  
11 discuss the notice issue briefly.

12           **MR. B. KING:** Thank you, Mr. Chairman and  
13 Members of the Commission. Notice for this  
14 meeting was given pursuant to the emergency  
15 provisions of the Open Door Law, Indiana Code  
16 5-14-1.5-5, Subsection D, which reads the  
17 meeting is called to deal with an emergency  
18 involving actual or threatened disruption of the  
19 governmental activity under the jurisdiction of  
20 the public agency by any event, then the time  
21 requirements of notice under this section shall  
22 not apply, but 1) news media, which have  
23 requested notice of meetings must be given the  
24 same notice as members; and 2) the public must  
25 be notified by posting a copy of the notice.

1           **CHAIRMAN T. WHEELER:** Mr. King, have both  
2 of those taken place?

3           **MR. B. KING:** Yes, Mr. Chairman, they have.

4           **CHAIRMAN T. WHEELER:** On June 13th -- in a  
5 letter dated June 13th, 2001, I received a  
6 letter from Bradley W. Skolnik, executive  
7 director -- I'm sorry, director of the Indiana  
8 State Recount Commission noting, and I quote,  
9 Dear Chairman Wheeler, I hereby resign my  
10 position as the director of the recount  
11 commission effective immediately. It has been  
12 an honor to be of service to you and the others  
13 of the State Recount Commission, period, close  
14 quote.

15           Director Skolnik's resignation was not any  
16 reflection on either of the commission. He  
17 received an offer too good to pass up, which I  
18 believe will be announced in the fairly near future  
19 which did require him to resign his position  
20 immediately. We wish him the best in his new  
21 position.

22           As a consequence of that, though, that left us  
23 in a little bit of a lurch. As the parties know,  
24 we have a hearing on June 21st. We have -- I think  
25 the number of pending motions actually grew several

1 today. I received several e-mails, something on  
2 the order of 15 pending motions. The director of  
3 the recount commission in the past has been  
4 authorized to act on the recount commission's stead  
5 and acting on those motions.

6 As a consequence of the resignation effective  
7 immediately, we've been without a recount  
8 commission director over the last two days, and  
9 therefore, the Commission has been unable to act on  
10 many of the motions, which I think the parties at  
11 least believe a prompt ruling on would certainly  
12 move us towards getting this resolved quickly and  
13 effectively and get the business of the commission  
14 moving forward.

15 As a consequence, I directed Brad King, acting  
16 in concert with Leslie, to issue this notice under  
17 the emergency provisions because I believe that the  
18 appointment of the executive director and the  
19 action on these motions needs to take place  
20 immediately in order to preserve the June 21st  
21 deadline.

22 I would also note that the June 21st deadline  
23 is a hard and fast deadline based upon both the  
24 rulings of Judge Rosenberg and the Indiana Supreme  
25 Court directing us towards a prompt resolution of

1 this matter. As a consequence, that's the basis  
2 for the emergency notification.

3 With respect to the agenda, we are going to go  
4 through these kind of in three -- three areas. No.  
5 1, we will address the employment of a new director  
6 and his immediate acceptance of the position so we  
7 won't have any further problems like this; No. 2,  
8 we will deal with a variety of the pending motions  
9 that have been filed by both parties and  
10 individuals seeking to intervene; No. 3, we will  
11 then also discuss the course of the hearing  
12 currently set for July -- June 21st and how we'll  
13 proceed.

14 There have been requests related to rules of  
15 evidence, separation of witnesses, and things like  
16 that, certain things you'll be familiar with in  
17 terms of an order of a pretrial conference. With  
18 that we have the agenda. Any additional agenda  
19 items from the commission members?

20 (No response.)

21 **CHAIRMAN T. WHEELER:** Anything, Brad?

22 **MR. B. KING:** No.

23 **CHAIRMAN T. WHEELER:** With that, and as  
24 noted previously, in a letter dated June 13th,  
25 2001 -- 2011, Mr. Skolnik has resigned his

1 position as director of the Indiana State  
2 Recount Commission. We have a proposed order,  
3 2011-10, proposing the employment of a new  
4 recount director for really limited purposes.

5 This commission is kind of an adhoc  
6 commission, due to the nature of the Secretary of  
7 State's office being involved in the contest, and  
8 therefore, the employment of a recount commission  
9 director will be a limited employment remaining  
10 only for the time period governed by this  
11 particular recount commission taking us through the  
12 resolution of this particular recount.

13 With that, I believe there's an Order 2011-10  
14 which is in your packets, Commissioners' packets  
15 under the purple tab, Mr. King, could you review  
16 the proposed order?

17 **MR. B. KING:** Thank you, Mr. Chairman and  
18 Members of the Commission, Order 2011-10 employs  
19 Mark Palmer to serve as recount director of the  
20 commission in accordance with the applicable  
21 state statutes. The salary for this employment  
22 is set, along with any documented expenses  
23 necessary to reimburse Mr. Palmer. The  
24 employment as recount director takes effect  
25 immediately upon adoption and continues until

1 the commission makes its final determination in  
2 the contest proceeding that's currently before  
3 it.

4 Order 2000-61, which employed Bradley W.  
5 Skolnik as recount director is rescinded but thanks  
6 for his service. Pursuant to the statute which  
7 grants the Commission the authority to designate an  
8 individual, such as a recount director, to act on  
9 its behalf, the Commission designates Mr. Palmer to  
10 act as its intermediary between the parties and  
11 between the parties of the Commission to resolve  
12 procedural issues on its behalf in the above  
13 referenced contest proceeding. The order will take  
14 effect immediately.

15 **CHAIRMAN T. WHEELER:** We have an order in  
16 front of us, do I have a motion to approve the  
17 order?

18 **COMMISSION MEMBER G. DURNIL:** So moved.

19 **CHAIRMAN T. WHEELER:** Do I have a second?

20 **COMMISSION MEMBER B. PYLITT:** Second.

21 **CHAIRMAN T. WHEELER:** Any discussion from  
22 the commission members related to the order.

23 *(No response.)*

24 **CHAIRMAN T. WHEELER:** I would simply make a  
25 notation that I'm very pleased that we were able

1 to get an independent -- get an individual with  
2 Mr. Palmer's both experience generally, but also  
3 his experience on this commission.

4 Mr. Palmer has served as a Democratic  
5 appointee of the recount commission. I think  
6 Gordon, you and he, served on the recount  
7 commission together at that time, so not only were  
8 we able to bring in an outstanding lawyer but  
9 someone who has actual practical experience on the  
10 recount commission, again, as a Democratic  
11 appointee of the commission. I'm very pleased to  
12 welcome -- well, I guess I should wait until we  
13 vote. I'll call the question, all in favor of  
14 approving Order 2011-10, signify by saying aye?

15 **COMMISSION MEMBER G. DURNIL:** Aye.

16 **COMMISSION MEMBER B. PYLITT:** Aye.

17 **CHAIRMAN T. WHEELER:** Aye. Those opposed,  
18 same sign?

19 *(No response.)*

20 **CHAIRMAN T. WHEELER:** Motion carries. Now  
21 I'm very pleased to welcome our new director,  
22 Mr. Palmer.

23 **MR. M. PALMER:** Thank you for the privilege  
24 of serving on this commission. I'm grateful to  
25 work with Gordon and Brad again and nice to work

1 with the other commission members. Thank you.

2 **CHAIRMAN T. WHEELER:** All right. We're  
3 going to turn to the various motions that have  
4 been filed by the parties with respect to this  
5 and we have them in order. They're kind of  
6 framed up. The first set of issues involves  
7 video streaming and the use of cameras in the  
8 courtroom in the hearing room.

9 As I understand it right now, these are under  
10 the Commissioners' green tab, the current motions  
11 in front of us are Respondent's Opposition to  
12 Cameras during the June 21st 2011 Hearing filed by  
13 Mr. Bopp. We have the Petitioner's response in  
14 support of cameras and live video streaming filed  
15 by the Respondent -- I'm sorry, the Petitioner,  
16 reverse Petitioner and Respondent, then I have  
17 motions from -- various motions from WISH TV  
18 seeking to support the use of cameras during the  
19 June 21st, 2011 hearing.

20 Now as I understand, Mr. Bopp, your motion is  
21 directed both to not only the use of cameras as we  
22 have here today but also to live video streaming;  
23 is that correct?

24 **MR. J. BOPP:** Yes.

25 **CHAIRMAN T. WHEELER:** Let me ask a quick

1 question, and this is a historical practice  
2 question, I guess -- I wanted Brad to ask -- I  
3 guess I'll refer to Brad King and Leslie Barnes,  
4 what has been historical -- this is, you know,  
5 my first shot here on the recount commission,  
6 historically, with respect to cameras and  
7 particularly live video streaming, what has the  
8 commission done?

9 **COMMISSION MEMBER B. PYLITT:** Mr. Chairman  
10 my understanding the shortcut that on Sunday  
11 December 5 and Sunday, December 12th, 2010, this  
12 commission heard argument in this case, and  
13 during that two sessions, the commission  
14 provided a camera to record the proceedings as  
15 well as live video and audio stream through the  
16 Secretary of State's web site.

17 There was also a legislative recount hearing,  
18 Deig versus McNamara. It was totally shown. In  
19 this very case, --

20 **CHAIRMAN T. WHEELER:** In this very case?

21 **COMMISSION MEMBER B. PYLITT:** -- it has  
22 taken place.

23 **CHAIRMAN T. WHEELER:** And was there any  
24 objection, Mr. Bopp, to it taking place at that  
25 time?

1           **MR. J. BOPP:** No, no testimony was to be  
2 elicited that could be of a personal nature that  
3 would discourage or chill witnesses from  
4 providing candid complete and testimony that we  
5 think the public deserves in this situation,  
6 which are witnesses that are not intimidated by  
7 having this broadcast to live on video to all  
8 the people of the State of Indiana.

9           **CHAIRMAN T. WHEELER:** I mean, what's --  
10 what are they likely to testify to that would  
11 cause them to be intimidated in a fashion other  
12 than a normal public hearing would take place;  
13 what's -- what's different about this hearing  
14 that would cause that to take place, and as you  
15 know, the presumption is that this is -- this is  
16 A) a public hearing, and there's kind of two  
17 issues here -- 1) is whether we have a public  
18 hearing, cameras in the hearing, 1), and 2) is  
19 the live video streaming issue, and I'm just  
20 struggling with what's different here than at  
21 the other hearings that Commissioner Pylitt  
22 referred to, and in fact, the first part of this  
23 hearing?

24           **MR. J. BOPP:** Well, the other hearings were  
25 procedural in nature. There was no evidence

1 that -- and no testimony, and of course, as you  
2 know, in court where similar type proceedings  
3 involving similar type questions such as where  
4 was a person living, where was his residence,  
5 you know, are not -- well, the press is allowed  
6 to be present and take notes. They are not  
7 allowed to broadcast. They are not allowed to  
8 take pictures, nor is it video streamed, and  
9 that's the prevailing rule in Indiana with  
10 respect to hearings of this nature.

11 **CHAIRMAN T. WHEELER:** Well, judicial  
12 proceedings.

13 **MR. J. BOPP:** Judicial proceedings.

14 **CHAIRMAN T. WHEELER:** But not -- but not to  
15 regulatory proceedings, you would with that;  
16 correct?

17 **MR. J. BOPP:** That is true, and I -- I'll  
18 note the difference. The difference factually  
19 is this is a quasi judicial proceeding and I  
20 think the nature of this proceeding is in the  
21 nature of what is customarily done at court.

22 I do recognize that there is a difference in  
23 law, that is the rules of the Indiana Supreme Court  
24 would govern the broadcast of hearings before the  
25 court, and of course, they prohibit it across the

1 board.

2 As to this proceeding, the open meetings law  
3 would govern, and I am satisfied that 5-14-1.5-3  
4 would govern this proceeding which requires  
5 permitting members of the public to observe and  
6 record them, and I do note that the Indiana Supreme  
7 Court has included within, or record them, the  
8 availability of video cameras to broadcast that.

9 I think that is different than the video  
10 streaming. I don't think video streaming is  
11 contemplated within the open meetings law;  
12 certainly, not addressed by the court.

13 **CHAIRMAN T. WHEELER:** Let me stop you there  
14 for one second. In the Petitioner's response,  
15 they cite the case of Berry versus Peoples  
16 Broadcasting, which was a sheriff merit board  
17 proceeding where cameras were precluded, and  
18 they said -- they contend that case supports the  
19 proposition that the Open Door Law permits that  
20 and indeed requires it and they -- they contend  
21 that that's -- that's an Indiana Supreme Court  
22 decision; how do you respond to that?

23 **MR. J. BOPP:** I'm satisfied that that is  
24 true, that they have to allow cameras in court  
25 rooms and not video streaming.

1           **CHAIRMAN T. WHEELER:** All right, that  
2 solves my first question. My first question is  
3 that you don't have any objection at this point,  
4 given the Berry, case that cameras are entitled  
5 to be in this hearing on the 21st; correct?

6           **MR. J. BOPP:** Yes, with this -- with this  
7 caveat, I still think the commission has to be  
8 sensitive to the personal nature of this and the  
9 potential intrusiveness, and I'll get to what I  
10 think they might be asking in a minute, when we  
11 talk about video streaming, and the -- and I  
12 would think that having a witness here and a  
13 camera literally in the witness's face is not  
14 necessary to broadcast and is unnecessarily  
15 intrusive and intimidating.

16           So it seems to that me the cameras should be  
17 placed in the room where they are not intruding  
18 upon the proceeding. Of course, they have  
19 mechanisms to get a close face shot, if they choose  
20 to, so that it won't affect, you know, their  
21 availability to record that which they want to  
22 record, but it would enhance the ability of the  
23 witness not to be intimidated by literally having a  
24 camera in their face as I think many witnesses  
25 would think this camera is.

1           **CHAIRMAN T. WHEELER:** All right, that  
2 addresses -- as I understand it, that concession  
3 addresses the motions, the three -- the  
4 appearances and the motions by WISH TV related  
5 to the use of cameras in this hearing?

6           **MR. J. BOPP:** Yes.

7           **CHAIRMAN T. WHEELER:** We concur that  
8 that -- I don't think that we need to grant that  
9 or deal with their motion to intervene, but I  
10 think we're going to concede that there will be  
11 cameras at this hearing, and I have -- I've  
12 heard your concern about placement and we'll  
13 discuss that with the media, how they place the  
14 cameras, and I share a little bit of concern in  
15 that regard, about the placement of the cameras.  
16 Any questions from the other commissioners with  
17 respect to the issue of the cameras in the  
18 courtroom in the three pending WISH motions?

19           **COMMISSION MEMBER G. DURNIL:** We need a  
20 bigger room.

21           **CHAIRMAN T. WHEELER:** We'll assign that to  
22 our new director. That's your first task, find  
23 a bigger room. No. 2 now -- that does it with  
24 the camera issue. Now the live video streaming  
25 issue, you've down a difference, a distinction

1 there. As I understand it, again, from  
2 Commissioner Pylitt and his indication that  
3 there was live video streaming and that has been  
4 a pattern and practice of this recount  
5 commission in the past to do live video  
6 streaming; correct -- that's my understanding?

7 **COMMISSION MEMBER G. DURNILL:** Just this  
8 last fall was the first time.

9 **CHAIRMAN T. WHEELER:** So last fall?

10 **COMMISSION MEMBER G. DURNIL:** Yeah, with  
11 this commission, it would have been the first  
12 time.

13 **CHAIRMAN T. WHEELER:** With that...

14 **MR. J. BOPP:** Well, I don't think this is  
15 governed by the Open Door Law. You are  
16 providing the public with the opportunity to  
17 observe and record the proceedings by allowing  
18 the public to be in the room, by allowing the  
19 press to take photographs, to videotape, etc.,  
20 and it's not governed by the Indiana Supreme  
21 Court interpreting the phrase "record them."

22 I think this is within your discretion under  
23 your governing statute on how you conduct your  
24 meeting, and of course, our concern that we have  
25 expressed is that there are -- is the potential of

1 questions that can be very intrusive into the  
2 personal relationships and intimate details of  
3 those personal relationships.

4 While we are not the ones that will be asking  
5 questions of that sort, and I don't -- haven't been  
6 advised what specific questions the Petitioners  
7 will ask, I can report to this commission that they  
8 have employed a private investigator who has  
9 interviewed Andy Zimpleman, who is the -- who is  
10 Michelle White's ex-husband.

11 He reports to her and she reports to me that  
12 the following questions were asked, among others:  
13 Do you have any fear that Charlie White will try to  
14 take custody of Liam away from you, that's a child  
15 that they share; what is Michelle and Charlie's sex  
16 life like? 3) was Charlie at Nicole's house to try  
17 to reconcile with Nicole, that is her ex -- his  
18 ex-wife. They asked where he was, asked -- Andy  
19 said that he had never met Charlie until 2011.

20 So those are the questions that have been  
21 reported to me on the types of inquiries that are  
22 being made at the request of the lawyers of the  
23 Petitioner. I would say that by anybody's  
24 standards, those are intimate details. I think  
25 they're objectionable, but you know, I don't rule

1 on these things either.

2 **CHAIRMAN T. WHEELER:** In that -- in that  
3 regard --

4 **MR. J. BOPP:** I don't get to rule.

5 **CHAIRMAN T. WHEELER:** I know everybody up  
6 here is a practicing attorney -- you guys are,  
7 but why can't we just handle that through  
8 objection, and if the objection is sustained and  
9 there is a personal question that the commission  
10 feel is relevant to say his intent to reside,  
11 for example, why can't we handle that through an  
12 objection and simply ask that the video  
13 streaming be stopped at that point while the  
14 answer is given?

15 For example, if somebody asks somebody's  
16 Social Security number -- you know, the redaction  
17 stuff we get in federal court all the time, why  
18 can't we just handle it in that fashion?

19 **MR. J. BOPP:** That -- that would -- that  
20 would resolve our concerns, I think, partially  
21 at least. The other part is as you know, people  
22 draw inferences from questions being asked and  
23 objections being -- and what our -- and  
24 regardless of the objection, that as the lay  
25 public does, where lawyers understand this is a

1 perfectly appropriate procedure that has nothing  
2 to do with necessarily the actual answer that is  
3 to be given, and personal questions in and of  
4 themselves can be offensive and abrasive.

5 I -- if -- if you choose to handle it in that  
6 way, obviously, you're going to be extending the  
7 amount of time that is necessary to handle issues  
8 like that, and I would just ask that if you decide  
9 to do that, that those be charged against their  
10 time for asking those questions and not our time.

11 **CHAIRMAN T. WHEELER:** I'm going to address  
12 all of that in a couple of minutes, but I -- I  
13 think that's...

14 **COMMISSION MEMBER B. PYLITT:** And actually,  
15 had the parties not objected -- had you not  
16 objected to the request for depositions, all of  
17 this could have been flushed out last week and  
18 we could have dealt with them and that wouldn't  
19 have been an issue.

20 **MR. J. BOPP:** That doesn't give the  
21 Commission the authority under the law to  
22 authorize depositions.

23 **COMMISSION MEMBER B. PYLITT:** I understand.  
24 We agree to disagree.

25 **MR. J. BOPP:** It may be an offensive

1 question. It may be an offensive question.

2 **COMMISSION MEMBER B. PYLITT:** We agree to  
3 disagree.

4 **CHAIRMAN T. WHEELER:** But I trust counsel  
5 to be professional in their demeanor. Counsel  
6 that spends their time asking offensive  
7 questions are also going to be on camera, and if  
8 they engage in a routine course of inappropriate  
9 behavior, that's something the Supreme Court can  
10 resolve.

11 If they ask a question -- you know, when did  
12 you stop beating your wife kind of question, if  
13 they engage in that kind of behavior, the  
14 Commission certainly has the ability to defer that,  
15 and the Commission will not tolerate that kind of  
16 questioning, I'm sure on both -- both of my  
17 co-members, and frankly, if you do it, you're going  
18 to eat into your own time, which we're going to  
19 talk about in a couple of minutes. So with that...

20 **COMMISSION MEMBER G. DURNIL:** Can the --  
21 can the Chair ask the streaming to stop -- I  
22 don't know the answer to that -- I mean, can we  
23 put pauses in there?

24 **CHAIRMAN T. WHEELER:** I presume we can.  
25 I -- I simply assume that. I don't know if

1 that's a question that's...

2 **MR. B. KING:** Yes. Mr. Chairman, Members  
3 of the Commission, at the December 5th and 12th  
4 meetings of the commission, the commencement of  
5 the web streaming began at the direction of the  
6 Chair so I would assume that the Chair could  
7 give direction to halt the proceeding.

8 **CHAIRMAN T. WHEELER:** I assume that's  
9 exactly the same -- it's the same video  
10 streaming that we use for committee hearings  
11 over at the Statehouse and stuff; right?

12 **MR. B. KING:** It's very similar, if not the  
13 same. It's handled through IHETS.

14 **CHAIRMAN T. WHEELER:** So the answer to your  
15 question, I believe that that's the case, and  
16 we'll be able to do that. I think that's  
17 probably the best way to handle this matter.

18 I can tell you from me, personally, I prefer  
19 the -- I spent a lot time with the Open Door Law  
20 and I prefer to see this stuff out in the public.

21 The Commission's practice has been to web  
22 stream. At least in this proceeding, I see no  
23 reason not to do it. My only concern with web  
24 streaming, frankly, is the cost. The web streaming  
25 costs the State about \$10,000?

1           **MR. B. KING:** Yes, Mr. Chairman, that was  
2 for the lengthy hearings conducted at that time  
3 and so there would be a cost in the thousands of  
4 dollars.

5           **CHAIRMAN T. WHEELER:** My only concern is  
6 these economic times, the cost of it, but I  
7 think that's probably -- given the interest that  
8 we have right now, I think that's warranted, and  
9 as a consequence, I would accept any kind of  
10 motion -- further discussion or a motion on the  
11 Respondent's opposition to cameras and video  
12 streaming?

13           **COMMISSION MEMBER B. PYLITT:** Mr. Chairman,  
14 I'd move that we video stream the proceeding  
15 next Tuesday subject to the Chair's ability to  
16 stop it at any point.

17           **COMMISSION MEMBER G. DURNIL:** Second.

18           **CHAIRMAN T. WHEELER:** And that would  
19 include denying their motion; correct?

20           **COMMISSION MEMBER B. PYLITT:** Indeed.

21           **CHAIRMAN T. WHEELER:** Any further  
22 discussion?

23           *(No response.)*

24           **CHAIRMAN T. WHEELER:** All in favor, signify  
25 by saying aye?

1 THE COMMISSION: Aye.

2 CHAIRMAN T. WHEELER: Those opposed, same  
3 sign?

4 (No response.)

5 CHAIRMAN T. WHEELER: The cameras will be  
6 allowed in the hearing the hearing will be video  
7 streamed.

8 MS. K. CELESTINO-HORSEMAN: Mr. Chairman?

9 CHAIRMAN T. WHEELER: Yes, ma'am.

10 MS. K. CELESTINO-HORSEMAN: I just want to  
11 reassure that --

12 MR. J. BOPP: You're doing so well.

13 MS. K. CELESTINO-HORSEMAN: I know, but you  
14 got me on the investigator line. I had to clear  
15 that up. I never heard this rumor. Our  
16 investigator that we hired usually works for  
17 corporations and is very professional and  
18 assured me that nothing untorrid was happening.

19 CHAIRMAN T. WHEELER: There was a private  
20 investigator, though?

21 MS. K. CELESTINO-HORSEMAN: There was,  
22 because we didn't do discovery, so we did send  
23 him out looking to talk to people only and --

24 CHAIRMAN T. WHEELER: And I think the  
25 Commission mentioned it last time, Commissioner

1 Pylitt, as to the ability of the parties to go  
2 out and just ask the people if they would talk  
3 to them?

4 **MS. K. CELESTINO-HORSEMAN:** Exactly.

5 **CHAIRMAN T. WHEELER:** Is that it?

6 **MS. K. CELESTINO-HORSEMAN:** Yes.

7 **CHAIRMAN T. WHEELER:** Now I'm going to move  
8 on to the yellow tab in the commissioner's  
9 binders, and these relate to -- we'll start --  
10 we're going to go through a series of issues  
11 related to individuals that have already been  
12 subpoenaed, have been already issued for  
13 attendance at the hearing.

14 The first issue is the subpoena that has been  
15 issued to Michelle Quigley-White. We have a motion  
16 to quash that subpoena from Mr. Brizzi, who is  
17 here, as well as a response to that motion in the  
18 commission's packet, those will be Items 7, 8 and 9  
19 under the yellow tab. Mr. Brizzi, it's your  
20 motion.

21 **MS. K. CELESTINO-HORSEMAN:** Chairman  
22 Wheeler and Members of the Commission, I  
23 appreciate you taking the time to hear this.  
24 The situation we have with Michelle White is  
25 that she testified in the front of the special

1 grand jury which is still -- to our  
2 understanding, is still in panel. After that  
3 testimony, she received a target letter from the  
4 special prosecutor, and it was very -- did not  
5 specify what she was exactly a target of, but  
6 just a generic target letter.

7 And so our concern, my concern is that,  
8 obviously, she wants to testify. I think she has  
9 some things to say that are relevant, but to let  
10 her come in here unprotected to satisfy a quasi  
11 judicial administrative regulatory hearing and  
12 subject her to potential criminal charges by the  
13 special prosecutor, I think would be...

14 **CHAIRMAN T. WHEELER:** Let me -- let me ask  
15 a dumb question because I've never practiced  
16 criminal law and it would be malpractice for me  
17 to talk about criminal law, yet, I'm going to go  
18 ahead and do that for just a moment. It is my  
19 understanding, at least in civil cases -- I've  
20 done a lot of sheriff's merit board proceedings  
21 where there's been criminal misconduct and they  
22 have -- they tried to plead the Fifth Amendment,  
23 and the sheriff is a little bit different  
24 because they have a contractual obligation to do  
25 things, and I know you've been involved in

1 proceedings like that, but it has always been my  
2 understanding, and I think this is borne out in  
3 a brief filed by Mr. Groth in response to your  
4 motion to quash, that the appropriate method to  
5 assert the Fifth Amendment is on a  
6 question-by-question basis, not -- in this case,  
7 you just filed a motion to quash saying she's  
8 not going to testify at all because of the Fifth  
9 Amendment, but I thought you had to do that on a  
10 question-by-question basis; what am I missing  
11 here?

12 **MR. C. BRIZZI:** I filed the motion to quash  
13 to preserve that right. I don't -- I don't  
14 disagree, that is generally the case. The issue  
15 that we have here, Chairman Wheeler, is that  
16 we're flying blind. I don't have any idea what  
17 she testified to in front of the grand jury and  
18 I have no idea what the special prosecutor is  
19 looking at, and one of the ways that -- you  
20 know, rather than us sitting here and taking a  
21 day or two of Michelle White with me having to  
22 evaluate the question, the potential answer and  
23 the potential criminal liability that may  
24 attach, Mr. Bopp and I met earlier today and  
25 came up with the idea of a potential use

1 immunity for her testimony here.

2 **CHAIRMAN T. WHEELER:** Well, let me -- let  
3 me ask you that question, because again, I'm not  
4 a criminal defense attorney, but I thought only  
5 a prosecutor can give use immunity. I've never  
6 seen, and I've been in those same sheriff's  
7 merit board proceedings where I've been accused  
8 of accidentally immunizing somebody by forcing  
9 them to testify, but I have never even seen  
10 anybody other than a prosecutor who can give use  
11 immunity, so I mean, what am I missing there?

12 **COMMISSION MEMBER B. PYLITT:** And  
13 specifically, IC 35-34-2-8(a) says that it's  
14 only upon a request by the prosecuting attorney  
15 that the court shall grant use immunity so I'm  
16 curious of any ability for use immunity.

17 **MR. C. BRIZZI:** I'm hoping maybe the  
18 special prosecutor will return your phone call  
19 and maybe oblige us.

20 **COMMISSION MEMBER B. PYLITT:** The D or the  
21 R?

22 **MR. C. BRIZZI:** I think we've called both.

23 **CHAIRMAN T. WHEELER:** It's the same one  
24 that Mr. White just accused of his own voter  
25 fraud? I suspect that may be a bit more

1 difficult for him to call you back. Let me ask  
2 this question: We have -- I asked the attorney  
3 general's office here, because just for the  
4 exact reason I said, which is we are not experts  
5 in this issue.

6 **COMMISSION MEMBER B. PYLITT:** Speak for  
7 yourself.

8 **CHAIRMAN T. WHEELER:** Sorry. I defer to  
9 Mr. Pylitt. I asked them here so I would not  
10 have to defer to Mr. Pylitt. With respect to  
11 the AG's office, Mr. Kreasing's (Phonetic) here,  
12 and I asked him to have somebody prepared to  
13 provide additional advice to the commission with  
14 respect to the two questions being No. 1, the  
15 assertion of the Fifth Amendment through a  
16 blanket motion to quash; and No. 2, whether or  
17 not we have the ability to provide use immunity.

18 **MR. G. SECREST:** Actually, I'm Mr. Secrest,  
19 not Mr. Kreasing.

20 **COMMISSION MEMBER G. DURNIL:** Gary, why  
21 don't you grab one of the microphones right  
22 there.

23 **CHAIRMAN T. WHEELER:** He's speaking for the  
24 press right there. If you want to speak to the  
25 press...

1           **MR. G. SECREST:** Oh, you're Channel 6,  
2 that's not the press.

3           **UNIDENTIFIED SPEAKER:** You don't want to go  
4 there.

5           **MR. G. SECREST:** I plead the Fifth. Our  
6 opinion it is the same as been expressed.  
7 Blanket Fifth Amendment decisions are not  
8 allowed, and to assert the Fifth Amendment, you  
9 have to appear on a question-by-question basis.  
10 Nobody comes before this panel or this court  
11 unprotected. You always have the Fifth  
12 Amendment. It is this panel's discretion and  
13 obligation to make sure that that  
14 question-by-question and assertion does not get  
15 abusive and go on forever.

16           **CHAIRMAN T. WHEELER:** So the resolution  
17 would be on a question-by-question basis?

18           **MR. G. SECREST:** Yes.

19           **CHAIRMAN T. WHEELER:** So she should appear?

20           **MR. G. SECREST:** Yes.

21           **CHAIRMAN T. WHEELER:** State her name and  
22 then she can begin asserting the Fifth Amendment  
23 at whichever point she or her attorney deems  
24 appropriate?

25           **MR. G. SECREST:** Yes.

1           **COMMISSION MEMBER B. PYLITT:** And had she  
2 sat for a deposition, we would have done this  
3 last week and resolved this and not wasted any  
4 of our time.

5           **CHAIRMAN T. WHEELER:** I suspect we would  
6 have had a commission meeting to resolve each of  
7 those objections.

8           **MR. J. BOPP:** I ought to get my drum and  
9 beat it, too.

10          **CHAIRMAN T. WHEELER:** There you go. Now  
11 with respect to use immunity which I really am  
12 very...

13          **MR. G. SECREST:** Well, your supposition is  
14 correct, regarding use immunity, a trial court  
15 on the request of a prosecutor grants use  
16 immunity. You simply are not vested with that  
17 authority to grant use immunity and so it's our  
18 opinion the motion is not valid.

19          **CHAIRMAN T. WHEELER:** Any other questions  
20 from the commissioners?

21               *(No response.)*

22          **CHAIRMAN T. WHEELER:** Does the Petitioner  
23 wish to be heard?

24          **MR. J. BOPP:** Yes -- Petitioner on this  
25 motion, yes. It is true that the statute cited

1 on 35-37-3-3 addresses the request of a  
2 prosecutor for granting immunity. That's not  
3 the authority which we are resting on. We are  
4 resting on the authority of 3-12-10-5 which  
5 includes the authority of the recount commission  
6 to issue, quote, protective orders, end of  
7 quote, and in addition, to exercise any  
8 necessary -- other necessary power to perform  
9 its functions under this article.

10 Now the Indiana Supreme Court has pointed out  
11 several times in recent years that once you have an  
12 elected public official, you have the will of the  
13 people having been exercised and that will of the  
14 people is entitled to deference and to be defended  
15 vigorously, and what we have here is an  
16 unconscionable dilemma where key witnesses are  
17 presented with a dilemma of either testifying and  
18 providing probative evidence to this commission  
19 regarding the circumstances that -- that will  
20 establish, we believe, without question, that  
21 Charlie White is qualified to continue to serve as  
22 Secretary of State as the people have chosen, or to  
23 protect their own personal interests, to assert the  
24 Fifth Amendment, and thereby, as the Democrat Party  
25 has said, for you to take negative inferences from

1 their refusal to testify, as if their refusal to  
2 testify is not to protect their personal liability  
3 they may have criminally, but where the facts would  
4 be probative, we believe, in favor of Charlie  
5 White.

6 **CHAIRMAN T. WHEELER:** Now let me ask a  
7 couple of preliminary questions.

8 **MR. J. BOPP:** And so -- and so --

9 **CHAIRMAN T. WHEELER:** Jim -- Jim, hold on a  
10 second. What I wanted to do, and I didn't mean  
11 to jump into your motion because I want to treat  
12 your motion separately.

13 **MR. J. BOPP:** Oh, I'm sorry.

14 **CHAIRMAN T. WHEELER:** I have a specific  
15 questions regarding your motion on behalf of  
16 when they're made.

17 **MR. J. BOPP:** I have nothing to say about  
18 the quash.

19 **CHAIRMAN T. WHEELER:** Okay. And that's  
20 what I was going to ask the Petitioner in this  
21 case, if you had anything to add with respect to  
22 Mr. Brizzi's motion, either the use immunity  
23 request which has been modified into a use  
24 immunity request, or his assertion of the motion  
25 to quash on Fifth Amendment grounds, is there

1 anything additional you wish to add?

2 **MS. K. CELESTINO-HORSEMAN:** What about the  
3 use immunity that's been propounded by Mr.  
4 White?

5 **CHAIRMAN T. WHEELER:** We're going to deal  
6 with that in a moment. We're dealing with  
7 Michelle Quigley-White right now.

8 **MS. K. CELESTINO-HORSEMAN:** No. I think  
9 that Mr. Secrest pretty much summed up the law,  
10 that the Commission lacks the authority to grant  
11 use immunity to anyone and that you have to --  
12 you can't come in and do a blanket assertion of  
13 privilege, as we intend to argue when we go  
14 forward with this hearing. If the truth is  
15 probative and it's favor of Charlie White, then  
16 they would be telling us that.

17 **MR. C. BRIZZI:** Again, Chairman Wheeler,  
18 I don't want anyone to misunderstand. Michelle  
19 White wants to come and testify. I was trying  
20 to think of a way for her to do that in a  
21 uninterrupted forum; otherwise, this could...

22 **CHAIRMAN T. WHEELER:** I understand that.  
23 Mr. Pylitt is going to tell you she should have  
24 given a deposition -- all right, thank you,  
25 because that's what I'd do.

1           **MS. K. CELESTINO-HORSEMAN:** I can -- I can  
2 say that if -- it would probably not be lengthy,  
3 and when she starts to assert the Fifth, there  
4 will be some key questions, and I --

5           **CHAIRMAN T. WHEELER:** There's nothing that  
6 precludes the two parties from agreeing. We  
7 indicated we would not order the parties to do  
8 depositions. There's absolutely nothing that  
9 precludes the two of you from agreeing to handle  
10 that through a deposition.

11           **COMMISSION MEMBER B. PYLITT:** I do have a  
12 question, Mr. Brizzi, maybe you can help us.  
13 The special grand jury up in Hamilton County is  
14 extended for a period of 60 or 90 days.

15           **MR. C. BRIZZI:** It's 90 days.

16           **COMMISSION MEMBER B. PYLITT:** That expired  
17 Friday, June 4th, or whatever -- 3rd or 4th,  
18 whatever, but do you have any indication whether  
19 the grand jury is going to be extended?

20           **MR. C. BRIZZI:** It's our understanding that  
21 it has been extended. We tried to call today to  
22 confirm that and we have not received a call  
23 back so...

24           **COMMISSION MEMBER B. PYLITT:** And as I  
25 understand, Judge Nation's in a six-week jury

1 trial that started. He can't be of any help.

2 **MR. C. BRIZZI:** If -- if I can get a phone  
3 call back in a day or two, I'll be happy to let  
4 the commission know. If the grand jury has  
5 expired, then that would alleviate with our  
6 concerns.

7 **CHAIRMAN T. WHEELER:** If you would  
8 communicate with Mr. Palmer, that would be  
9 great. I'll accept a motion on the pending  
10 Michelle Quigley-White motion to quash subpoena  
11 as formally amended?

12 **COMMISSION MEMBER B. PYLITT:** I would then  
13 move, Mr. Chairman, to deny Michelle  
14 Quigley-White's motion to quash her subpoena.

15 **CHAIRMAN T. WHEELER:** Do I have a second?

16 **COMMISSION MEMBER G. DURNIL:** Second.

17 **CHAIRMAN T. WHEELER:** Motion is made and  
18 seconded, any further discussions?

19 *(No response.)*

20 **CHAIRMAN T. WHEELER:** Hearing none, all in  
21 favor of the motion, signify by saying aye?

22 **THE COMMISSION:** Aye.

23 **CHAIRMAN T. WHEELER:** Those opposed, same  
24 sign?

25 *(No response.)*

1           **CHAIRMAN T. WHEELER:** Motion has been  
2 denied. Now Mr. Bopp, you got the opportunity  
3 to address briefly -- let me ask a preliminary  
4 question. You filed a motion for use immunity  
5 on behalf of Charlie White, Michelle  
6 Quigley-White, and I know who Michelle  
7 Quigley-White is from Mr. Brizzi's filings, who  
8 is Nicole Mills?

9           **MR. J. BOPP:** His ex-wife.

10          **CHAIRMAN T. WHEELER:** And who is Bill  
11 Mills?

12          **MR. J. BOPP:** Her current husband.

13          **CHAIRMAN T. WHEELER:** Do you represent  
14 them?

15          **MR. J. BOPP:** No.

16          **CHAIRMAN T. WHEELER:** Well, what standing  
17 do you have to file a motion on their behalf?

18          **MR. J. BOPP:** Well, it's just like the  
19 prosecutor receiving use immunity for various  
20 witnesses -- I have the same interest, and that  
21 is a full and complete testimony about the facts  
22 and circumstances of the case. And in order to  
23 achieve that, I'm concerned -- I don't know yet,  
24 but that's matters handled by other people -- I  
25 mean, the lawyers.

1           But I think it's in jeopardy because of the  
2 potential that Fifth Amendment immunity could be  
3 sought, so my interest is what the Commission's  
4 interest and what the people's interest is, and  
5 that is full, candid and complete testimony so that  
6 the people's choice here will be receive an  
7 adequate defense rather than the defeated candidate  
8 be placed into office.

9           **CHAIRMAN T. WHEELER:** Anything else?

10          **MR. J. BOPP:** No.

11          **CHAIRMAN T. WHEELER:** Petitioner?

12          **MS. K. CELESTINO-HORSEMAN:** When it comes  
13 to use immunity as -- I think you raise -- Mr.  
14 Chairman, you raise an excellent point, and one  
15 that I, quite honestly, overlooked in our  
16 briefing, and that is having standing to be able  
17 to argue for people that are not our clients,  
18 which would be certainly Mr. White's current  
19 wife and his ex-wife and his ex-wife's husband.  
20 So I think that is definitely an issue there.

21           And secondly, use immunity was not recognized  
22 as common law, and the only -- it started to  
23 develop because we started recognizing privileges  
24 such as the Fifth Amendment and such, so when it  
25 came to use immunity, Indiana enacted it purely by

1 statute, and that is the only province where it  
2 extends from, and use immunity was -- is only for  
3 the benefit of the state.

4 So if any of his folks want to go over to the  
5 prosecutors and ask them, as part of the pending  
6 criminal, if they can have use immunity, there's  
7 nothing that certainly we can say about that or  
8 that the commission can say about that. And as  
9 regards the -- a courts can't even compel it  
10 without a request by the --

11 **CHAIRMAN T. WHEELER:** Well, let me ask this  
12 question, and this goes again to -- I know that  
13 Charlie White is a target, we know that, and  
14 Mr. Brizzi has indicated that Miss Quigley-White  
15 is a target but neither of the Mills are  
16 targets; correct?

17 **MS. K. CELESTINO-HORSEMAN:** Correct -- not  
18 that we know of anyway. They've never come  
19 forward to say.

20 **CHAIRMAN T. WHEELER:** Have either of the  
21 Mills been identified as targets?

22 **MR. J. BOPP:** Not that I'm aware of.

23 **CHAIRMAN T. WHEELER:** Then why would use  
24 immunity be necessary for those two?

25 **MR. J. BOPP:** Well, I'm asking because they

1 are -- well, one of the problems, and Mr. Brizzi  
2 has already alluded to is that one of the four  
3 people that are intimately aware of the  
4 situation has now been -- said is a target and  
5 we don't know with respect to why, and so we are  
6 similarly concerned because they're all --  
7 they're within the same context, that is they  
8 can testify about the living arrangements and  
9 residence of Charlie White, and that's what she  
10 testified about, and that's what they're going  
11 to testify about.

12 **CHAIRMAN T. WHEELER:** It seems to me your  
13 concern is -- the concern they might commit  
14 perjury, they might at issue for perjury?

15 **MR. J. BOPP:** They can't be immunized for  
16 committing perjury.

17 **CHAIRMAN T. WHEELER:** I understand that, so  
18 I'm trying to understand what else -- I mean, I  
19 understand with Mr. White and Michelle  
20 Quigley-White, but I'm trying to understand how  
21 Nicole Mills or Bill Mills could possibly fall  
22 into this web you're describing?

23 **MR. J. BOPP:** Charlie White lived there at  
24 their residence.

25 **CHAIRMAN T. WHEELER:** Well, I understand

1 that, but that's -- that's not a crime.

2 **MR. J. BOPP:** Well, I know but Michelle  
3 White, before she was married, living at the  
4 Overview address is not a crime either, so we  
5 don't know why they're targeting people that are  
6 testifying in favor of Charlie White.

7 **CHAIRMAN T. WHEELER:** However, they might  
8 be testifying untruthfully?

9 **MR. J. BOPP:** We don't know.

10 **CHAIRMAN T. WHEELER:** We can deal with that  
11 here, can't we -- I mean, every witness that  
12 testifies is under -- under threat of perjury;  
13 correct?

14 **MR. J. BOPP:** Yeah, absolutely.

15 **CHAIRMAN T. WHEELER:** So I'm wondering -- I  
16 just -- I'm not understanding why use immunity,  
17 even we have the power to give it, which the  
18 AG's office says we do not, but if we had the  
19 power to give it, I don't understand why that  
20 would go to Nicole Mills or Bill Mills, in any  
21 event, and that's what I'm struggling with.

22 **MR. J. BOPP:** Well, I can say -- all I can  
23 say is what I said, whether it's satisfactory or  
24 not.

25 **CHAIRMAN T. WHEELER:** I'd defer to the

1 other commissioners as well.

2 **COMMISSION MEMBER B. PYLITT:** If Mr. Bopp  
3 doesn't represent them, then I don't know what  
4 standing he has, even if we had the ability or  
5 the authority to grant use immunity. Maybe they  
6 don't want immunity granted. Maybe they don't  
7 want the truth so...

8 **MR. J. BOPP:** They will be sworn to tell  
9 the truth, they must tell the truth or they can  
10 be prosecuted and use immunity does not affect  
11 that in any way.

12 **CHAIRMAN T. WHEELER:** And I would hope so.

13 **COMMISSION MEMBER G. DURNIL:** You're saying  
14 that our authority to do this is just an  
15 unnecessary power to perform?

16 **MR. J. BOPP:** And issue a protective order,  
17 that is to protect witnesses from undue -- from  
18 the use of proceedings within your jurisdiction,  
19 that's what protective orders allow you to do,  
20 and that is the use of this testimony.

21 **COMMISSION MEMBER B. PYLITT:** Do you have  
22 any statute that says we can't grant it other  
23 than the 35-37-3-3 statute that says only a  
24 prosecutor can ask a court to do it; do you have  
25 any authority?

1           **MR. J. BOPP:** Yes, 3-12-10-5.

2           **COMMISSION MEMBER B. PYLITT:** Necessary  
3 powers?

4           **MR. J. BOPP:** And -- and the issue of  
5 protective orders.

6           **COMMISSION MEMBER B. PYLITT:** Is there any  
7 case law that says that an administrative agency  
8 can grant use immunity?

9           **MR. J. BOPP:** No.

10          **MR. C. BRIZZI:** And -- and for -- just for  
11 30 seconds here.

12          **MR. J. BOPP:** Just another novel question.

13          **MR. C. BRIZZI:** It is a novel question, and  
14 from my perspective, the special prosecutor  
15 absolutely has no reason to want to talk to us  
16 or to deal with us or negotiate use immunity  
17 with us or to let us know if Michelle  
18 Quigley-White is a target so we literally are  
19 flying blind.

20                 We have no ability to negotiate this outside  
21 of your influence and your authority, and again, I  
22 say that because she wants to come in. She wants  
23 to come in and testify.

24          **CHAIRMAN T. WHEELER:** Here's my question,  
25 why don't you -- why don't you go -- the grand

1 jury has been impaneled by a court; correct?

2 **COMMISSION MEMBER B. PYLITT:** Judge Nation.

3 **CHAIRMAN T. WHEELER:** Judge Nation. Why  
4 don't you go to that court and ask for use  
5 immunity yourself?

6 **MR. C. BRIZZI:** Yeah.

7 **CHAIRMAN T. WHEELER:** If the prosecutor is  
8 ignoring -- well, that's -- I -- I understand  
9 what the --

10 **COMMISSION MEMBER B. PYLITT:** Why don't  
11 they write a letter to the special prosecutors  
12 and say we would like for use immunity to be  
13 granted rather than say they won't return the  
14 phone calls.

15 **MR. C. BRIZZI:** Well, there's absolutely no  
16 reason for them to grant it.

17 **CHAIRMAN T. WHEELER:** Okay. Here's where I  
18 am --

19 **MR. C. BRIZZI:** I wouldn't grant it, if I  
20 were them.

21 **CHAIRMAN T. WHEELER:** I've heard enough on  
22 this issue. Anything else from any of the  
23 Commissioners?

24 **COMMISSION MEMBER G. DURNIL:** I don't know  
25 how Judge Nation would respond to us issuing

1 such an order.

2 **CHAIRMAN T. WHEELER:** We might be found in  
3 contempt. I think this commission has already  
4 been called in front of Judge Rosenberg. I'd  
5 hate to go to Hamilton County, too.

6 With that, I'll accept a motion on the motion  
7 for use immunity by Charlie White and Michelle  
8 Quigley-White and Nicole Mills and Bill Mills?

9 **COMMISSION MEMBER B. PYLITT:** Mr. Chairman,  
10 I move that we deny the motion for use immunity  
11 for Charlie and Michelle Quigley-White and  
12 Nicole Mills and Bill Mills.

13 **CHAIRMAN T. WHEELER:** Do I have a second?

14 **COMMISSION MEMBER G. DURNIL:** Second.

15 **CHAIRMAN T. WHEELER:** Motion's made and  
16 seconded, any further discussion?

17 *(No response.)*

18 **CHAIRMAN T. WHEELER:** Hearing none, all in  
19 favor of the motion to deny the motion for use  
20 immunity, signify by saying aye?

21 **THE COMMISSION:** Aye.

22 **CHAIRMAN T. WHEELER:** Those opposed, same  
23 sign?

24 *(No response.)*

25 **CHAIRMAN T. WHEELER:** Motion carries. All

1 right, now I want to turn into the next kind of  
2 group of issues which are what I'll refer to as  
3 kind of the pretrial issues and the subpoenas.  
4 There's been a series of requests for subpoenas,  
5 subpoena duces tecum, I think was filed yet  
6 today. In the commissioner's binders, these are  
7 under the red tab. They are in a little  
8 different order than I had in my pile. Are  
9 these in chronological order as they came in?

10 **MR. B. KING:** Mr. Chairman, and Members of  
11 the Commission, roughly so, although some  
12 amended documents were grouped with the  
13 documents that they amended so that's why in  
14 your list of documents, you have 13A, 14A, 14B  
15 etc.

16 They're also sorted by Petitioner and  
17 Respondent with the joint stipulated facts by both  
18 parties starting first with Document No. 12.

19 **CHAIRMAN T. WHEELER:** So what we've got is  
20 we've got Petitioner's witness and exhibit list  
21 and we've got the amended witness and exhibit  
22 that came in today; is that correct?

23 **MR. B. KING:** Yes, that's correct.

24 **CHAIRMAN T. WHEELER:** And then we got the  
25 subpoena list, the people they want us to

1 subpoena, and then we've got the Respondent's  
2 witness and exhibit list, their list for  
3 subpoenas, and then their -- their list for  
4 subpoena duces tecum that came in today as well?

5 **MR. B. KING:** Yes, that's correct Mr.  
6 Chairman. There are a couple of different  
7 motions as well. The 14B, the motion for  
8 separation of witnesses.

9 **CHAIRMAN T. WHEELER:** I'm going to -- I'm  
10 going to jump a little bit out of order and  
11 address 14B. Have the parties seen each other's  
12 various motions?

13 **MR. J. BOPP:** I was just asking. They were  
14 probably served at our office, but I've been  
15 here all day and I have not see it.

16 **MS. K. CELESTINO-HORSEMAN:** I didn't bring  
17 it with us today.

18 **CHAIRMAN T. WHEELER:** Which -- which one  
19 are you...

20 **MR. J. BOPP:** The only one I wanted to look  
21 at is the motion to amend the witness list.

22 **CHAIRMAN T. WHEELER:** Mr. King, do you have  
23 a copy of that you can provide for Mr. Bopp.

24 **MR. B. KING:** I can.

25 **MR. J. BOPP:** That's the only one.

1           **MR. B. KING:** The amended witness list  
2 would be 13A.

3           **CHAIRMAN T. WHEELER:** And if you'd provide  
4 that copy for him. While he is doing that, I'm  
5 going to go through -- there, we found something  
6 for Mr. Palmer to do.

7           **MR. M. PALMER:** My first official act.

8           **CHAIRMAN T. WHEELER:** While you're looking  
9 at it, I want to go through kind of the process  
10 here because I think there seems to be a little  
11 confusion. No. 1, this is not -- this is not a  
12 court of law. This is not, and we're not even  
13 covered by AOPA. I think they established that  
14 in the last hearing, the Administrative Orders &  
15 Procedures Act, there have been a number of  
16 questions asked by the parties with respect to  
17 the process, separation of witnesses, I believe  
18 the Petitioner asked about the rules of evidence  
19 and things like that, so I'm going to address a  
20 couple of those briefly with you, then we'll go  
21 through the specific motions.

22           One, this hearing is set for one day. It will  
23 be one day. Each party will have four hours. If  
24 the Petitioner wishes to spend a lot of time with  
25 people asserting the Fourth Amendment, that's going

1 to cut into the Petitioner's four hours.

2 **COMMISSION MEMBER B. PYLITT:** Fifth  
3 Amendment.

4 **CHAIRMAN T. WHEELER:** Fifth Amendment.

5 **COMMISSION MEMBER B. PYLITT:** You said  
6 Fourth Amendment.

7 **CHAIRMAN T. WHEELER:** I do way too Fourth  
8 Amendment work so -- Fifth Amendment rights,  
9 that will cut into the Petitioner's time, same  
10 thing with the Respondent. We will keep -- I  
11 will keep a clock. We're going to hold you to  
12 the four hours.

13 You guys have given us a list of a lot of  
14 witnesses. You're going to need to cut down -- I  
15 was in the 7th Circuit this week, I got 20 minutes  
16 on a case that's been going for about eight years.  
17 Mr. Pylitt and I will be in the 7th Circuit in  
18 about three weeks, and we got 10 minutes a side.

19 I suspect you're both good attorneys. You can  
20 determine what is necessary for this commission to  
21 hear in those four hours, and I expect you to be  
22 professional about that, and we're going to go  
23 through that and we'll put your feet to the fire a  
24 little bit as we go through the list of people that  
25 you want to call and talk about that.

1           With respect to the rules of evidence, the  
2 rules of evidence do not apply to administrative  
3 proceedings. Indeed, an administrative proceed may  
4 be based upon, a decision may be based in a large  
5 part on hearsay. It may be based solely on  
6 hearsay, but it can be based in a large part on  
7 hearsay.

8           You have three attorneys, three experienced  
9 attorneys up here, just like a judge during a bench  
10 hearing, we're able to separate hearsay from the  
11 other issues.

12           So as a consequence, we've got -- we're going  
13 to use our discretion about what we're going to  
14 hear what we're not going to hear. If things get  
15 far field, we'll tell you, and we'll keep you  
16 moving along.

17           It's going to look a like -- you guys -- I'm  
18 sure you guys have both done a lot of bench  
19 hearings, so that's what it's going to be like.  
20 Commissioner Pylitt has served as a judge and tried  
21 bench cases so he's used to that.

22           We will judge, try to keep everybody moving  
23 along, keep everybody fairly using their own time  
24 in that regard. Anything from either of the  
25 commissioners?

1           (No response.)

2           **CHAIRMAN T. WHEELER:** In that case, what I  
3 want to do is I want to look at Petitioner's  
4 witness list, as well as -- I guess I'm working  
5 off the amended witness list at this point.  
6 Mr. Bopp, do you have that front of you as well?

7           **MR. J. BOPP:** I do now. Thank you.

8           **CHAIRMAN T. WHEELER:** All right. And I  
9 want to go through each witness. I want you to  
10 give me an idea of what they're going to testify  
11 to and how long they're going take. Pat  
12 Toschlog?

13           **MR. J. BOPP:** Do you want to deal with the  
14 amendment first?

15           **CHAIRMAN T. WHEELER:** I'm dealing with the  
16 amended Petitioner's witness exhibits.

17           **MR. J. BOPP:** Well, we object to any  
18 amendment. There was a deadline for submitting  
19 witness lists and exhibit lists, and we object  
20 to any amendment of -- I mean, this is an  
21 expedited procedure, we're now within a week of  
22 trial -- you know, just to throw more name --  
23 you know, another name in here, Mr. Robert  
24 Clinton, or Chilton, I'm sorry, was on the  
25 original witness list, I think -- yes, he was.

1           **CHAIRMAN T. WHEELER:** Yes, but Deana  
2 Chilton was not?

3           **MR. J. BOPP:** But Deana was not.  
4 Certainly -- certainly, they knew or should have  
5 known that he had a wife and could have talked  
6 to her so we --

7           **CHAIRMAN T. WHEELER:** The numbers -- let me  
8 ask one question. In addition to Deana Chilton,  
9 is the other one -- you added all persons  
10 subpoenaed, all persons listed, what's -- what's  
11 the other one because I've got 21 witnesses in  
12 the amended and there are 19, what's the other  
13 change?

14           **MS. K. CELESTINO-HORSEMAN:** She would --  
15 she's probably nothing, because all we did was  
16 add -- unless I pulled off --

17           **CHAIRMAN T. WHEELER:** Deana Chilton was the  
18 only one that's been added.

19           **MS. K. CELESTINO-HORSEMAN:** Yeah, it looks  
20 like I pulled off the wrong one when I edited.

21           **CHAIRMAN T. WHEELER:** What am I missing?

22           **MR. J. BOPP:** It's look like -- that's not  
23 true. No. 11 is not on the original.

24           **CHAIRMAN T. WHEELER:** There's a 12, there's  
25 a No. 12 omitted.

1           **COMMISSION MEMBER B. PYLITT:** Snelson, it's  
2 not on the original.

3           **MS. K. CELESTINO-HORSEMAN:** Yeah, so that  
4 was -- yeah, that's a mistake, and that  
5 shouldn't be on there.

6           **CHAIRMAN T. WHEELER:** That should be  
7 omitted?

8           **MS. K. CELESTINO-HORSEMAN:** Yeah. I  
9 apologize.

10           **COMMISSION MEMBER B. PYLITT:** Take 15 off  
11 the original list, Kerry Zerla.

12           **CHAIRMAN T. WHEELER:** Kerry Zerla has been  
13 removed. I assume you have no objection.

14           **MS. K. CELESTINO-HORSEMAN:** Oh, no. Kerry  
15 Zerla has not been removed.

16           **CHAIRMAN T. WHEELER:** Well, it's not on  
17 your amended list.

18           **MS. K. CELESTINO-HORSEMAN:** Okay, on that,  
19 I -- I was in a hurry trying to get everything  
20 filed.

21           **MR. J. BOPP:** So which, which should we  
22 remove from your list?

23           **MS. K. CELESTINO-HORSEMAN:** Snelson.

24           **MR. J. BOPP:** Snelson, No. 11.

25           **CHAIRMAN T. WHEELER:** But you wish Kerry

1 Zerla to remain?

2 **MS. K. CELESTINO-HORSEMAN:** To remain,  
3 correct.

4 **CHAIRMAN T. WHEELER:** All right. Who is  
5 the -- let's address their objection to your  
6 untimely, what they contend to be untimely  
7 amended, were there any changes to the exhibit  
8 list?

9 **MS. K. CELESTINO-HORSEMAN:** No.

10 **CHAIRMAN T. WHEELER:** Okay. So the only  
11 change is -- aside from the typographical errors  
12 here, is Deana Chilton, who is Deana Chilton?

13 **MS. K. CELESTINO-HORSEMAN:** Deana Chilton  
14 is the wife of Robert Chilton. We may not need  
15 her. They have been gone. We weren't able to  
16 talk with them until last night, and then we  
17 were only able to talk to Deana Chilton.

18 **CHAIRMAN T. WHEELER:** Who are they -- I  
19 mean, what relevance would...

20 **MS. K. CELESTINO-HORSEMAN:** They're  
21 neighbors. They live there next door to 7525  
22 Broad Leaf, the home of Nicole and William  
23 Mills.

24 **CHAIRMAN T. WHEELER:** Is there any reason  
25 to believe that Miss Chilton is going to say

1 anything differently than Mr. Chilton?

2 **MS. K. CELESTINO-HORSEMAN:** We have not  
3 been able to get ahold of Mr. Chilton. If  
4 they're the same, obviously, we're not going to  
5 call them both. We don't spend -- intend to  
6 spend a lot of time with them.

7 **CHAIRMAN T. WHEELER:** All right. What's  
8 your response to their objection based upon the  
9 time limits of your amendment?

10 **MR. J. BOPP:** Well, my response would be --

11 **CHAIRMAN T. WHEELER:** No, I'm sorry, I was  
12 asking for her response. I got your objection.

13 **MR. J. BOPP:** I guess I didn't know who you  
14 were.

15 **CHAIRMAN T. WHEELER:** So I apologize.

16 **MS. K. CELESTINO-HORSEMAN:** We had an  
17 exchange and all of that, but the order did  
18 not -- I will say the order did not say final  
19 witness and exhibit list, and so we did do that.  
20 Additionally, the -- there's been no claim of  
21 independent prejudice.

22 **MR. J. BOPP:** Well, let me claim prejudice.  
23 Not only is this an expedited procedure but  
24 they're now putting people on the witness list  
25 that they've already admitted that they took

1 weeks to finally get ahold of and they want to  
2 give us one week and hope and pray that we can  
3 get ahold of this witness.

4 **COMMISSION MEMBER G. DURNIL:** I move that  
5 we let the objection be honored. We had a  
6 deadline and...

7 **CHAIRMAN T. WHEELER:** Motion to strike.

8 **COMMISSION MEMBER B. PYLITT:** Seconded.

9 **CHAIRMAN T. WHEELER:** Seconded. Any  
10 further discussion?

11 *(No response.)*

12 **CHAIRMAN T. WHEELER:** All in favor, signify  
13 by saying aye?

14 **THE COMMISSION:** Aye.

15 **CHAIRMAN T. WHEELER:** Those opposed, same  
16 sign?

17 *(No response.)*

18 **CHAIRMAN T. WHEELER:** The amended has been  
19 stricken. We'll operate off of the Petitioner's  
20 witness and exhibit list. Pat Toschlog.

21 **MS. K. CELESTINO-HORSEMAN:** Pat Toschlog is  
22 with voter registration. We are going to be  
23 talking about authenticated documents.

24 **CHAIRMAN T. WHEELER:** Are these documents  
25 that you can stipulate to?

1           **MS. K. CELESTINO-HORSEMAN:** I think we're  
2 probably going to, but we'll do it tomorrow  
3 afternoon.

4           **CHAIRMAN T. WHEELER:** Okay. So it's like  
5 we won't need Pat Toschlog, once you stipulate  
6 to the exhibits?

7           **MS. K. CELESTINO-HORSEMAN:** We are going to  
8 keep to our four hours, and so anybody that we  
9 can strike, we intend to strike.

10          **CHAIRMAN T. WHEELER:** Well, that's what  
11 I'm -- I'm holding your feet to the fire right  
12 now. That's why I'm doing it.

13          **COMMISSION MEMBER B. PYLITT:** I thought the  
14 joint stipulated facts has got documents from  
15 voter registration that the parties have  
16 stipulated to.

17          **CHAIRMAN T. WHEELER:** Right.

18          **MS. K. CELESTINO-HORSEMAN:** There are some  
19 additional ones.

20          **COMMISSION MEMBER B. PYLITT:** Okay.

21          **CHAIRMAN T. WHEELER:** And then you've  
22 listed -- you have a number of people that --  
23 who is Tony Jarana, Summit Loss Prevention?

24          **MS. K. CELESTINO-HORSEMAN:** Strike him.

25          **CHAIRMAN T. WHEELER:** Okay. Now Michelle

1 Quigley-White, we have already issued a subpoena  
2 for Michelle Quigley-White; correct?

3 **MS. K. CELESTINO-HORSEMAN:** Yes.

4 **CHAIRMAN T. WHEELER:** Nicole Mills, same  
5 situation?

6 **MS. K. CELESTINO-HORSEMAN:** Yes.

7 **CHAIRMAN T. WHEELER:** And then William  
8 Mills, who's also been referred to as Bill  
9 Mills; correct?

10 **MS. K. CELESTINO-HORSEMAN:** Yes.

11 **CHAIRMAN T. WHEELER:** And then assuming we  
12 don't have the same one, Charles P. White;  
13 correct?

14 **MS. K. CELESTINO-HORSEMAN:** Yes.

15 **CHAIRMAN T. WHEELER:** All right. Now  
16 you've asked for Jeff Keck, who is Jeff Keck and  
17 what relevance?

18 **MS. K. CELESTINO-HORSEMAN:** Jeff Keck is  
19 the owner of the company that managed the  
20 condominium on Overview Drive, sold it, dealt  
21 with Mr. White from September of 2009 through  
22 closing in February of 2010, and thereafter,  
23 actually, even after the closing.

24 **CHAIRMAN T. WHEELER:** All right. And  
25 you've asked that a subpoena be issued for Jeff

1 Keck?

2 **MS. K. CELESTINO-HORSEMAN:** Yes.

3 **CHAIRMAN T. WHEELER:** I'm going to do these  
4 one at a time, if that's okay with you guys.

5 **COMMISSION MEMBER B. PYLITT:** Sure.

6 **CHAIRMAN T. WHEELER:** Comments, concerns,  
7 or questions from the commission members about  
8 issuing a subpoena to Jeff Keck?

9 **COMMISSION MEMBER B. PYLITT:** Stipulation  
10 15 says that Mr. White executed closing and  
11 financing documents for the closing of the  
12 condominium, so what more can Jeff Keck -- is he  
13 going to get in here and said Charlie White told  
14 him I'm lying and I'm trying to defraud people  
15 and I'm going to run for Secretary of State and  
16 I'm going to give a phony address.

17 **MS. K. CELESTINO-HORSEMAN:** No. What he  
18 will come in and say how they came over and  
19 dealt with the house after the closing, coming  
20 in and doing -- doing different things within  
21 the condominium in February of 2010, how Mr.  
22 White and his fiancée went through the process  
23 of purchasing and everything in November through  
24 2010, and where they were located and how they  
25 contacted him and such, all related to where he

1 was actually -- where his principal residence  
2 was. I don't think there's any question that he  
3 bought the condo -- I mean, at least I don't  
4 think that's disputed?

5 **MR. J. BOPP:** No.

6 **CHAIRMAN T. WHEELER:** I'll accept a motion  
7 with respect to the request for a subpoena for  
8 Jeff Keck.

9 **COMMISSION MEMBER G. DURNIL:** I'll move  
10 that we issue the subpoena.

11 **COMMISSION MEMBER B. PYLITT:** I'll second  
12 it for discussion.

13 **CHAIRMAN T. WHEELER:** Motion's made and  
14 seconded, any discussion -- Commissioner Pylitt?

15 **COMMISSION MEMBER B. PYLITT:** I have none.

16 **CHAIRMAN T. WHEELER:** My position is it's  
17 your time. If you want to fill your time with  
18 Mr. Keck versus someone else, that's your  
19 decision, but I will cut you off in four hours.  
20 All right, motion's been made and seconded, all  
21 in favor, signify by saying aye?

22 **THE COMMISSION:** Aye.

23 **CHAIRMAN T. WHEELER:** Those opposed, same  
24 sign?

25 *(No response.)*

1           **CHAIRMAN T. WHEELER:** Mr. Palmer, you'll be  
2           issuing a subpoena for Mr. Keck. Mr. Chilton, I  
3           think you've already addressed -- I'm sorry,  
4           we've got Abbey Taylor; are you still calling  
5           Abbey Taylor?

6           **MS. K. CELESTINO-HORSEMAN:** If we either  
7           can agree on authentication, which I think --

8           **CHAIRMAN T. WHEELER:** On the documents?

9           **MS. K. CELESTINO-HORSEMAN:** On the  
10          documents or get them certified by the Election  
11          Division.

12          **CHAIRMAN T. WHEELER:** I don't think it'll  
13          be a problem getting them certified by the  
14          Division.

15          **MS. K. CELESTINO-HORSEMAN:** Okay. So we  
16          can take her off.

17          **CHAIRMAN T. WHEELER:** So we can knock Abbey  
18          Taylor off. All right, now Robert Chilton?

19          **MS. K. CELESTINO-HORSEMAN:** Robert Chilton  
20          is the same Robert Chilton that I discussed  
21          earlier who lives next door to...

22          **CHAIRMAN T. WHEELER:** This is the next door  
23          neighbor?

24          **MS. K. CELESTINO-HORSEMAN:** Yes.

25          **CHAIRMAN T. WHEELER:** And you've asked for

1 a subpoena for Robert Chilton?

2 **MS. K. CELESTINO-HORSEMAN:** Yes.

3 **CHAIRMAN T. WHEELER:** Any discussion from  
4 the commission members?

5 **COMMISSION MEMBER B. PYLITT:** I move that  
6 we issue the subpoena.

7 **COMMISSION MEMBER G. DURNIL:** Second.

8 **CHAIRMAN T. WHEELER:** All in favor, signify  
9 by saying aye?

10 **THE COMMISSION:** Aye.

11 **CHAIRMAN T. WHEELER:** Those opposed, same  
12 sign?

13 *(No response.)*

14 **CHAIRMAN T. WHEELER:** Mr. Palmer. Kerry  
15 Zerla -- strike that. I'm going down the wrong  
16 list. Sean Keefer, who's Sean Keefer?

17 **MS. K. CELESTINO-HORSEMAN:** Sean Keefer,  
18 you can strike.

19 **CHAIRMAN T. WHEELER:** Margaret White  
20 (Uskert)?

21 **MS. K. CELESTINO-HORSEMAN:** We have no  
22 interest in her.

23 **CHAIRMAN T. WHEELER:** Tammi Kaeser or  
24 Kaeser?

25 **MS. K. CELESTINO-HORSEMAN:** Tammi Kaeser,

1 that is correct. Tammi Kaeser is a -- was  
2 employed -- was a salesperson for the  
3 condominium, went over there after and actually  
4 was inside the condominium after Mr. White moved  
5 into it. I don't anticipate that's going to  
6 take much time.

7 **CHAIRMAN T. WHEELER:** Questions from the  
8 commissioners?

9 **COMMISSION MEMBER B. PYLITT:** So moved.

10 **COMMISSION MEMBER G. DURNIL:** Second.

11 **CHAIRMAN T. WHEELER:** All in favor, signify  
12 by saying aye?

13 **THE COMMISSION:** Aye.

14 **CHAIRMAN T. WHEELER:** Those opposed, same  
15 sign?

16 *(No response.)*

17 **CHAIRMAN T. WHEELER:** Mr. Palmer, issue one  
18 for Tammi Kaeser, and I may be mispronouncing  
19 it. Who is Andrew Zimpleman?

20 **MS. K. CELESTINO-HORSEMAN:** We don't need  
21 Andrew Zimpleman. That is the ex-husband of  
22 Nicole Mills.

23 **CHAIRMAN T. WHEELER:** Murray Clark?

24 **MS. K. CELESTINO-HORSEMAN:** You know, we  
25 had taken him off, did not -- had not intended

1 and maybe that should be discussed in  
2 conjunction with the subpoenas for the duces  
3 tecum.

4 **CHAIRMAN T. WHEELER:** If -- look, I'm not  
5 going to tolerate tit for tat arguments --

6 **MS. K. CELESTINO-HORSEMAN:** Oh, no, I'm  
7 not.

8 **CHAIRMAN T. WHEELER:** -- just so we're  
9 clear. And I am not going to support calling  
10 either of the party chairs in this case.  
11 They're just -- just not relevant.

12 **MS. K. CELESTINO-HORSEMAN:** That is how --  
13 that's how we feel.

14 **CHAIRMAN T. WHEELER:** So I appreciate you  
15 removing Mr. Clark from your list.

16 **MS. K. CELESTINO-HORSEMAN:** Yeah.

17 **CHAIRMAN T. WHEELER:** I guess I shouldn't  
18 say for the other commissioners, but that's my  
19 take. All right, Kerry Zerla?

20 **MS. K. CELESTINO-HORSEMAN:** Kerry Zerla  
21 would be a potential rebuttal witness, depending  
22 on what's testified to.

23 **CHAIRMAN T. WHEELER:** Who is Kerry Zerla?

24 **MS. K. CELESTINO-HORSEMAN:** Kerry Zerla is  
25 another neighbor.

1           **COMMISSION MEMBER B. PYLITT:** So moved.

2           **COMMISSION MEMBER G. DURNIL:** Second.

3           **CHAIRMAN T. WHEELER:** All in favor, signify  
4 by saying aye?

5           **THE COMMISSION:** Aye.

6           **CHAIRMAN T. WHEELER:** Those opposed, same  
7 sign?

8           *(No response.)*

9           **CHAIRMAN T. WHEELER:** So that would make,  
10 from the Petitioner's side, four additional  
11 subpoenas, Jeff Keck, Robert Chilton, Kerry  
12 Zerla and Tammi Kaeser. Anything else from  
13 Petitioner's side on the witness exhibit list?

14           **MS. K. CELESTINO-HORSEMAN:** No.

15           **MR. J. BOPP:** Yes. On the exhibit list  
16 there have been other changes on the exhibit  
17 list. She said --

18           **MS. K. CELESTINO-HORSEMAN:** That's not --  
19 that's already been...

20           **COMMISSION MEMBER B. PYLITT:** We already  
21 denied it.

22           **CHAIRMAN T. WHEELER:** We already done that.  
23 We denied the amendment.

24           **MS. K. CELESTINO-HORSEMAN:** Yeah, that's...

25           **COMMISSION MEMBER B. PYLITT:** The

1 amendment's been stricken.

2 **CHAIRMAN T. WHEELER:** We denied that  
3 amendment.

4 **MR. J. BOPP:** You denied the amendments to  
5 the exhibit list?

6 **CHAIRMAN T. WHEELER:** That's correct, we  
7 denied the amendments to the witness exhibit  
8 list. Just filed the original on it. I have --  
9 use my file stamp.

10 **MR. J. BOPP:** Thank you.

11 **CHAIRMAN T. WHEELER:** Okay, moving on.  
12 Just for procedural clarity, there was also an  
13 amended witness subpoena list that was filed. I  
14 actually -- I was operating off the amended  
15 witness subpoena list. I would solicit a motion  
16 to deny the amended witness subpoena list?

17 **COMMISSION MEMBER B. PYLITT:** So moved.

18 **COMMISSION MEMBER G. DURNIL:** Second.

19 **CHAIRMAN T. WHEELER:** All in favor, signify  
20 by saying aye?

21 **THE COMMISSION:** Aye.

22 **CHAIRMAN T. WHEELER:** Those opposed, same  
23 sign?

24 *(No response.)*

25 **CHAIRMAN T. WHEELER:** Motion carries. So

1 that takes care of the Petitioner side, the  
2 Petitioner witnesses. I do have a Petitioner  
3 motion for separation of witnesses, that will be  
4 granted -- sorry, I was -- I apologize. I'll  
5 accept a motion?

6 COMMISSION MEMBER B. PYLITT: Do what, I'm  
7 sorry?

8 CHAIRMAN T. WHEELER: That a motion ought  
9 to be granted?

10 COMMISSION MEMBER G. DURNIL: So moved.

11 CHAIRMAN T. WHEELER: The motion for  
12 separation of witnesses?

13 COMMISSION MEMBER B. PYLITT: Second.

14 CHAIRMAN T. WHEELER: All in favor, signify  
15 by saying aye?

16 THE COMMISSION: Aye.

17 CHAIRMAN T. WHEELER: Those opposed, same  
18 sign?

19 *(No response.)*

20 CHAIRMAN T. WHEELER: I apologize.

21 COMMISSION MEMBER B. PYLITT: Let me --  
22 just for point of clarification, I assume that  
23 instruction not to discuss the case with  
24 testimony doesn't preclude them from discussing  
25 it with counsel, both counsel, if they choose,

1 so in other words, the witness is called and one  
2 of the lawyers wants to talk either before,  
3 during or after on break, are they precluded  
4 from talking to them?

5 **MS. K. CELESTINO-HORSEMAN:** That is not  
6 what I intended.

7 **CHAIRMAN T. WHEELER:** I'll ask the parties  
8 in that respect, do you guys want to be able to  
9 prep your witnesses in the middle of the hearing  
10 or not?

11 **MR. J. BOPP:** I don't think you can talk to  
12 them about their prospective testimony based on  
13 testimony by other witnesses.

14 **CHAIRMAN T. WHEELER:** That's my  
15 understanding of the separation of witnesses.

16 **MS. K. CELESTINO-HORSEMAN:** Oh, I'm sorry,  
17 I thought you were talking about something else  
18 prior to...

19 **CHAIRMAN T. WHEELER:** Okay.

20 **MS. K. CELESTINO-HORSEMAN:** No, that's  
21 fine.

22 **CHAIRMAN T. WHEELER:** As I -- as I  
23 understand the separation of witnesses, not only  
24 does that mean they can't talk to each other,  
25 they can't talk to counsel. The counsel can't

1           come out and say hey, your husband said this,  
2           let me tell you what he said, because that  
3           violates the order of separation.

4           **MR. J. BOPP:** Right.

5           **CHAIRMAN T. WHEELER:** That's my  
6           understanding.

7           **MR. C. BRIZZI:** Okay. May I ask a  
8           procedural question with regard to that;  
9           where -- do you have a separate room for the  
10          witnesses?

11          **CHAIRMAN T. WHEELER:** We'll figure  
12          something out, and Mr. Palmer will have that  
13          added to his list, too, in addition to getting a  
14          larger room. Okay, now Respondent.

15          **COMMISSION MEMBER G. DURNILL:** Move the  
16          chairs back.

17          **CHAIRMAN T. WHEELER:** Move the chairs back.  
18          All right, moving on, the Respondent, Charlie  
19          White's witness and exhibit list and his request  
20          for subpoenas. I see that, and actually I'm  
21          going to look at the Petitioner's list as well,  
22          we've got Charlie White -- all right, Charlie  
23          White has already been subpoenaed, Michelle  
24          Quigley-White has already been subpoenaed,  
25          Andrew Greider, who is Andrew Greider?

1           **MR. J. BOPP:** We can waive that one.

2           **CHAIRMAN T. WHEELER:** Okay. Nicole Mills  
3 and Williams Mills have both already been  
4 subpoenaed. Now you've listed Margaret and  
5 Darrell White. Margaret White, that was -- she  
6 was previously on their list and they struck  
7 her. Are you intending to call Margaret White?

8           **MR. J. BOPP:** I may very well call Margaret  
9 White. She's the mother.

10          **CHAIRMAN T. WHEELER:** I take it you don't a  
11 subpoena to call her?

12          **MR. J. BOPP:** As far as I know.

13          **CHAIRMAN T. WHEELER:** If you have to  
14 subpoena your own mom, you're in trouble.  
15 Darrell White?

16          **MR. J. BOPP:** We do not need to call him.

17          **CHAIRMAN T. WHEELER:** Pardon me, no Darrell  
18 White?

19          **MR. J. BOPP:** Darrell.

20          **CHAIRMAN T. WHEELER:** Jeff Keck, we have  
21 already issued a subpoena for Jeff Keck for the  
22 Petitioner. In terms of process, I think we  
23 talked about this before, my intent, and I'll  
24 judge time back and forth is that we do a  
25 witness, we complete that witness, I'll give

1           rebuttal, cross, recross, we'll get that witness  
2           done and that witness is gone. We don't recall  
3           that witness. You do your direct and you do  
4           your cross at the same time and that'll keep  
5           this moving along.

6           With that regard, Jeff Keck has already been  
7           subpoenaed by the other parties so you'll have an  
8           opportunity. Indiana Democratic Chairman, Daniel  
9           J. Parker, they've removed Mr. Clark from theirs,  
10          are you going to remove Mr. Parker from yours?

11          **MR. J. BOPP:** Well, the justification for  
12          the next three is that on September 30th, or  
13          sorry, December 28th, it was made public, as far  
14          as we know, by Mr. Purvis the allegation that  
15          gives rise to this commission.

16          This procedure provided in Indiana law, if you  
17          bring it 74 days prior to -- prior to the general  
18          election, which allows a pre-election adjudication  
19          of voter, voter registration qualification.

20          If the Plaintiffs, that is Mr. Parker and the  
21          Democratic Party, were aware of the allegation and  
22          failed to utilize that procedure, in our view under  
23          the law, they have waived this claim.

24          So we are asking that they be subpoenaed so  
25          that we may inquire when before late September, if

1 at all -- if they did, when did they become aware  
2 of these allegations, so that's the relevance.

3 **CHAIRMAN T. WHEELER:** Questions from the  
4 commissioners?

5 **COMMISSION MEMBER B. PYLITT:** Would that be  
6 August 20th be the 74 days?

7 **MR. J. BOPP:** You know, I didn't say that  
8 because I hadn't counted it out.

9 **COMMISSION MEMBER B. PYLITT:** More or less.

10 **MR. J. BOPP:** More or less.

11 **COMMISSION MEMBER B. PYLITT:** Okay.

12 **MR. J. BOPP:** So, approximately, a month  
13 before press conference.

14 **COMMISSION MEMBER G. DURNIL:** At what point  
15 did they know that?

16 **MR. J. BOPP:** Yeah, that's what I want to  
17 inquire.

18 **COMMISSION MEMBER G. DURNIL:** I think we  
19 need to know that.

20 **MS. K. CELESTINO-HORSEMAN:** Mr. Chairman, I  
21 think that goes back to Judge Rosenberg's  
22 decision, when he said that Burke versus Bennett  
23 does not apply to those proceedings, and in that  
24 case, it was held that -- because it involved  
25 the Little Hatch Act that they had to bring

1 before the election.

2 Mr. White, himself, has admitted in his  
3 posting of his complaint on the internet against  
4 the prosecutor that Judge Rosenberg has decreed  
5 Burke versus Bennett does not apply to me or the  
6 prior case or whatever, nor the statutory challenge  
7 deadline. Mr. White is an attorney and he's  
8 made -- he's reading the decision the same way that  
9 we read it.

10 **CHAIRMAN T. WHEELER:** I'm not concerned  
11 with Mr. White's legal analysis at this point.  
12 He does have trained counsel here. We're a  
13 little more concerned about the issue -- your  
14 concern is that Judge Rosenberg's order  
15 precludes this evidence; correct?

16 **MR. J. BOPP:** We didn't claim a waiver  
17 and -- knowledge and/or waiver for failure to  
18 take advantage of the procedures that were  
19 provided before the election because we had no  
20 facts to base that on.

21 This is the first opportunity we have to  
22 elicit that testimony to see if the -- if it  
23 can -- if there's a factual basis to make a waive  
24 of claim.

25 **CHAIRMAN T. WHEELER:** But I guess I'm

1 struggling with two things: 1), is it just Mr.  
2 Parker --

3 **MR. J. BOPP:** If you would have let me take  
4 his deposition, I would...

5 **CHAIRMAN T. WHEELER:** Is it just Mr.  
6 Parker -- I mean, is the Petitioner -- I mean, I  
7 don't understand. If it's Mr. Parker's right to  
8 waive that, why do you care about Mr. Osili.

9 **MR. J. BOPP:** Well, because he might have  
10 talked to Mr. Parker and told him in August,  
11 hey, we found this out, it's all over the place,  
12 and Mr. Parker says well, you'd better wait  
13 until after -- why don't we wait until the  
14 election.

15 **CHAIRMAN T. WHEELER:** Why do you need Mr.  
16 Osili, you can ask Mr. Parker that question?

17 **MR. J. BOPP:** Well, but...

18 **CHAIRMAN T. WHEELER:** Am I right, you can  
19 ask Mr. Parker, did anybody tell you?

20 **MR. J. BOPP:** I intend to ask both -- both  
21 of them.

22 **CHAIRMAN T. WHEELER:** And I'm wondering  
23 about the relevance of calling Mr. Osili, when  
24 Mr. Parker's the Petitioner. He's the one that  
25 would have waived it, and what's relevant is

1 what he knew, when he knew, etc.; right?

2 **MR. J. BOPP:** Well, --

3 **CHAIRMAN T. WHEELER:** How -- how does  
4 this...

5 **MR. J. BOPP:** -- he's one side of a  
6 conversation and the Petitioner is not Parker,  
7 personally. It's the Indiana Democrat Party.  
8 So if Purvis told the executive director, told  
9 the vice chairman, okay, that would be  
10 probative, all right, and I can't -- and he's  
11 the one that made it public.

12 **CHAIRMAN T. WHEELER:** So tell me -- give me  
13 one second. I confess some ignorance, and maybe  
14 that's why they made me the chairman because I'm  
15 the ignorant one about this, who is Purvis?

16 **MR. J. BOPP:** He's a lawyer in Fishers that  
17 called a press conference in late September and  
18 made the allegation that Charlie White was not  
19 registered in the proper place where he was  
20 living.

21 **CHAIRMAN T. WHEELER:** And that press  
22 conference took place when?

23 **MR. J. BOPP:** Late September of 2010.

24 **CHAIRMAN T. WHEELER:** And your contention  
25 is that they may have known prior to that and

1 should have...

2 **MR. J. BOPP:** I think any thinking person  
3 would think that they knew before that press  
4 conference actually took place and then the  
5 question is how earlier than literally the  
6 moment of the press conference and who within  
7 the Democratic Party, who is the Petitioner,  
8 might have been informed by Mr. Purvis so...

9 **CHAIRMAN T. WHEELER:** Anything else from  
10 the parties on this issue -- commissioners?

11 **COMMISSION MEMBER G. DURNIL:** What did you  
12 say about the Little Hatch Act, I missed it?

13 **MS. K. CELESTINO-HORSEMAN:** Oh, that was on  
14 that Burke versus Bennett case, is a question  
15 involving, you know, Little Hatch Check.

16 **COMMISSION MEMBER G. DURNIL:** Okay, that  
17 wasn't Purvis?

18 **MS. K. CELESTINO-HORSEMAN:** No, it was not.

19 **COMMISSION MEMBER G. DURNIL:** Okay.

20 **MS. K. CELESTINO-HORSEMAN:** Mr. Chair, I  
21 think you raised a very good point, the fact  
22 that -- to take the approach that Purvis told  
23 the vice chairman and he told this person or he  
24 told that person, it doesn't really matter -- I  
25 mean, under that theory, you can...

1           **CHAIRMAN T. WHEELER:** Or we could have a  
2 precinct committeeman.

3           **MS. K. CELESTINO-HORSEMAN:** Yeah.

4           **CHAIRMAN T. WHEELER:** I mean, when do you  
5 impute knowledge to the Democratic Party. The  
6 precinct committeeman --

7           **MR. J. BOPP:** It's a legal question.

8           **CHAIRMAN T. WHEELER:** -- by far the more --

9           **MS. K. CELESTINO-HORSEMAN:** I mean, the  
10 one -- the one that would be, and made that  
11 decision was Dan Parker. He's the one who made  
12 the decision to bring this challenge.

13           **CHAIRMAN T. WHEELER:** What about somebody  
14 on the state -- state committee?

15           **MS. K. CELESTINO-HORSEMAN:** All I can tell  
16 you is who I deal with, and that's primarily Dan  
17 Parker.

18           **COMMISSION MEMBER G. DURNIL:** Does Mr.  
19 Purvis have a party title?

20           **CHAIRMAN T. WHEELER:** Does he have a party  
21 affiliation?

22           **MS. K. CELESTINO-HORSEMAN:** No, not that .  
23 I'm...

24           **CHAIRMAN T. WHEELER:** Commissioner Pylitt?

25           **COMMISSION MEMBER B. PYLITT:** I'm not sure

1 if he does or doesn't.

2 **CHAIRMAN T. WHEELER:** Oh, no, I'm sorry, I  
3 was going to ask for additional questions.

4 **COMMISSION MEMBER B. PYLITT:** Oh, okay.

5 **CHAIRMAN T. WHEELER:** Yeah, I do know  
6 you're in Hamilton County, but I wasn't asking  
7 that question. Any other questions on this  
8 issue?

9 *(No response.)*

10 **CHAIRMAN T. WHEELER:** What I'm going to do  
11 is I'm going to ask both legal counsel because  
12 I'm not, and I've -- I've read Rosenberg's  
13 decision with respect to this issue so I'll  
14 start with Miss Barnes.

15 **MS. L. BARNES:** Thank you, Mr. Chairman,  
16 Members of the Commission. Judge Rosenberg did  
17 address and the parties address in their  
18 judicial review whether or not the Hatch Act,  
19 whether or not Burke versus Bennett applied, and  
20 in Judge Rosenberg's decision, it was stated by  
21 the judge that he -- he did not consider that  
22 Burke versus Bennett applied when he remanded  
23 this decision back to the trial court, or back  
24 to the recount commission to hold an evidentiary  
25 hearing.

1           He did not find that -- when -- what Mr.  
2 Parker knew or when Mr. Parker knew was relevant,  
3 and I guess that was my point, while you were  
4 talking to the parties, you had made a statement,  
5 you said what Mr. Parker knew and when he knew it  
6 was relevant, and I think that may be a discussion  
7 that the parties may want to argue, whether or not  
8 what Chairman Parker knew and when he knew is  
9 relevant to this discussion -- you may find that it  
10 is. I just didn't want that, or the commission to  
11 assume that it is relevant.

12           **CHAIRMAN T. WHEELER:** Mr. King?

13           **MR. B. KING:** Mr. Chairman and Members of  
14 the Commission, I agree with Miss Barnes'  
15 characterization of Judge Rosenberg's ruling in  
16 this matter. I would note that the statute  
17 we're referring to, Indiana Code 3-8-8, is a  
18 special procedure for pre-election determination  
19 of the eligibility of the statewide candidates  
20 enacted, I believe, in 2004, and so there is not  
21 any case law, any reported case law, I'm aware  
22 of, construing its provisions with regard to the  
23 argument of the effective laches, if you want to  
24 use that terminology, but that *Burke v. Bennett*  
25 clearly involved a Hatch Act violation, which is

1 a separate matter.

2 **CHAIRMAN T. WHEELER:** From your opinion, do  
3 you believe that Rosenberg intended to preclude  
4 that -- did he in his order -- are you saying  
5 that his order did address this issue or his  
6 order did address the issue but erroneously  
7 relate -- relate -- relied on the Burke case?

8 **MR. B. KING:** Mr. Chairman, I believe his  
9 order, Judge Rosenberg's order did address the  
10 question of knowledge of the Petitioner in this  
11 case with regard to the facts, but I don't  
12 recall that it precluded the commission from  
13 considering the implications of 3-8-8.

14 **CHAIRMAN T. WHEELER:** Mr. Bopp?

15 **MR. J. BOPP:** Nothing.

16 **CHAIRMAN T. WHEELER:** Ms. Horseman?

17 **MS. K. CELESTINO-HORSEMAN:** Yes, Your  
18 Honor. I think the question because -- is this  
19 exclusive before the election, 3-8-8, and I  
20 think that was the argument that was made to  
21 Judge Rosenberg and they relied upon Burke  
22 versus Bennett which held that you did have to  
23 make your argument pre-election now.

24 This one -- this is the -- and see, this is  
25 the first time that I have had a chance to look at

1 this. Is this the August 20th deadline one,  
2 Mr. King?

3 **MR. B. KING:** Yes, that's the one that I  
4 believe that is referenced. That statute was  
5 amended in 2010 to change the deadline, so you  
6 want to look at the bottom part, but I believe  
7 it's, approximately, August 20th.

8 **MS. K. CELESTINO-HORSEMAN:** Okay. And I  
9 would say that that would not be -- I think  
10 there's two issues here, is that -- and then as  
11 you know yourself, Mr. Chair, who do you bring  
12 in to show that, who had that knowledge -- Dan  
13 Parker was the chair then at the time but...

14 **CHAIRMAN T. WHEELER:** We're reading Judge  
15 Rosenberg's decision.

16 **COMMISSION MEMBER B. PYLITT:** It looks like  
17 the judge's decision at the bottom of 5 talks  
18 about -- in response, Burke versus Bennett to  
19 support their argument, even if White was not  
20 registered as of July 15th, he was registered  
21 properly before assuming office. In any event,  
22 the remedies were only applicable to candidates.

23 The judge then talks about Burke versus  
24 Bennett, contrast that with I.C. 3-8-1-1, affixes  
25 his point for assessing the registration status of

1 a person, the Little Hatch Act disqualifier for  
2 candidates. The Respondents emphasize that the  
3 court must proceed with special caution. Several  
4 cases is given a liberal construction by the  
5 election statutes to avoid upsetting the election,  
6 and then he just simply concludes, having alleged  
7 facts that constitute a knowing and/or fraudulent  
8 failure on the part of White to register to vote in  
9 conformity, Parker has stated a cause of action.  
10 So he talks about it but he doesn't address it or  
11 apply it.

12 **MR. J. BOPP:** And we -- we didn't assert in  
13 3-8-8-3 as saying that that was exclusive  
14 because we had no factual basis to do so based  
15 on whether they knew it or not, so we didn't  
16 assert it.

17 **CHAIRMAN T. WHEELER:** And who is the  
18 registered voter who made the challenge in this  
19 case?

20 **MR. J. BOPP:** Dan.

21 **CHAIRMAN T. WHEELER:** Dan Parker?

22 **COMMISSION MEMBER G. DURNIL:** No one did;  
23 right.

24 **MR. J. BOPP:** No.

25 **CHAIRMAN T. WHEELER:** It would have been --

1 but your contention is...

2 MR. J. BOPP: He is -- he is a registered  
3 voter.

4 CHAIRMAN T. WHEELER: He is a registered  
5 voter. So your contention --

6 MR. J. BOPP: So is Purvis and all those  
7 other people.

8 CHAIRMAN T. WHEELER: -- is that -- that a  
9 registered voter should have done it within the  
10 40-day time frame --

11 COMMISSION MEMBER B. PYLITT: 74 time  
12 frame.

13 CHAIRMAN T. WHEELER: The 74 time frame,  
14 sorry -- that's the down side of me having...

15 MR. J. BOPP: And it's a waiver because --

16 CHAIRMAN T. WHEELER: And in this  
17 particular case, the only person -- that's why  
18 I'm struggling with Purvis -- I mean, I guess I  
19 get your argument with Dan Parker, since he's  
20 the Petitioner, and I get that it seems to me to  
21 be relevant to ask Dan Parker when he knew about  
22 this situation, and if Dan Parker, who's the  
23 Petitioner in this case -- I assume the reason  
24 you want to call him is to see if Dan Parker  
25 says I knew on July 4th, somebody told me about

1 this, you would then move -- I assume you would  
2 argue that this, you know, laches or waiver or  
3 some type of argument; correct?

4 **MR. J. BOPP:** Yes.

5 **CHAIRMAN T. WHEELER:** On behalf of Dan  
6 Parker?

7 **MR. J. BOPP:** Yes.

8 **CHAIRMAN T. WHEELER:** Osili -- Osili and --  
9 and Purvis --

10 **COMMISSION MEMBER G. DURNIL:** Well, Purvis  
11 is the one that raised the issue. He's the one  
12 that brought it forward.

13 **MR. J. BOPP:** He's the one that had the  
14 press conference.

15 **CHAIRMAN T. WHEELER:** But he's not -- he's  
16 not a party to this proceeding. I'm struggling  
17 how...

18 **MR. J. BOPP:** I want to get a witness. I  
19 want to ask him when he found out and did he  
20 convey that information to the Petitioner, the  
21 Indiana Democratic Party. Parker is not the  
22 Petitioner. The Indiana Democratic Party is the  
23 Petitioner.

24 **CHAIRMAN T. WHEELER:** I understand it. I'm  
25 struggling with whether they had knowledge to

1 the entire entity?

2 **MR. J. BOPP:** Well, that's a matter of law,  
3 you know -- I mean, just like school boards or  
4 whatever, you know, that's a legal question.  
5 Who he talked to and what he told them within  
6 this 74 hours means that if the Indiana Democrat  
7 Party under the law had knowledge, then in my  
8 view they waived it.

9 **COMMISSION MEMBER B. PYLITT:** Did I not  
10 understand, and I wasn't at, nor were you, nor  
11 was Gordon, I don't believe, at the hearing in  
12 front of Judge Rosenberg, which I guess turned  
13 into oral argument, not really a hearing.  
14 Wasn't it your position that there was a waiver  
15 and that there was bad faith on the part of the  
16 Democratic Party -- you made those arguments to  
17 Judge Rosenberg, and the fact that the 74-day  
18 rule, and you didn't call it by that number, but  
19 that there was bad faith, and the Democratic --  
20 the Democratic Party waited too long to bring  
21 this challenge.

22 **MR. J. BOPP:** Well, we -- we did, but the  
23 response was well, there was no procedure  
24 available in September, late September of that  
25 year.

1           **CHAIRMAN T. WHEELER:** When they learned of  
2 it?

3           **MR. J. BOPP:** When they -- when the press  
4 conference occurred because this statute says 74  
5 days, and it is true, late September is now too  
6 close to the election to utilize this statute --  
7 I mean, that was the only -- that was the  
8 allegation in the petition filed by the  
9 Democratic Party, that there was a press  
10 conference in late September, so the only facts  
11 before the court was that fact.

12           Well, I want to see if that fact is true --  
13 well, I know that fact is true, that they had a  
14 press conference. I want to see what they -- who  
15 found out before, and if so, in time to take  
16 advantage of the 74-day statute, then I believe  
17 that they have waived it. Now that was not  
18 presented to the court because we had no factual  
19 basis.

20           **CHAIRMAN T. WHEELER:** Because you never got  
21 that far in the proceedings?

22           **MR. J. BOPP:** Because the only facts before  
23 them were in the petition of the Democratic  
24 Party and the only fact was they had a press  
25 conference in late September that related to

1 this issue.

2 **MS. K. CELESTINO-HORSEMAN:** I'm -- I'm --  
3 3-8-8 has -- does not say that your office is  
4 the only and exclusive means by which you can  
5 bring a challenge. Judge Rosenberg's opinion  
6 says effectively that you can bring a challenge  
7 after the election, after they've gone through  
8 that period of being a candidate on a ballot --  
9 yes, the arguments were made at the time, at the  
10 hearing that, you know, that we -- the  
11 Democratic Party was precluded and all that.

12 **CHAIRMAN T. WHEELER:** Judge Rosenberg's  
13 decision doesn't address that specific issue;  
14 correct -- you'd agree with me on that?

15 **MS. K. CELESTINO-HORSEMAN:** On 3-8-8, the  
16 only exclusive remedy?

17 **CHAIRMAN T. WHEELER:** All right, the waiver  
18 issue?

19 **MS. K. CELESTINO-HORSEMAN:** Waiver issue?

20 **CHAIRMAN T. WHEELER:** You say -- you say  
21 that Mr. Bopp made the argument, and I --  
22 Commissioner Pylitt and I just read through  
23 there and I didn't see that there. I didn't see  
24 a determination on that issue.

25 **MS. K. CELESTINO-HORSEMAN:** Right, no, but

1 it's only a waiver if you hold that 3-8-8 is the  
2 exclusive remedy, and Judge Rosenberg did say  
3 that you -- and this only applies pre-election,  
4 Judge Rosenberg does say that you can go ahead  
5 and file this action post election so...

6 **COMMISSION MEMBER G. DURNIL:** As a contest?

7 **MS. K. CELESTINO-HORSEMAN:** As a contest,  
8 that's right.

9 **CHAIRMAN T. WHEELER:** Any further  
10 discussion, Commissioners?

11 *(No response.)*

12 **MS. K. CELESTINO-HORSEMAN:** And I guess I  
13 would just say, too, I think you are -- so I  
14 don't think that this is -- I think it's been  
15 decided and all of that, but alternatively, I --  
16 I do have some concerns about saying, you know,  
17 well, if he told -- I have no idea who Mr.  
18 Purvis talked to and told about this, but if he  
19 told a precinct person or a vice chair that -- I  
20 mean, a congressional district chair or  
21 whomever, if that information never got to Mr.  
22 Parker, for one thing, and secondly, those other  
23 folks we can't find so I mean...

24 **CHAIRMAN T. WHEELER:** But that's -- that's  
25 what Mr. Bopp keeps telling me, that's a legal

1 issue; right?

2 MR. J. BOPP: Yeah.

3 MS. K. CELESTINO-HORSEMAN: What?

4 CHAIRMAN T. WHEELER: That's a legal issue  
5 whether those -- those communications were  
6 binding. The fact of the issue were they told.  
7 The legal issue is is that binding in some  
8 fashion?

9 MS. K. CELESTINO-HORSEMAN: So then I guess  
10 I would ask if we're going to do this, do we  
11 need to brief this then before the hearing so  
12 that the law and everything is out there so that  
13 you have that before we go into the hearing?

14 CHAIRMAN T. WHEELER: I don't -- I don't  
15 know if we do that, that we need to brief them  
16 before the hearing. I suspect that we'll need  
17 briefing after the hearing. Let's hear what  
18 they have to say -- you know, if Mr. Parker says  
19 yeah, somebody told me on July 4th, then  
20 that's -- then the issue of whether there's a  
21 post-hearing -- there's a post-election remedy  
22 that moots the waiver issue is relevant. If he  
23 says no, the first time I heard about it was  
24 when Mr. Purvis did his press conference, then  
25 that's a whole different issue.

1           I -- I view the question if the fact that it  
2 takes place will be very very limited. I -- I  
3 trust that Mr. Bopp would be -- I don't want to  
4 pillory any of these people, I think it -- we're  
5 talking about a couple of questions, if in fact the  
6 Commission chooses to, chooses to allow it.  
7 Commissioner Pylitt, any other, any other thoughts  
8 on this?

9           **COMMISSION MEMBER B. PYLITT:** I just -- we  
10 were looking at 3-12-11-1(b) which talks about  
11 the right to recount of vote or to contest  
12 election of candidate. It says the state  
13 chairman and his political party may file a  
14 petition to, and Mr. Bopp's question about who's  
15 the Petitioner and is he a registered voter, and  
16 3-8-8-3 talks about individual challenges and  
17 we're just trying to...

18           **CHAIRMAN T. WHEELER:** I -- I agree. I  
19 think there's some functional problems with  
20 making the waiver argument that he's going to  
21 try to make, but I think -- I guess where I'm  
22 inclined right now he has the right to ask a  
23 couple of very limited questions of the  
24 individuals identified.

25           Right now, we have -- and this bleeds into his

1 Respondent's request for subpoenas. Respondent has  
2 requested subpoenas issued to Mr. Osili, Mr. Purvis  
3 and Mr. Parker. I'll accept a motion on that?

4 **COMMISSION MEMBER G. DURNILL:** I would move  
5 that we subpoena those three witnesses.

6 **CHAIRMAN T. WHEELER:** Do I have a second?

7 **COMMISSION MEMBER B. PYLITT:** I'll second  
8 it for purpose of discussion.

9 **CHAIRMAN T. WHEELER:** Do we have a  
10 discussion on the motion?

11 **COMMISSION MEMBER B. PYLITT:** I'm troubled  
12 with possibly was the candidate, what he knows  
13 or doesn't know. I mean...

14 **COMMISSION MEMBER G. DURNIL:** You're  
15 arguing that candidates don't know anything.

16 **COMMISSION MEMBER B. PYLITT:** I've been  
17 there on that.

18 **CHAIRMAN T. WHEELER:** That could very well  
19 be the case.

20 **COMMISSION MEMBER B. PYLITT:** It seems to  
21 me -- I mean, the request for the subpoena goes  
22 to Parker as kind of a 30(b)(6) which answers  
23 the question you have with Mr. Bopp. It seems  
24 if we're going to issue an subpoena for Mr.  
25 Parker, it's for the limited purposes, not the

1 other two.

2 **CHAIRMAN T. WHEELER:** That begs that -- I  
3 guess the secondary part of this, which is, and  
4 I probably should have -- Commissioner Pylitt?

5 **COMMISSION MEMBER B. PYLITT:** I'm sorry?

6 **CHAIRMAN T. WHEELER:** I whispered in your  
7 ear there, because there also is a subpoena  
8 duces tecum that came in with this. They've  
9 asked that not only we issue a subpoena but a  
10 subpoena duces tecum with respect to all  
11 documents that relate to the claim that Charlie  
12 White was not a registered voter on or before  
13 July 15, 2010, and all written communications  
14 prior to September 30th, 2010, including but not  
15 limited to e-mails which relate to the claim  
16 that Charlie White was not a registered voter on  
17 or before July 15, 2010.

18 As I -- as I understand it, you're asking  
19 that -- of all three of those individuals, you want  
20 any documents that they may have currently; are you  
21 looking for documents produced prior to July 15th,  
22 2010?

23 **MR. J. BOPP:** No, I'm looking for documents  
24 that were in their possession prior to September  
25 30th, not that they have -- any that they've

1 gotten since, but any that they had prior to  
2 that time.

3 **CHAIRMAN T. WHEELER:** Prior to September  
4 30th?

5 **MR. J. BOPP:** The 30th, any documents that  
6 they had, or communications, written  
7 communications before that time.

8 **CHAIRMAN T. WHEELER:** And when did Mr.  
9 Purvis have his press conference?

10 **MR. J. BOPP:** I was afraid you were going  
11 to ask me that. I have it here. He had his on  
12 September 27th. Mr. Parker sent a letter to the  
13 Secretary of State regarding the issue on  
14 September 28th and Mr. -- and on September 30th,  
15 Mr. Osterley (Phonetic), if I pronounced that  
16 right, I'm sorry, sent a letter to the  
17 prosecutor on September 30th all regarding the  
18 Purvis press conference and allegations.

19 **CHAIRMAN T. WHEELER:** And the reason for  
20 those is to corroborate what they -- you're  
21 trying to see if they can corroborate their  
22 testimony or not -- I mean, I assume you can say  
23 Mr. Parker, did you get any correspondence prior  
24 to September 30th relating to Charlie White, and  
25 you can ask him -- I suppose your question to

1 Mr. Parker would be, you know, were you made  
2 aware either orally or in writing or in any  
3 electronic fashion that Mr. White was not a  
4 registered voter prior to such and such a date;  
5 correct?

6 MR. J. BOPP: Yes.

7 CHAIRMAN T. WHEELER: You can ask him that  
8 question if we bring him live to testify?

9 MR. J. BOPP: Yes.

10 CHAIRMAN T. WHEELER: So what's the --  
11 what's the point of the subpoena duces tecum?

12 MR. J. BOPP: Because the -- even though he  
13 may not remember any specific conversations or  
14 specific times the conversations occurred,  
15 documents disclose the date -- if there's an  
16 e-mail, it discloses the date, and so it's the  
17 best evidence and in fact it -- you know, people  
18 often, as you know, say -- you ask them a  
19 question did anybody tell you anything, you  
20 know, regarding X, you know, two years ago, and  
21 they say I don't remember, and then, you know,  
22 there's a half dozen documents during that  
23 period of time that discuss this very issue.

24 CHAIRMAN T. WHEELER: Well, here's the  
25 problem. You've asked --

1           **MR. J. BOPP:** I don't want to be relying  
2 upon his memory.

3           **CHAIRMAN T. WHEELER:** Well, I understand  
4 that, but here's the problem with your request.  
5 Your request is -- is the kitchen sink request.  
6 You want all documents, how is he supposed to  
7 respond to that?

8           **MR. J. BOPP:** That relate to the specific  
9 allegations.

10          **CHAIRMAN T. WHEELER:** All right. Let's say  
11 for example -- if I'm -- if I'm Mr. Parker, the  
12 first thing is calling one of my attorneys and  
13 saying hey, you know, is Charlie White  
14 disqualified on this the moment I get this;  
15 right -- your request would encompass that  
16 document, that document is probably privileged;  
17 right?

18          **MR. J. BOPP:** And I thought you can't -- of  
19 course, he can assert a privilege of  
20 attorney/client privilege.

21          **CHAIRMAN T. WHEELER:** What you're doing  
22 you're making -- as a general rule under the  
23 trial rules, you're required to identify  
24 documents for -- okay, what you're saying is  
25 give me everything. I have a real problem with

1 that.

2 **MR. J. BOPP:** That are relevant to this.

3 **CHAIRMAN T. WHEELER:** You don't get to do  
4 that. You don't get to just say give me  
5 everything that's relevant to this issue.  
6 That's not --

7 **MR. J. BOPP:** Why don't I -- why don't I?

8 **CHAIRMAN T. WHEELER:** Because it's not  
9 under the trial rules.

10 **MR. J. BOPP:** Well, of course, it is.  
11 Under a subpoena duces tecum, you can -- we can  
12 require all documents regarding a particular  
13 subject, are you kidding me? You enter a  
14 contract, give me all documents relating to the  
15 contract -- of course, you can answer that and  
16 they're required to bring it. It's the subject  
17 of the -- that's the subject matter of the  
18 trial. Now if it's privileged, of course, they  
19 can assert a privilege.

20 **CHAIRMAN T. WHEELER:** Any other questions  
21 from the commissioners?

22 **MR. J. BOPP:** And if you've never heard of  
23 this, uh-huh, then you won't have anything to  
24 produce.

25 **COMMISSION MEMBER B. PYLITT:** The

1 July 15th, it should be August 20th. There's  
2 two days in November before the election,  
3 there's 31 days before September, that's the end  
4 of August, so that's about the 20th. It should  
5 be July 15th through August 20th.

6 **MR. J. BOPP:** Could I -- I think you  
7 misunderstand my request. Let me explain. The  
8 July 15th date is the date where he filed his  
9 certificate -- it was the deadline to file his  
10 certificate of candidacy, so that's where he had  
11 to be a registered voter by July 15th.

12 **CHAIRMAN T. WHEELER:** July 15th.

13 **COMMISSION MEMBER G. DURNIL:** 2010, when  
14 the state committee...

15 **COMMISSION MEMBER B. PYLITT:** So then by  
16 the second bullet point, all written --  
17 communications prior to September 30th, it  
18 should be August 20th, that's the 74 days.

19 **MR. J. BOPP:** You're right. You're right.

20 **MS. L. BARNES:** That would have been the  
21 last day for a registered voter to file a  
22 challenge under 3-8-8.

23 **MR. J. BOPP:** You're right.

24 **CHAIRMAN T. WHEELER:** All right.

25 Currently, I have a motion that's been made and

1 seconded with respect to Respondent's request  
2 for subpoena, would you like to amend the motion  
3 to include a subpoena duces tecum?

4 **COMMISSION MEMBER G. DURNIL:** I would.

5 **CHAIRMAN T. WHEELER:** All right. I will  
6 second that for purposes of discussion. Any  
7 further discussion on the motion as amended?

8 **MR. J. BOPP:** And the amendment, I think,  
9 should be August...

10 **CHAIRMAN T. WHEELER:** August 20?

11 **MR. J. BOPP:** Yes.

12 **CHAIRMAN T. WHEELER:** I've written it in.

13 **MR. J. BOPP:** Okay. You're right.

14 **MR. M. PALMER:** What's the date again?

15 **COMMISSION MEMBER B. PYLITT:** It's a  
16 combined motion, and my only comment is I'm  
17 inclined to...

18 **CHAIRMAN T. WHEELER:** I'll break it out.  
19 Will you accept a -- tell you what, let's --  
20 will you withdraw the motion?

21 **COMMISSION MEMBER G. DURNIL:** Yes.

22 **CHAIRMAN T. WHEELER:** And then make a new  
23 motion just for Mr. Parker -- are you intending  
24 to issue a subpoena duces tecum to all three?

25 **MR. J. BOPP:** Yes.

1           **CHAIRMAN T. WHEELER:** Okay.

2           **COMMISSION MEMBER G. DURNIL:** You want to  
3 do it, individually?

4           **CHAIRMAN T. WHEELER:** Individually,  
5 starting with Parker.

6           **COMMISSION MEMBER G. DURNIL:** Okay. I move  
7 that we subpoena Daniel Parker as a witness.

8           **CHAIRMAN T. WHEELER:** As well as a  
9 subpoena -- issue a subpoena duces tecum?

10          **COMMISSION MEMBER G. DURNILL:** Duces tecum,  
11 yes.

12          **CHAIRMAN T. WHEELER:** As specified and  
13 amended in the letter of June 14th?

14          **COMMISSION MEMBER G. DURNIL:** Yes.

15          **CHAIRMAN T. WHEELER:** I'll second for  
16 purposes of discussion.

17          **COMMISSION MEMBER B. PYLITT:** Are we going  
18 to have some sort of a time frame so that if  
19 there is an attorney/client privilege to be  
20 asserted, that I'd like to have a privilege log  
21 before the hearing because we're fighting  
22 over...

23          **CHAIRMAN T. WHEELER:** I certainly -- I  
24 certainly think that's reasonable, counsel. If  
25 the Commission is inclined to grant the request,

1           how quickly do you think you can provide that  
2           information or a list?

3           **MR. J. BOPP:** A privilege log?

4           **CHAIRMAN T. WHEELER:** A privilege log?

5           **MS. K. CELESTINO-HORSEMAN:** With everything  
6           else that has to be done, the respect of doing a  
7           privilege log is not really something that I'm  
8           looking forward to doing.

9           **COMMISSION MEMBER B. PYLITT:** Mr. Groth?

10          **MS. K. CELESTINO-HORSEMAN:** Mr. Groth is  
11          out of town and doesn't come back until Monday.  
12          I wish Mr. Groth could be here to help me,  
13          believe me. So I mean, quite honestly, with  
14          time at the last minute, I would say this rather  
15          falls into I'm prejudiced. I do not have the  
16          time of being able to go through and do the  
17          privilege log and all of this at this point.

18          **CHAIRMAN T. WHEELER:** You can just turn all  
19          the documents over to him.

20          **MS. K. CELESTINO-HORSEMAN:** No, I can't.  
21          Obviously, I'm an attorney and I have an  
22          attorney -- client that I have to watch out for  
23          so coming in at this late juncture just as the  
24          previous one was denied for coming in at this  
25          late juncture, I would make the same argument.

1 I would also state that this is being asked to  
2 be done pursuant to Trial Rule 30(b)(6) which  
3 governs depositions, and this body has already  
4 ruled that that rule doesn't apply so it's -- I  
5 would also say that that doesn't work.

6 Mr. Purvis is an attorney. He is -- he is not  
7 my client. This is going to be short notice to  
8 him. He will, I will presume, make his own  
9 position or whatever known on this, so he probably  
10 needs to be given some time.

11 **CHAIRMAN T. WHEELER:** All right. Fair  
12 enough. The motion's been made and seconded,  
13 any further discussion?

14 **COMMISSION MEMBER B. PYLITT:** No.

15 **CHAIRMAN T. WHEELER:** No further  
16 discussion?

17 *(No response.)*

18 **CHAIRMAN T. WHEELER:** All in favor, signify  
19 by saying aye?

20 **COMMISSION MEMBER G. DURNIL:** Aye.

21 **CHAIRMAN T. WHEELER:** Aye. Those opposed,  
22 same sign?

23 **COMMISSION MEMBER B. PYLITT:** Nay.

24 **CHAIRMAN T. WHEELER:** All right. The  
25 motion carries 2-1. Let me characterize the

1 motion. The director will issue a subpoena  
2 duces tecum to Indiana Democratic Chairman,  
3 Daniel J. Parker to produce -- not only appear  
4 at the hearing, but produce all documents which  
5 relate to the claim that Charlie White was not a  
6 registered voter on or before July 15th, 2010  
7 and all written communications prior to August,  
8 20th, 2010, including, but not limited to  
9 e-mails which relate to the claim that Charlie  
10 White was not a registered voter on or before  
11 July 15th, 2010.

12 **MS. K. CELESTINO-HORSEMAN:** I would renew,  
13 if the argument is going to be made --

14 **CHAIRMAN T. WHEELER:** The arguments -- the  
15 arguments are done.

16 **MS. K. CELESTINO-HORSEMAN:** Well, I'm  
17 actually making a request.

18 **CHAIRMAN T. WHEELER:** Okay.

19 **MS. K. CELESTINO-HORSEMAN:** If the argument  
20 is going to be made that 3-8-8 applies in this  
21 case, I would say that you have to come into  
22 with clean hands so I would like to have the  
23 same documents from the Republican Party prior  
24 to August 20th to make sure -- as to what they  
25 knew about the whole thing.

1           **CHAIRMAN T. WHEELER:** What relevance is  
2 that?

3           **MS. K. CELESTINO-HORSEMAN:** Well, because  
4 if they're -- if it's going to be argued that  
5 the Democratic Party could have done something  
6 about this, then it also goes back to the other  
7 side, I would think. We have Mr. Clark listed  
8 and to know what was known, then --

9           **CHAIRMAN T. WHEELER:** I understand your  
10 request. If there's a commission member willing  
11 to make a motion in that regard, they may?

12           *(No response.)*

13           **CHAIRMAN T. WHEELER:** Hearing none, I'll  
14 accept a motion on Gregory Purvis?

15           **COMMISSION MEMBER G. DURNIL:** I move the  
16 exact same motion that we had for Daniel Parker  
17 for Gregory Purvis.

18           **CHAIRMAN T. WHEELER:** Do I hear a second --  
19 the Chair will second for purposes of  
20 discussion, any further discussion?

21           **COMMISSION MEMBER B. PYLITT:** Just the  
22 relevancy that I want to make.

23           **CHAIRMAN T. WHEELER:** All in favor of the  
24 motion, signify by saying aye?

25           **COMMISSION MEMBER G. DURNIL:** Aye.

1           **CHAIRMAN T. WHEELER:** Aye. Those opposed,  
2 same sign?

3           **COMMISSION MEMBER B. PYLITT:** Aye.

4           **COMMISSION MEMBER G. DURNIL:** I'll make the  
5 same motion for Vop Osili.

6           **CHAIRMAN T. WHEELER:** Second -- the Chair  
7 will make the second for purposes of discussion,  
8 any further discussion?

9           **COMMISSION MEMBER B. PYLITT:** Same argument  
10 on relevancy.

11           **CHAIRMAN T. WHEELER:** And the comment I  
12 would make, particularly, with Mr. Osili is, I'm  
13 going to be very very strict on any questions,  
14 very short, very sweet, in and out on this  
15 issue. I'm just making that clear to the  
16 parties, the same thing with the other  
17 individuals. Motion's made and seconded, all in  
18 favor, signify by saying aye?

19           **COMMISSION MEMBER G. DURNIL:** Aye.

20           **CHAIRMAN T. WHEELER:** Aye. Those opposed,  
21 same sign?

22           **COMMISSION MEMBER B. PYLITT:** Aye.

23           **CHAIRMAN T. WHEELER:** Motion carries 2-1.  
24 Commissioner Pylitt?

25           **COMMISSION MEMBER B. PYLITT:** And that was

1 just for a subpoena, Purvis was, is that the  
2 motion?

3 **CHAIRMAN T. WHEELER:** The motion is for a  
4 subpoena duces tecum as well.

5 **COMMISSION MEMBER B. PYLITT:** Okay. Will  
6 some write for each of them to file a motion to  
7 quash?

8 **CHAIRMAN T. WHEELER:** I presume we will  
9 hear fairly quickly on that.

10 **MR. M. PALMER:** So for purpose of  
11 clarification, a subpoena and a subpoena duces  
12 tecum?

13 **CHAIRMAN T. WHEELER:** A subpoena duces  
14 tecum.

15 **MR. M. PALMER:** On each?

16 **CHAIRMAN T. WHEELER:** For all three.

17 **MR. M. PALMER:** For all three.

18 **CHAIRMAN T. WHEELER:** As in the letter of  
19 June 14th, with the caveat that the date is  
20 August 20, 2010, instead of September 30th,  
21 2010.

22 **MR. M. PALMER:** Okay.

23 **CHAIRMAN T. WHEELER:** That's all of your  
24 witnesses; correct?

25 **MR. J. BOPP:** Yes.

1           **MS. K. CELESTINO-HORSEMAN:** And they bring  
2 the documents with them on the 21st?

3           **CHAIRMAN T. WHEELER:** The subpoena duces  
4 tecum, that's what he's requested, and will eat  
5 into his time. All right, next business, we  
6 have other business, is there any other business  
7 from the commission members, then I'll open it  
8 up.

9           **COMMISSION MEMBER B. PYLITT:** There's been  
10 some discussion about the commission having the  
11 ability to call witnesses or subpoena people, I  
12 didn't know if -- early on Day 1, when we first  
13 met -- I had nothing in mind but I do now.

14           **CHAIRMAN T. WHEELER:** Is there somebody you  
15 want to call?

16           **COMMISSION MEMBER B. PYLITT:** No.

17           **CHAIRMAN T. WHEELER:** Oh, okay.

18           **COMMISSION MEMBER B. PYLITT:** I'd like to  
19 call you as a witness.

20           **CHAIRMAN T. WHEELER:** Yeah, you'd like  
21 that, I know. You did that as soon as the  
22 cameras was gone.

23           **COMMISSION MEMBER G. DURNIL:** It might be  
24 wise to call the registration clerk in Hamilton  
25 County. We may want to hear from the

1 registration clerk.

2 **CHAIRMAN T. WHEELER:** The individuals have  
3 been subpoenaed, so they will attend, unless  
4 they're released from the subpoena, then we'll  
5 take action by this commission if they don't  
6 appear.

7 **COMMISSION MEMBER G. DURNIL:** Got you.  
8 Okay.

9 **CHAIRMAN T. WHEELER:** So they will be here  
10 unless we get a motion to release somebody from  
11 the subpoena.

12 **MS. K. CELESTINO-HORSEMAN:** Mr. Chairman?

13 **COMMISSION MEMBER B. PYLITT:** Are we going  
14 to give Mr. Palmer that authority or is that  
15 something the commission will need to?

16 **CHAIRMAN T. WHEELER:** I want the commission  
17 doing that.

18 **COMMISSION MEMBER G. DURNIL:** Does he have  
19 the authority?

20 **CHAIRMAN T. WHEELER:** He does not have that  
21 authority at this point. The authority is very  
22 limited in this situation. No reflection on Mr.  
23 Palmer. Anything further from the parties --  
24 Mr. Bop?

25 **MR. J. BOPP:** No, sir.

1           **MS. K. CELESTINO-HORSEMAN:** Mr. Chairman, I  
2 have something that I had asked Mr. Skolnik, but  
3 then he left us. I have a -- I have a bit of a  
4 concern. The Attorney General's Office keeps  
5 getting copied on everything and Mr. Bopp has  
6 copied them, they filed in the Indiana appellate  
7 court and in the circuit court on behalf of this  
8 commission and Charlie White, if they're  
9 continuing to represent the commission while  
10 these proceedings are going forward...

11           **CHAIRMAN T. WHEELER:** I understand where  
12 you're going. It is my understanding having  
13 been represented by the Attorney General's  
14 Office in a variety of different capacities,  
15 that the Attorney General's Office represents  
16 the State of Indiana, but I will let the  
17 Attorney General's Office address your concerns.

18           **MR. G. SECREST:** If it hasn't been done  
19 already, due to Miss Horseman's repeated  
20 objections, I thought it would get done. If  
21 not, I'll see that it's been done, the  
22 withdrawal because we represented Charlie as a  
23 member --

24           **CHAIRMAN T. WHEELER:** Of the recount  
25 commission.

1           **MR. G. SECREST:** In his last eight days  
2 when the officials change, there's no reason.

3           **CHAIRMAN T. WHEELER:** Does that address  
4 your concerns?

5           **MS. K. CELESTINO-HORSEMAN:** It certainly  
6 does.

7           **CHAIRMAN T. WHEELER:** Thank you very much.  
8 Anything further?

9           *(Off-the-record discussion.)*

10           **COMMISSION MEMBER G. DURNIL:** The  
11 signatures, that's what he asking about.

12           **CHAIRMAN T. WHEELER:** I'll accept a motion  
13 to authorize the recount director to sign the  
14 subpoenas?

15           **COMMISSION MEMBER B. PYLITT:** So moved.

16           **COMMISSION MEMBER G. DURNIL:** Second.

17           **CHAIRMAN T. WHEELER:** All in favor, signify  
18 by saying aye?

19           **THE COMMISSION:** Aye.

20           **CHAIRMAN T. WHEELER:** Those opposed, same  
21 sign?

22           *(No response.)*

23           **CHAIRMAN T. WHEELER:** Motion carries. That  
24 would be subpoenas that have previously been  
25 issued by the commission. Don't go off your on

1 your own.

2 MR. M. PALMER: All right.

3 CHAIRMAN T. WHEELER: I'll accept a motion  
4 to adjourn?

5 COMMISSION MEMBER B. PYLITT: So moved.

6 COMMISSION MEMBER G. DURNIL: Second.

7 CHAIRMAN T. WHEELER: All in favor, signify  
8 by saying aye?

9 THE COMMISSION: Aye.

10 CHAIRMAN T. WHEELER: Those opposed, same  
11 sign?

12 *(No response.)*

13 CHAIRMAN T. WHEELER: Motion carries.

14 Thank you.

15 *(Time noted: 3:41 p.m.)*

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1 STATE OF INDIANA )  
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I, Rhonda J. Hobbs, RPR, and a Notary Public and Stenographic Reporter within and for the County of Hendricks, State of Indiana at large, do hereby certify that on the 14th day of June, 2011, I took down in stenograph notes the foregoing proceedings;

That the transcript is a full, true and correct transcript made from my stenograph notes.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 15<sup>th</sup> day of July, 2011.

  
NOTARY PUBLIC

My Commission Expires:  
August 24, 2017  
County of Residence:  
Hendricks County