whether to grant or deny that motion?

VICE CHAIR CELESTINO-HORSEMAN: I'd like to --

CHAIRPERSON BENNETT: Do you want to hear the testimony first?

MEMBER WILSON OVERHOLT: I guess we could rule on the motion to dismiss.

VICE CHAIR CELESTINO-HORSEMAN: I move that we deny the motion to dismiss at this time.

MEMBER KLUTZ: Second.

CHAIRPERSON BENNETT: We have a motion to deny the motion to dismiss. All in favor of the motion, say aye.

All opposed, say nay.

The ayes have it.

MS. CRAWFORD: The other issue, then, counsel has stated that what he's essentially doing is attacking the voter registration form in front of you as being fraud, and I don't know that that's a matter that this Commission can hear.

VICE CHAIR CELESTINO-HORSEMAN: That's just what we were discussing. We apparently have, like you just noted, there's a little bit of a conflict. We're going to have to resolve that.
MS. CRAWFORD: But the conflict directly 
attacks her voter registration.

VICE CHAIR CELESTINO-HORSEMAN: Right, so 
there's part of the law says she has to be 
registered to vote.

MS. CRAWFORD: And she is registered to 
vote, you have that. And in order to go around 
that, attacking her on fraud issue, that is --

VICE CHAIR CELESTINO-HORSEMAN: I see what 
you're saying.

MS. CRAWFORD: She's unafraid, she's 
registered to vote -- the statue. And to the 
extent you want to delve into that deeper, 
that's accusing her of voter fraud that I don't 
think is before this Commission.

VICE CHAIR CELESTINO-HORSEMAN: I think we 
have to resolve.

CHAIRPERSON BENNETT: The issue today is 
whether she's a registered voter.

MS. CRAWFORD: Correct, and you've been 
provided today with an exhibit that she is a 
registered voter. So is there something more 
that the Commission wants to hear?

CHAIRPERSON BENNETT: Do you have anything 
more to present?
MS. CRAWFORD: I'll call Rosemary, but I guess on the issue of whether I can delve into issues with her that aren't in front of the Commission. If the voter registration isn't enough, then I don't know if I can.

VICE CHAIR CELESTINO-HORSEMAN: I think she's questioning whether the Commission has jurisdiction to make a determination regarding the voter registration.

MS. CRAWFORD: She is registered to vote in Madison County and you have that exhibit. The only other issue is whether her voter registration is valid, and is that something that this Commission can address.

VICE CHAIR CELESTINO-HORSEMAN: I think it's a prerequisite to be a candidate, you have to be able to address it, don't you?

MS. CRAWFORD: The prerequisite is that she be registered.

CO-GENERAL COUNSEL SIMMONS: We need to be able to talk about that. You don't need to keep arguing about that.

MS. CRAWFORD: Okay, sorry.

CHAIRPERSON BENNETT: So is there any evidence that she's not registered to vote
that's been presented?
VICE CHAIR CELESTINO-HORSEMAN: I think he has presented some stuff that probably needs to be addressed.
CHAIRPERSON BENNETT: That has to do with voter fraud, right.
VICE CHAIR CELESTINO-HORSEMAN: Voter registration in the county. So the question is, the voter registration in the county, if you have to be a registered voter to be a candidate in the county race.
MEMBER WILSON OVERHOLT: I thought she indicated that she wanted to call her client as a witness, so the council should allow that.
CHAIRPERSON BENNETT: We better do that and get some more facts on the record.
MS. CRAWFORD: On the issue of whether she's a registered voter?
CHAIRPERSON BENNETT: Let's go ahead and present whatever evidence you want to present with this witness.
MS. CRAWFORD: I just don't want to delve into an area that I'm not -- How much time will we have?
CHAIRPERSON BENNETT: Five minutes.
EXAMINATION,

QUESTIONS BY STEPHANIE CRAWFORD:

Q  Go ahead and state your name.
Q  Ms. Khoury, you've heard evidence today about whether you live in Anderson, Indiana. Will you please state your address and tell the Commission where you live.
A  My current address is 2105 Arrow Avenue in Anderson, Indiana.
Q  And there's been some confusion about the house that you were granted in the divorce. Can you just explain about the Layman Avenue home?
A  I can. So I was granted the house in the divorce. I have two children with my ex-husband. My children attend school in the Washington Township School District, and my ex-husband continues to live at the house with my children. He's unemployed. He's the primary caregiver of my children.

And when I made the decision to move in 2016, we didn't want to uproot the children from their schools, their sporting events. And because I was the worker and my ex-husband is unemployed, it made sense for him to stay with
the children.

Q Why did you need to move to Anderson?

A During the latter part of 2015, my mother, who is 81 years old, started to experience health problems. I started to spend more time with her during the end of that year and during the early months of 2016. She was diagnosed with cancer, and it was determined that she was either going to need to go into a nursing facility or have someone be near her. So it made sense for me to move in with her back home at the house I grew up in.

Q That's the Arrow Avenue address?

A Yes.

Q Where do you work?

A I work in Anderson. I work at the Madison County Prosecutor's office. I'm a deputy prosecutor. I also work for the city council as the attorney for the city council.

Q How long have you been working as a prosecutor in Anderson?

A For about 10 years.

Q How long have you worked with the City of Anderson?

A About six months.
1 Q So you've worked in Anderson and have you still
2 maintained ties with Anderson?
3 A Oh, that's my home.
4 Q So the house on Layman, although it's in your
5 name, do you reside there?
6 A I do not.
7 Q Does your ex-husband maintain that?
8 A Yes, he does.
9 Q Who pays mortgage on the house?
10 A Paul does.
11 Q Who lives in that home?
12 A Paul, Uria and Amy.
13 Q Do you have a current driver's license?
14 A Yes, I do.
15 Q I'll show you what I'll mark as an exhibit. Is
16 that a copy of your driver's license?
17 A Yes, it is.
18 Q What's the address on that driver's license?
19 A It's 2105 Arrow Avenue.
20 MS. CRAWFORD: May I approach and offer
21 this as an exhibit?
22 CHAIRPERSON BENNETT: Yes.
23 Q Are you registered to vote?
24 A I am.
25 Q And where are you registered to vote?
1 A In Madison County.
2 Q Do you have a motor vehicle registration?
3 A I do.
4 Q Where is that?
5 A Madison County.
6 Q Do you get mail at Arrow Avenue?
7 A I do.
8 Q What kind of mail do you get at Arrow Avenue?
9 A Almost all my mail.
10 Q In advance of this hearing, did I ask to bring
11 whatever you could at your house?
12 A Yes.
13 Q Just kind of go through some of the mail that
14 you get. What is that?
15 A This is my homeowners insurance for the house
16 that I live in.
17 Q What's the address on that?
18 A 2105 Arrow Avenue.
19 Q This is another piece of mail. What is that?
20 A This is my car payment.
21 Q That's GM Financial?
22 A Yes.
23 Q What's the address on that?
24 A 2105 Arrow Avenue.
25 Q And this is from -- did you go to the McKinney
School of Law?
A I did.
Q IU Indianapolis when you went there?
A Yes, ma'am.
Q Is that something that you get from the law school?
A Yes, at Arrow Avenue.
Q So you updated your address with the law school. And what about, more importantly, what are these two items?
A These are my paychecks and my tax information from my employer.
Q Those are the W-2s you receive?
A Yes.
Q And what address did you receive those at?
A Home, 2105 Arrow.
Q What's that?
A These are my health insurance claims, which came to me at 2105 Arrow.

CHAIRPERSON BENNETT: 30 seconds.
Q And magazines?
A Magazines.
Q Just again for the Commission, have you been taking care of your mother and living at Arrow Avenue?
1 A Yes, ma'am.
2 Q Did you run for election in 2016?
3 A I did.
4 Q Were you challenged where you lived?
5 A No.
6 Q Was Mr. Willis aware that you were running in 2016?
7 A Yes.
8 Q And you haven't done anything differently, you still maintain the same address you did in 2016?
9 A I do.
10 Q Do you still work at the same place?
11 A Yes.
12 Q You don't live at Layman Avenue?
13 A I do not.
14 CHAIRPERSON BENNETT: Thank you. That was just demonstrative evidence.
15 MS. CRAWFORD: Oh, yes.
16 CHAIRPERSON BENNETT: You don't need to introduce that in the record.
17 Any cross-examination?
18 MR. WILLIS: Yes.
19 CROSS-EXAMINATION,
20 QUESTIONS BY JAMES WILLIS:
21 Q Ms. Khoury, where is your Indiana roll address
listed, what's listed on your Indiana roll of attorneys?

A I'm not sure. I'm not sure where it is. It could be my old address. Not everything was updated, so I'm not sure.

Q Ms. Khoury, where are the tax papers for 2105 Arrow Avenue sent to?

A Back in 2012, when I still lived at Layman, I requested that they be sent there so that they wouldn't get lost to make sure that the taxes were paid. They still could be sent there. I pay them online.

Q Ms. Khoury, where do your children live?

A My children live at Layman.

Q Are they your immediate family?

A I'm sorry?

Q Are your children your immediate family?

A Sure.

MR. WILLIS: Thank you.

CHAIRPERSON BENNETT: Thank you. Any questions by the Commission?

VICE CHAIR CELESTINO-HORSEMAN: How old are your children?

MS. KHOURY: Eleven, and one will be thirteen in a month.
CHAIRPERSON BENNETT: Any further questions? Hearing none, is there a motion?
MEMBER WILSON OVERHOLT: Move to deny the challenge.
CHAIRPERSON BENNETT: Second?
MEMBER KLUTZ: I'll second.
CHAIRPERSON BENNETT: There's been a second. Any further discussion?
MEMBER KLUTZ: I seconded it, Mr. Chairman, because it appears the challenge before us is not whether she is properly registered but whether she meets the requisites to be a candidate. And while there may be a challenge to whether she can be registered, the fact is it appears she is registered and the facts support that she is registered, so I don't see any evidence to support the challenge. That's the basis of my second.
CHAIRPERSON BENNETT: Any further discussion?
All in favor, say aye.
All opposed, say nay.
The ayes have it, the challenge is denied and the Election Commissioner is directed to include the name of this candidate in the
certified list of candidates on the ballot.

MR. WILLIS: I'd like to thank the
Commission for your time, please.

MS. KHOURY: Thank you all.

JOSEPH C. LEHMAN

Cause 2018-10

CHAIRPERSON BENNETT: The next hearing for
consideration of Cause 2018-10, In the Matter of
the Challenge to Joseph C. Lehman Running for
Democratic Party Nomination for State

Representative, District 49. The Election
Division has been provided copies of the
candidate filing the challenge and a copy of
notice given in this matter and an answer to the
challenge filed by this candidate earlier this
morning.

At this time I will recognize the
challenger Chad M. Crabtree for a presentation.

MR. LEHMAN: I don't know that he's here.

We had some issues up north, the rain,
et cetera. He wrote me an email this morning
saying he may not make it. I'm Mr. Lehman,
Joseph Lehman.

CHAIRPERSON BENNETT: So you are the one
who is being challenged?
MR. LEHMAN: Yes, that's correct, sir.

He's the chairman of the Democratic Party of
Elkhart County.

CHAIRPERSON BENNETT: Well, I guess it's
their burden to prove the challenge. If they're
not here --

CO-DIRECTOR NUSSMEYER: Mr. Chairman, if I
may, Co-Director King and I received an email
from Crabtree overnight who indicated due to
flooding in Elkhart County he would not be able
to attend today's meeting.

CHAIRPERSON BENNETT: Did he ask for a
continuance of the hearing?

CO-DIRECTOR NUSSMEYER: I don't believe so
but I'm going to pull up the email now if I may.
If I may, I'll read the email,

Mr. Chairman.

CHAIRPERSON BENNETT: Yes.

CO-DIRECTOR NUSSMEYER: "As you may have
heard, Elkhart County has been hit with a large
amount of rain in the last few days, and sadly
it seems my basement has the lion's share of the
water. Unfortunately I will not be able to
attend Friday's hearing of the Indiana Election
Commission as previously planned."
"In regards to the candidate challenge, Mr. Joseph Lehman, Cause No. 2018-10, who was a candidate for the Indiana House of Representatives, District 49, claims to be a member of the Democratic Party. I have attached his voter registration records I obtained from the Elkhart County Voter Registration office. From these records, Mr. Lehman has voted in a Republican primary in the last three primary elections. And according to the Indiana Code, Mr. Lehman is not affiliated with the Democratic Party to which the candidate claims an allegiance.

"With these records, I ask the Indiana Election Commission to rule Mr. Lehman is disqualified as a candidate for the Indiana House of Representatives, District 49 on the Democratic ballot. I look forward to your favorable response.

"Thank you for your consideration and service to our state. Chad Crabtree, Chairman."

But whether or not that's admissible I think is a question for --

MR. LEHMAN: And I would object to being able to admit any evidence he might present.
VICE CHAIR CELESTINO-HORSEMAN: I would move that this matter be continued, you know, Acts of God. They happen.

MR. LEHMAN: And I live five miles from Mr. Crabtree and I was able to make it. He talks about his basement being flooded. I would object to any continuance.

VICE CHAIR CELESTINO-HORSEMAN: You were lucky your basement didn't get flooded.

MEMBER KLUTZ: My only concern with the motion is that we have a deadline to certify the ballot.

VICE CHAIR CELESTINO-HORSEMAN: When is that deadline?

MR. LEHMAN: I was told May 1, somebody from the office -- I'm sorry, there was some March 1 deadline, a March 1 deadline that I think is a critical deadline.

CHAIRPERSON BENNETT: So you would prefer to proceed?

MR. LEHMAN: Yes.

CHAIRPERSON BENNETT: I guess the question is whether we're going to accept the evidence -- when was the evidence presented? Was there ever anything presented with that?
CO-DIRECTOR NUSSMEYER: There is
documentation, Mr. Chairman, with the voter
registration record, and this was filed this
morning at -- not filed, but emailed this
morning at 1:55 a.m.

CHAIRPERSON BENNETT: If you have a moment
to review all that.

MR. LEHMAN: What I want to know, is that
my complete voting record? Because I've voted
since 1991 in Elkhart County.

CO-DIRECTOR NUSSMEYER: It appears there
are four pages of documents that go back to at
least 1992, sir.

CHAIRPERSON BENNETT: Do you want to have
an opportunity to review that?

MR. LEHMAN: Okay, that's probably what I
have, the printout I got.

That's what I have, yes.

VICE CHAIR CELESTINO-HORSEMAN:
Mr. Chairman, may I ask the gentleman a
question?

CHAIRPERSON BENNETT: Have you had a chance
to look at those?

MR. LEHMAN: Sure.

VICE CHAIR CELESTINO-HORSEMAN: Did you
vote Republican in the last primary election?

MR. LEHMAN: In the last primary election,

yes. Can I explain why I did?

VICE CHAIR CELESTINO-HORSEMAN: No, the

fact that you did --

MR. LEHMAN: Okay.

VICE CHAIR CELESTINO-HORSEMAN: Secondly,

then, do you have the consent of the county

Democratic Party chair?

MR. LEHMAN: No.

VICE CHAIR CELESTINO-HORSEMAN: Do you have

anything as a matter of law that would argue in

your favor as to why you should not be

prohibited from being on the ballot?

MR. LEHMAN: My argument would be why I

should be on the ballot, and that would be my

affiliation. I was looking for cases briefly,

punching in the word "affiliation" for our

state. And I think what I've gotten is exhibits

showing that I was the Democrat candidate for

drive four times, the Democrat candidate for

State Representative one time in the period

between 1992 to 2007. My most recent run for

drive was in Goshen City Court in 2007. I ran

all four times as judge as a Democrat, and I
have the proof here.

I also have letters to the editor that I have written ever since we got back to Goshen in 2000 showing some views I have regarding certain things, views that a Republican would probably never take.

So in my voting history, I have voted in Democrat primaries 13 times. And the only reason I voted in Republican primaries was because of the paucity of -- well, there were just no candidates in the slots where I voted for a Republican. And there were two, at least two Republicans up for election in the primary. So I had a preference, and I wanted to vote for somebody that I thought could do a good job, assuming that no Democrat showed up.

So I don't know if there is minutiae in the definition of affiliation.

MEMBER KLUTZ: If I may, the definition of affiliate is found in the statute. It's defined by how did you vote in the last primary election and/or -- or, did you bring us a letter from the county chairman saying voter affiliated in good standing with the party.

MR. LEHMAN: Right, I have not done that.
1 MEMBER KLUTZ: Your testimony is that in
2 the last primary that you voted, you voted
3 Republican, and that you don't have a letter
4 from the county chair, correct?
5
6 MR. LEHMAN: Correct. In the last primary
7 election I voted in the Republican primary. So
8 if that is decisive, I guess I have to abide by
9 that.
10
11 CHAIRPERSON BENNETT: Thank you. Is there
12 anything else you want to -- any questions?
13
14 VICE CHAIR CELESTINO-HORSEMAN: No. I wish
15 once you vote Democrat, it would be for a
16 lifetime.
17
18 MR. LEHMAN: Excuse me?
19
20 VICE CHAIR CELESTINO-HORSEMAN: I think
21 both major parties would wish that once you vote
22 for them, that's it for a lifetime, but it
23 doesn't work that way.
24
25 MR. LEHMAN: And let me tell you,
26 gentlemen, I was never informed by these
27 friendly people at the ballot that if you vote
28 Republican, you stand in jeopardy of not running
29 as a Democrat candidate. But, you know, I don't
30 really mind because with this I think we will
31 depart the state of Indiana. We want to go to a
more temperate climate, where not just the
weather is more temperate, but the politics,
it's very vicious in Elkhart County. I'll leave
it at that.

CHAIRPERSON BENNETT: So I'm going to close
the public hearing and ask if there's a motion.
VICE CHAIR CELESTINO-HORSEMAN: I will make
a motion that the challenge be granted.
MEMBER KLUTZ: Second.
CHAIRPERSON BENNETT: There's been a motion
and a second. Any further discussion?
Hearing none, all in favor of granting the
challenge, say aye.
All opposed, say nay.
The challenge is granted. Thank you for
your time.
MR. LEHMAN: Sure. Thanks for your time
too.
CHAIRPERSON BENNETT: The Election Division
is directed to amend the certified list of
primary candidates that the name of this
candidate not be printed on the ballot.

MAURICE OAKEL FULLER
Cause No. 2018011

CHAIRPERSON BENNETT: The next hearing is
consideration of Cause No. 2018-11, In the
Matter of Challenge to Maurice Oakel Fuller,
Candidate for Democratic Party Nomination for
State Representative, District 25. The Election
Division has been provided a copy of the
candidate filing challenge form and a copy of
notice given in this matter.

At this time, I would recognize the
challenger, Justin P. Notoras, for a
presentation.

MR. NOTORAS: Yes, Justin Notoras,
J-U-S-T-I-N, last name Notoras, N-O-T-O-R-A-S.
I'll be deferring to my party chairman in my
case.

MR. BOWMAN: Thank you, Mr. Chairman,
members of the Commission. My name is Joseph
Bowman. I am the campaign chairman for
Mr. Notoras. That's spelled J-O-S-E-P-H
B-O-W-M-A-N.

I won't take up much of your time since
Mr. Fuller failed to grace us with his presence
today.

Our basis is that under IC 3-8-1-2,
Mr. Fuller -- and I'd like to provide two
documents to you -- Mr. Fuller was foreclosed on
the home, the residence that he has filed under
on November 28th of 2017. So basically he filed
under a residence that he doesn't live in. I
have a summary judgment default and decree of
foreclosure. It was ordered to be sold at the
sheriff's auction in Cass County.

And I also have, I took the liberty of
printing this out yesterday, where the home is
listed on auction.com. The property is vacant.
This has been an action that Mr. Fuller has
known about since June of 2017.

Our position is that Mr. Fuller's fault is
basically under IC 3-14-3-1.1, "procure, submit
false, fictitious, fraudulent ballot voter
registration applications, prohibits an
individual from procuring or submitting material
false, fraudulent, fictitious information such
as name, date of birth, address," et cetera.

We believe Mr. Fuller knowingly gave an
improper address on his filing paperwork;
therefore, he should be removed from the ballot.

VICE CHAIR CELESTINO-HORSEMAN: May I ask a
question?

CHAIRPERSON BENNETT: Thank you for your
presentation. Questions from the Commission?
IEC MEMBER HORSEMAN: Do you have any
evidence he was actually evicted from the
property?

MR. BOWMAN: I have this summary judgment
that he basically was ordered November 28th of
2017 that it was to be sold at the first
available sheriff's sale, which it looks like
this occurred on -- event details, it says
sheriff's auction sale on February 14th, 2018.
I don't have any further information as to -- it
says the property is vacant on this foreclosure
website. I contacted the Cass County Sheriff's
Department and they were unable to give me any
sort of information pursuant to their sheriff's
sales. So at this point, without any further
evidence from Mr. Fuller, we have no position to
take other than we feel he's not a resident at
that address.

CHAIRPERSON BENNETT: Can you put that
document which you are referring to into
evidence here?

MR. BOWMAN: Yes, sir.

MEMBER WILSON OVERHOLT: Do you have any
information with regard to who purchased the
house at the auction, an eviction order,
anything like that?

MR. BOWMAN: There are -- it looks like Mr. Fuller owes about $45,000.

MEMBER WILSON OVERHOLT: That's not what I asked. I asked if you have any information regarding who purchased the house or whether he was actually formally evicted from the house.

MR. BOWMAN: I don't. The Cass County Sheriff's Department wouldn't provide me any information on the sale.

VICE CHAIR CELESTINO-HORSEMAN: So here's the dilemma. You carry the burden of proof, and we don't have anything -- you could be foreclosed upon, they may not decide to evict you because the mortgage company doesn't want to deal with it or whatever else. They can go ahead and let you stay until the sheriff's sale, then at the sheriff's sale, somebody says, well, I'll rent it back to you, or a friend could buy it and say continue living here. We don't have -- and since he didn't show up, we can't ask him where he's living.

MR. BOWMAN: There are six separate entities with liens on the property. I believe they would have vested interest in this matter,
in this residence also.
VICE CHAIR CELESTINO-HORSEMAN: So the auction company prior to putting it up pending sale result, it says the property is vacant.
MEMBER KLUTZ: So the sheriff's sale occurred after he filed this? You said the sheriff's sale was February 14th. So this was filed prior to that date.
VICE CHAIR CELESTINO-HORSEMAN: Suzannah was just showing me there's a provision in the law that says that he is presumed -- a person making a statement under penalties of perjury for purposes of election related matters is presumed to live in the residence as of the date that they made the statement. In this case, he affirmed on February 6th, and the auction didn't occur until February 14th. We have nothing to show that between the date of foreclosure and the auction that he wasn't living there. I mean, the auction company says that the property is vacant, but I don't know. I suppose that's maybe a public record. It's a tough --
CHAIRPERSON BENNETT: I didn't see a date on there. Is there any date?
VICE CHAIR CELESTINO-HORSEMAN: No, there's
just the date of the event.

MEMBER WILSON OVERHOLT: The date of the auction.

MR. BOWMAN: Wouldn't Mr. Fuller be required to give an amended filing and update residency? For all we know, he's not even a resident in Cass County in this District 25 at this point.

VICE CHAIR CELESTINO-HORSEMAN: Matthew, if you move after this and people are foreclosed, what's the law?

CO-GENERAL COUNSEL KOCHEVAR: I'll describe the law by looking for the statutory citation. But in 3-8-2, once you have filed to run in the primary, if you move out of that election district, law requires, it mandates that the candidate withdraw from the primary ballot once they lose residency. Bear with me, I'll actually get you the statutory citation. And that's going to be 3-8-2-20.

VICE CHAIR CELESTINO-HORSEMAN: So that decision has to be made on or before March 1st?

CO-GENERAL COUNSEL KOCHEVAR: No, that decision, if you move out, has to be made at any time through the primary. Once it happens, the
candidate is legally required.

VICE CHAIR CELESTINO-HORSEMAN: What's the

process? Do you come back to the Commission

with it then?

CO-GENERAL COUNSEL KOCHEVAR: My

understanding is that were this to happen you

would file the form to withdraw from the primary

election, you would file it with the office

where you filed your CAN-2. In this case, a

candidate for state representative, you would

file it with the Election Commission.

VICE CHAIR CELESTINO-HORSEMAN: But suppose

he doesn't do it, he moves out of district,

there's no way to challenge it?

CO-GENERAL COUNSEL KOCHEVAR: If such a

situation were to happen, after the statutory

deadline is ended for a challenge hearing and

after the candidate has been certified to appear

on the ballot, the county chair in the election

district would have the option to go to county

court and ask for a judge to declare that the

individual has moved out of the district, is no

longer qualified to run for office, and have an

order issued for him to be -- to have that

candidate not appear on the ballot.
That is going to be found in 3-8-2-23, and I will confirm the party that would be able to do that would be the county chairman of any political party on the ballot in the election district, or a candidate for the office sought by the person described in this section.

CHAIRPERSON BENNETT: Let me ask Mr. Simmons, do you have any thoughts on the law regarding these issues?

CO-GENERAL COUNSEL SIMMONS: Yeah, I certainly agree with Matthew if a candidate moves out of the election district they are required to withdraw. If they don't, they are subject to a civil lawsuit to remove them from the ballot. I thought the question was more once the deadline has passed -- on the declaration, it's correct as of the date you file it, then the deadline, the filing declarations have passed, February 9th deadline has passed, are you required to update your residence address with the Election Division or file an amendment. Well, no, there's no such requirement.

It certainly is helpful if people let us know where they are in case we have to get in
touch with them, and we've asked them to do that
if they've advised us they've moved. There's no
statutory requirement that they update it after
they've moved that they file the declaration.

CHAIRPERSON BENNETT: Thank you. Any other
questions? If not, do we have a motion?

MEMBER WILSON OVERHOLT: I would move that
we deny the challenge.

CHAIRPERSON BENNETT: Is there a second?

MEMBER KLUTZ: I'll second that.

CHAIRPERSON BENNETT: There's a motion and
a second. Any further discussion?

MEMBER KLUTZ: My second is based upon I
don't feel that there's sufficient evidence to
show that this individual is disqualified from
office from the filings that came in.

VICE CHAIR CELESTINO-HORSEMAN: I agree.

If you come up with something --

MR. NOTORAS: We have some more
documentation that we can present, a pending
motion from the Indiana Supreme Court.

CHAIRPERSON BENNETT: Today?

MR. NOTORAS: Yes.

MR. BOWMAN: Well, our position is that --

VICE CHAIR CELESTINO-HORSEMAN: Are you
asking for an extension? Motion was accepted, end of discussion.

CHAIRPERSON BENNETT: This is further evidence. I guess I didn't technically close the -- what do you have?

MR. BOWMAN: Our position is that Mr. Fuller --

VICE CHAIR CELESTINO-HORSEMAN: What evidence do you have? You said you have additional evidence. Do you have additional evidence?

MR. BOWMAN: Oh, no, no.

CHAIRPERSON BENNETT: Okay. Well, I'm going to close the public hearing and then I'll ask for another motion.

MEMBER WILSON OVERHOLT: I'll move that we deny the challenge.

MEMBER KLUTZ: Second.

CHAIRPERSON BENNETT: We have a motion and second. Any further discussion on that motion? Hearing none, all in favor, say aye.

All opposed, nay.

The challenge is denied.

The Election Division is directed to include the name of this candidate on the
certified list of candidates to be included on
the ballot. Thank you.

MR. BOWMAN: You are saying we have to file
a civil lawsuit against Mr. Fuller to find out
where he is planning on residing from here on
out?

CHAIRPERSON BENNETT: Well, we don't give
legal advice.

CAMPAIGN FINANCE MATTERS

CHAIRPERSON BENNETT: We are now ready to
move into the ratification of campaign finance
settlement agreements, and I would ask for a
presentation by Ms. Taylor and Ms. Thompson.

MS. THOMPSON: Mr. Chairman, members of the
Commission, in your campaign finance tab there
are settlement agreements, and these committees
are to ratify that they've agreed to pay the
settlement agreement and waive their hearing.

CHAIRPERSON BENNETT: Is there a motion to
ratify the campaign finance settlement
agreements as presented?

MEMBER KLUTZ: So moved.

CHAIRPERSON BENNETT: Is there a second?

MEMBER WILSON OVERHOLT: Second.

CHAIRPERSON BENNETT: There's been second.
1 Is there any discussion?
2 Hearing none, all in favor, say aye.
3 All opposed, say nay.
4 The ayes have it, and the motion to ratify
5 the agreements is adopted.
6 Before proceeding with campaign finance
7 enforcement actions, we want to give any
8 committee present its final opportunity to pay a
9 reduced civil penalty by waiving their right to
10 present evidence and arguments to the
11 Commission. Any committee is welcome to present
12 evidence and arguments for the proposed penalty
13 to be waived, but this is an opportunity for
14 those who want to waive that presentation and
15 accept a reduced penalty without making any
16 argument or presentations.
17 I move the adoption of the following
18 arrangements. If this is the committee's first
19 violation, the arrangement is for the committee
20 to agree to pay 25 percent of the proposed fine,
21 plus mail-in costs. If this is the committee's
22 second violation, the arrangement is for the
23 committee to agree to pay 50 percent of the
24 proposed fine, plus mailing costs. If this is
25 the committee's third violation, the committee
1 would agree to pay 75 percent of the proposed
2 violation, plus mailing costs.
3 Is there a second to my motion?
4 VICE CHAIR CELESTINO-HORSEMAN: Second.
5 CHAIRPERSON BENNETT: There's a motion and
6 second. Any discussion?
7 Hearing none, all those in favor, say aye.
8 Opposed, say nay.
9 The ayes have it, the motion is adopted.
10 Are there any committees who want to accept
11 this arrangement? If so, come forward, state
12 your name, the committee's name and the cause
13 number, which is found on your hearing notice,
14 indicate that you are willing to accept the
15 applicable penalty without further discussions.
16 If you want to present evidence to the
17 Commission or ask for a waiver of the proposed
18 penalty, please do not come forward at this
19 time; instead, wait until the other committees
20 who are willing to enter into this arrangement
21 have been heard. Committees, please come
22 forward to accept the percentage arrangements.
23 No one has come forward, so the remaining
24 committees will be called to present evidence in
25 these matters. Before doing so, I want to note
that in the past, the Commission has followed certain procedures for conducting campaign finance hearings, and I move the Commission use the following procedures today:

A. When each campaign finance matter is called, hearing will begin with recognizing campaign finance staff to provide information about the documents in this matter provided to Commission members, including letters from committees and the notice given to the campaign committee.

Unless there is objection, the documents provided to the Commission by the Election Division will be entered into the record of this meeting.

After campaign finance staff completes presentation, a representative of the committee will be recognized first and may present their case for no more than five minutes. Commission members may ask questions during a presentation, but the time spent answering these questions will not be counted against the presenter's time. The Election Division may signal the chair when the presenter's time is up.

Commission members may ask questions during a
presentation, but the time spent answering these
questions will not be counted against
presenter's time.

The Election Division may signal the chair
when the presenter's time is up. If the
presenter offers additional documents or other
physical evidence not previously received by the
Commission, then the original must be provided
to the Election Division to preserve for the
record.

If the Commission finds that a committee
has violated the campaign finance statutes,
state law requires a unanimous vote of all four
commissioners to waive or reduce the amount of
the penalty set by state law. If the Commission
makes a decision at this meeting to either fine
a committee or dismiss the case against the
committee, then the Election Division will
prepare a final order for the Commission to
approve at a later meeting. If a committee is
found today, the committee will receive a notice
from the Election Commission to pay the fine
after the Commission adopts the final order. So
it may be sometime after today before a
committee will be required to pay the fine.
The Commission generally begins at the front of the room and asks those persons present to come forward to have their matter heard. It's very helpful if you can speak up and say the cause number on your hearing material so that the Commission and staff can quickly look it up on the spreadsheet. Remember to identify yourself when you start speaking.

Is there a second to this motion?

MEMBER KLUTZ: Second.

CHAIRPERSON BENNETT: Are there any questions or objections from Commission members or any of the committees for these procedures? If there's no further discussion, the question is on the adoption of the motion. All in favor, say aye. Opposed, say nay.

The ayes have it and the motion is approved.

The Commission will now proceed to open its hearings on campaign finance enforcement actions. Your binders include a campaign finance spreadsheet which has been prepared by Abbey and Michelle.

So, the first person sitting in the front
may come forward. Will you have a seat and identify yourself, please.

MR. MAHERN: My name is Louis, L-O-U-I-S, Mahern, M-A-H-E-R-N.

CHAIRPERSON BENNETT: At this time I would recognize the campaign finance staff to identify the page on the spreadsheet, Cause No.

MS. TAYLOR: It's on page 1. We're ahead today. It's a short list.

CHAIRPERSON BENNETT: Very good.

You may make your presentation, Mr. Mahern.

MR. MAHERN: I was the chairman of the Indiana Seventh District Democratic Committee. I was appointed sometime, probably about 2007, 2008, something like that. About two years later, maybe 2009, 2010, the Marion County Democratic chairman asked me to write a check for the total amount that was in the committee. I did so at that time. And then from about 2010 until 2015, I regularly filed all the filings that were required of me, and all the filings included nothing but zeroes because there was no money in the committee.

In 2015, I neglected -- just forgetfulness on my part -- I neglected to file the proper
filing, which again would have been all zeroes.
2. I was informed by the Election Commission that I
3. had missed the filing date, whereupon I then
4. filed it late.

Then in 2016, the whole matter was heard.
5. I explained the whole thing to the Commission at
6. that time. The Commission -- some of the
7. commissioners asked me at that time, well, why
8. didn't you just dissolve the committee because
9. it didn't have any money in it, and I told them
10. I just didn't think it was my place but I would
11. be more than happy to dissolve the committee,
12. which I did shortly thereafter, in 2016.

It was going to come up again in 2017. I
14. asked for a continuance because family matters
15. required me to be out of state. And here I am
16. now in 2018 asking that this matter be
17. dismissed, among other reasons because the
18. Commission at the 2016 hearing led me to believe
19. that they would look favorably upon the
20. dismissal of this matter if I were to file to
21. dissolve the committee, which I did in short
22. order. And that's essentially where we stand.

CHAIRPERSON BENNETT: So the committee has
24. been dissolved?
MR. MAHERN: The committee was dissolved in 2016, shortly after the meeting, yes.

CHAIRPERSON BENNETT: Any questions? Any further questions from any of the commissioners?

MEMBER KLUTZ: For the staff. So in 2016 or '15 I guess we probably said if you do this, this, and this, come back and we'll dismiss this and clear it up.

MS. THOMPSON: Yes.

MEMBER KLUTZ: And have all the conditions that we had in that meeting, have they all been met?

MS. THOMPSON: Yes. The committee did as it was asked.

CHAIRPERSON BENNETT: Is there a motion?

MEMBER WILSON OVERHOLT: I would, consistent with our past practice in situations like this where we've made a request and they've complied with our request, I would move that we waive the fine and mail costs, or reduce it to zero, whatever the magic language is.

CHAIRPERSON BENNETT: Or would there be an option to dismiss the enforcement action?

MEMBER WILSON OVERHOLT: Sorry. I would move to dismiss the enforcement action.
MEMBER KLUTZ: Second.

CHAIRPERSON BENNETT: There's been a motion and a second. Any further discussion?

Hearing none, all in favor, say aye.

All opposed, say nay.

The ayes have it, the enforcement action is dismissed.

MR. MAHERN: Thank you, Mr. Chairman.

The next one. Yes, sir.

Craig Taylor.

MS. THOMPSON: Mr. Chairman, this is on page 10 and page 11. Greg Taylor, State Senate Committee, Cause No. 2017-142 and 143.

CHAIRPERSON BENNETT: Okay. Your presentation, sir.

MR. TAYLOR: Yes, thank you, Mr. Chairman, Commissioners. This was a follow-up for a hearing that I came to in 2016 where I failed to file a supplemental report on two checks on the same report. The fine was going to be I think a thousand dollars for each one. And the Commission asked that we file a supplemental report prior to the next hearing date, which is today. As far as I know, that's been done, the supplemental reports have been filed.
So I guess I've asked you for consideration of whatever the fine is. The issue was the two checks on the same report, so it would have been two $1,000 fines on the same filing. So since that time, the supplemental report has been filed. And this is a -- I'm sorry, Mr. Chairman.

CHAIRPERSON BENNETT: You may finish.

MR. TAYLOR: I believe this is like my fifth violation. One was for untimely filing of the report, and I think the other ones had to do with the supplemental file, I want to say.

CHAIRPERSON BENNETT: Let me ask the staff what you have in this matter.

MS. THOMPSON: Mr. Chairman, we had this to continue. He had 30 days to file his supplemental reports. He filed them on 10/24/2017.

MEMBER WILSON OVERHOLT: Was that within the 30 days?

MS. THOMPSON: The hearing was August 18th, 2017.

CHAIRPERSON BENNETT: So it was not?

MS. THOMPSON: So it was not, it was outside of the 30 days.
MEMBER KLUTZ: Is there any note as to why we continued the matter?

MS. THOMPSON: You continued it to give him a chance to file the reports because they had not been filed at that time. So you just wanted to ask the committee to file the reports within 30 days and then revisit.

CHAIRPERSON BENNETT: So they have been filed, but not --

MS. THOMPSON: They have been filed but not within 30 days.

MR. KLUTZ: Is the committee still open?

MS. THOMPSON: Yes.

MR. TAYLOR: Was there a 30 day notice? Would that have been at the hearing that it was 30 days?

MS. THOMPSON: Yes, it was a verbal notice at the hearing.

MR. TAYLOR: I can't argue that she didn't say that, I just didn't know it was 30 days.

CHAIRPERSON BENNETT: I will declare the matter closed and ask if there's any further discussion, comments?

VICE CHAIR CELESTINO-HORSEMAN: So if it's found that he did not comply by filing within
the 30 days, the proposed fine is a thousand
dollars for each one of them?

MS. THOMPSON: Correct.

CHAIRPERSON BENNETT: Correct.

VICE CHAIR CELESTINO-HORSEMAN: And if
because he's had three -- well, he's had two
priors?

MS. THOMPSON: Yes.

VICE CHAIR CELESTINO-HORSEMAN: So it would
be 50 percent?

CHAIRPERSON BENNETT: No, he didn't take
the deal.

MR. TAYLOR: At the last meeting I didn't
take the deal because it was two on the same
report, and I thought it was a thousand dollars,
but because it was two actual checks, it becomes
two thousand dollars. I'm willing to accept --
I didn't know about the 30 days either.

VICE CHAIR CELESTINO-HORSEMAN: Can we say,
because it was the same report and everything,
could we limit it -- do we have the authority to
be able to limit it to say a thousand dollars
for both of them?

CHAIRPERSON BENNETT: If that motion is
made and passed. I'm curious why you didn't
take the deal today.

MR. TAYLOR: Because I couldn't. I thought I was here just for a follow-up hearing. At the last hearing I came up here to take the deal, and I didn't take the deal because it was two fines for the same report. And I didn't think today I could take the deal because I had already given up that right in the initial hearing. I thought this was kind of a compliance thing to see if we filed the reports.

I thought this was a follow-up for compliance, a compliance hearing, an opportunity to come -- listen, my wife is my treasurer, and I'm not going to throw her under the bus. I am not going to do that.

Respectfully, I'll accept any fine that you bring forward. I probably need to hire an official accountant to be my treasurer going forward. She's a great mother and we have three children and she has a job, so I'm not going to -- I should have taken care of this myself.

MEMBER WILSON OVERHOLT: I'm sorry, in terms of our -- I should know our rules, I didn't jot them down. So what deal could he have taken?
CHAIRPERSON BENNETT: He could have taken -- well, I would say at least 75 percent of the deal.

Is there a motion?

MEMBER WILSON OVERHOLT: I would move that the proposed fine be reduced to a total of a thousand dollars, or $500 each, plus mailing costs for each violation. I think based on the -- well, I can explain later. That's my motion.

CHAIRPERSON BENNETT: So motion for a total fine of one thousand, which is 50 percent of the total.

MEMBER WILSON OVERHOLT: Right.

CHAIRPERSON BENNETT: Is there a second?

VICE CHAIR CELESTINO-HORSEMAN: I'll second.

CHAIRPERSON BENNETT: There's been a motion and second. Is there discussion?

Hearing none, all in favor, say aye.

Opposed, say nay.

The ayes have it, the fine is reduced to 50 percent or a thousand dollars.

MR. TAYLOR: Thank you. Thank you.

Just as a point of clarification, any
proposals you sent to me to clarify some of this stuff I heard earlier, I would be willing to take to somebody if you get a change in the law.
You have a difficult job.

CHAIRPERSON BENNETT: Would you state your name for the record, please.

MR. ASHTON: Good afternoon, Mr. Chairman, members of the Commission, Brett Ashton and Laura Brown, we're attorneys at the law firm Krieg DeVault. Thank you for having us this afternoon.

We're here in Administrative Cause No. 2018-5. We're appearing on behalf of our client, AstraZeneca.

MS. THOMPSON: Mr. Chairman, that is the yellow tab in your packet. This is AstraZeneca, Cause No. 2018-5, contributed to Indiana Senate candidates in the excess amount of 1,500. This corporation has never been before the Commission, and we do want to let you know that AstraZeneca self-reported this of their excess contributions and that the corporation has received a refund from those Senate candidates.

CHAIRPERSON BENNETT: Anything else? Very well, your presentation.
MR. ASHTON: Thank you very much.

The violations at hand were the result of administrative oversight on the clients and (inaudible) inadvertently. The timeline on this is, is that we had received checks from the client that were called contributions and were also anticipating contributions from the client's PAC.

The checks we received were thought to have been PAC contributions were distributed on November the 29th. At an event on December 13th it was realized that these checks in fact were not PAC checks, they were corporate checks. At that time we immediately notified the Commission and the members associated with that.

If I could, I'd like to submit into evidence the communications associated with that notification to the Commission and -- I'll submit all three of these at once. Also communications, Exhibit B, communications to the members. And, finally, refunds received from the two campaigns. So we've got A, B and C.

So as soon as we realized this error, this administrative error, we immediately contacted the Commission, contacted the members involved.
And while these checks were in fact cashed, the members involved immediately returned refunds to the client, to the committee. And the client has since implemented a process whereby they ensure that contributions made in the future are double-checked by a government affairs professional at corporate headquarters. This error occurred because the check was inadvertently cut directly from accounting as opposed to going through that screen.

The client, AstraZeneca, respectfully requests this Commission to consider waiving a fine in this matter.

CHAIRPERSON BENNETT: Anything more from the Division?

VICE CHAIR CELESTINO-HORSEMAN: Did this qualify for the deal?

CHAIRPERSON BENNETT: I would think so.

Why didn't you take the deal today?

MR. ASHTON: Given, frankly, the unintentional nature of the violation, given the fact that this was AstraZeneca's first violation in this case and the efforts we made to self-report this matter and to remediate it immediately, we hoped this could be a matter
that would be considered for waiving the fine.

MEMBER KLUTZ: One reason probably not
taking the deal is if they had attended prior
hearings, they would have I think probably
noticed that this violation and how they handled
it falls squarely within how we've handled prior
waivers, in that first-time violation,
self-reported actually within 15 days, and
there's testimony that they've put new processes
in place to eliminate this administrative error
in the future. I know in past practice we've
waived the fine and dismissed the action. So
perhaps being before the Commission and knowing
precedent, that may be why. For that reason,
I'd make a motion that we dismiss the action
without a fine.

CHAIRPERSON BENNETT: Is there a second to
the motion?

MEMBER WILSON OVERHOLT: Second.

CHAIRPERSON BENNETT: We have a motion and
a second. Any further discussion?

All in favor, say aye.

All opposed, say nay.

The motion carried. Fine waived.

MR. ASHTON: Thank you very much, we
appreciate your time.

IEC CHAIRPERSON BENNETT: Who is next?

State your name, please.

KAREN BIERNACKI

Cause Nos. 2017-6709-133, 136 and 141


With me is 2016 House Speaker 20 candidate for nominee Karen Biernacki.

We believe the evidence will demonstrate --

CHAIRPERSON BENNETT: Let me start with the Commission's --

MS. THOMPSON: Mr. Chairman, there are three of these, one is on page 8, one on 9, and one on 10.

This is the Karen Biernacki 2016 Committee, Cause No. 2017-6709-133, 136 and 141. These were for large contributions. And this committee is now closed, by the way. Two of the supplementals we have not received and one we did receive.

CHAIRPERSON BENNETT: I'm sorry, what did you receive?
MS. THOMPSON: The one we did receive was Cause No. 2017-6709-136.

VICE CHAIR CELESTINO-HORSEMAN: Was the deal that was filed, that the Commission would waive any fines?

MS. TAYLOR: The Commission has not heard this cause, they were continued at the last hearing. They asked for a continuance and it was granted.

CHAIRPERSON BENNETT: Anything else from the Division staff?

VICE CHAIR CELESTINO-HORSEMAN: This was not filed until January 29th, the one that was filed?

MS. TAYLOR: The one that was filed was filed July 25th, 2017. The notice date was January 29th.

MEMBER KLUTZ: And we have two supplementals that have not --

MS. TAYLOR: Correct.

MEMBER KLUTZ: Is the committee closed?

MS. TAYLOR: Yes.

MEMBER KLUTZ: Do we allow the committee to be closed without --

MS. TAYLOR: If they filed a zero balance,
District 20?

A Yes.

Q Have you ever run for elected office before?

A No.

Q What is your occupation?

A I am the CEO of Family Advocates in LaPorte County.

Q And what is Family Advocates?

A We provide advocacy services, a casa program, a mentoring program and supervised visitation.

Q And how long have you done that?

A 27 years now.

Q In that capacity, you have reporting responsibilities to various federal and state agencies for federal and state grants in your agency; is that correct?

A Correct.

Q Have you ever been the subject of a citation or violation of any kind in the 27 years you've served in that capacity?

A No.

Q Were you still working full time as CEO of Family Advocates during the legislative campaign?

A Yes.
yes.

CHAIRPERSON BENNETT: Your presentation.

MR. FRIEDMAN: Yes, thank you. General members of the Commission, we believe the evidence will demonstrate that Ms. Biernacki's treasurer properly and timely reported most of the large contributions on the CFA-11 forms, but unintentionally and inadvertently did not promptly file the CFA-11 forms on three donations, which are the subject of the three pending causes.

All three checks were reported, however, on the CFA-4s on January of 2018, we believe that it will demonstrate no intent to conceal or deceit. First violation by the committee. It has since been disbanded, but I would like to call my client to get some evidence in the record if I could.

CHAIRPERSON BENNETT: Very well. Proceed.

EXAMINATION,

QUESTIONS BY SHAW FRIEDMAN:

Q Would you state your name and address, please.

A Karen Biernacki, 208 F Street, LaPorte, Indiana.

Q Were you a candidate for the Indiana legislature in 2016 elections, specifically for House
Q: I take it you had to count on a number of volunteers and others to assist your campaign?
A: Yes.
Q: Who served as your campaign treasurer?
A: Laura Konieczny, she’s a Realtor.
Q: And had she ever served in a political campaign before?
A: No.
Q: Did she fill out and complete your campaign finance forms?
A: Yes, she did.
Q: To your knowledge, did she attempt to do them as completely and accurately as possible?
A: Yes.
Q: What’s the total amount you show as receipts for your entire campaign? Was it a sum in excess of $100,000?
A: Yes.
Q: So there was a fair amount of money raised in this candidate campaign; is that correct?
A: Yes.
Q: Were you aware of the requirement that thousand dollar donations were to be promptly reported on separate forms?
A: Yes.
And did you do that for most of the over
thousand dollar donations that came in?
Yes, we did.
And is there a reason that these three donations
that are the subject of the proceedings were not
promptly reported on the appropriate form?
I believe that the treasurer just was -- checks
were coming in those last weeks, I think she
just overlooked it unfortunately.
I take it there were several other thousand
dollar donations plus that were promptly
reported during the same period?
Yes, there were.
Was there any attempt on your part or your
treasurer's part to intentionally delay or
conceal receipt of these three donations?
No, there was not.
In fact, were all of those reported on your end
of campaign reports that were filed in January
of 2018?
Yes.
Are you asking for some relief from the proposed
fines of $3,000 because these were unintentional
and inadvertent errors?
Yes, I am.
Q This was, as you said, 27 years of reporting to federal and state agencies grants and a huge amount of money, have you ever had a citation by any agency in any form or fashion?

A No, I have not.

MR. FRIEDMAN: Nothing further.

CHAIRPERSON BENNETT: Any questions from the commissioners?

VICE CHAIR CELESTINO-HORSEMAN: So we're looking at $4,000 in fines?

MS. TAYLOR: 3,000.

VICE CHAIR CELESTINO-HORSEMAN: We're not taking all four of these?

MS. TAYLOR: That second one in the middle of those is not this committee.

VICE CHAIR CELESTINO-HORSEMAN: All right.

CHAIRPERSON BENNETT: Was there self-reporting on this one? Did you self-report I guess?

MS. BIERNACKI: Well, I signed the reports, yes.

CHAIRPERSON BENNETT: Were you the one who discovered the --

MS. BIERNACKI: No, we did not know it until we were contacted.
MEMBER KLUTZ: What about the two that remain outstanding, were those --

MS. BIERNACKI: I don't remember receiving I thought there were three checks that were over a thousand dollars that were not reported on a CFA-11 that we reported on the CFA-4 in January. That's the only knowledge that I have.

MR. FRIEDMAN: All of them now have been reported on a form filed with this Commission.

MEMBER KLUTZ: I know they've been reported on CFA-4. But are they self-reported? It doesn't matter.

MR. FRIEDMAN: I understand it was not timely, the other ones were not timely, so she simply decided, okay, report them on the full end of the campaign report. But as you know, they're to be timely filed in receipt of the over thousand, and that did not happen.

MS. BIERNACKI: So when we were contacted in August about the error and we continued the hearing, there was never a request for us to file the CFA-11 either. So if they would have requested us to do that, I certainly would have done that.

CHAIRPERSON BENNETT: Did you talk to your
treasurer about it and ask her to do that?

MS. BIERNACKI: And her response is, you
know, I missed it. I felt we had to report it
because it was money that we had received, and
so obviously it was important to her to make
sure that it was on the report. It was too late
at that point to put it on a CFA-11 form, so she
put it on the CFA-4.

CHAIRPERSON BENNETT: And you're not
interested in the first time offender deals?

MR. FRIEDMAN: I mean, we were hoping with
three -- we're still talking 250 per, we were
hoping for some indulgence from the committee.
It's the first violation from the Commission.
Something less, even $50 per violation. You've
sent a message. We know how important it is to
promptly report, but there was no intent to
deceive, to conceal. First campaign. There's a
lot of money flying in toward the end. You've
got a non-campaign finance person unfortunately
serving as treasurer. So that's why we're
asking for some relief from the 250 per and why
we didn't necessarily take the deal.

VICE CHAIR CELESTINO-HORSEMAN: So you
didn't want to pay 750 for $3,000 worth of
fines?

MR. FRIEDMAN: Right. First violation.

Again, we're talking 27 years history in connection with the agencies that she's reporting to, hundreds of thousands of dollars to federal and state agencies without a citation. This is a woman who takes very seriously her obligations to comply. So no, there wouldn't be a desire necessarily to take a plea. We wanted to come in, make our arguments and hope that there might be some consideration for the Commission for something less than the 250 per.

CHAIRPERSON BENNETT: Do you have any law or regulation that indicates that intent is a requirement here? You said this was unintentional and inadvertent.

MR. FRIEDMAN: Well, it's an argument. I presume the Commission takes into consideration -- if there's any effort to conceal or anything else. I assume that's the whole point behind that thousand dollar prompt reporting is so campaign contributors, the public, the media is well informed, so we believe that's why that's there. And if there's
an intent to conceal, which I know this
Commission has dealt with before, certainly we
understand significant penalties being there.

VICE CHAIR CELESTINO-HORSEMAN: At the last
meeting, was Ms. Biernacki informed about the
need to self-report?

MS. TAYLOR: She didn't attend the last
meeting, she asked for a continuance of it and
it was granted.

MR. FRIEDMAN: She certainly would have
done it if that demand had been made. But
you're right, there was no request made to file
a supplemental.

CHAIRPERSON BENNETT: That's not something
we normally request, it's just a matter of state
law.

MEMBER KLUTZ: You mean since she didn't
file this, then we don't say please file -- you
didn't file.

MS. THOMPSON: Right.

CHAIRPERSON BENNETT: Anything else before
I close the hearing?

The hearing is closed. Do we have a
motion?

MEMBER WILSON OVERHOLT: I would move to
reduce the proposed fine to $250 for each of the three violations for a total of $750, plus mailing costs.

CHAIRPERSON BENNETT: Is there a second for that motion?

MEMBER KLUTZ: I'll second.

CHAIRPERSON BENNETT: I have a motion and a second.

All in favor, say aye.

All opposed, say nay.

The motion is carried for $750, plus mailing costs.

MR. FRIEDMAN: Thank you.

CHAIRPERSON BENNETT: Thank you.

BRADFORD W. MOULTON

2017-6557-45 and 135

MR. MOULTON: This will be Administrative Cause 2017-6557-45 and -135. A supplemental report for a loan --

CHAIRPERSON BENNETT: Your name is?

MR. MOULTON: Bradford W. Moulton, M-O-U-L-T-O-N. And a supplemental report for a thousand dollar loan that I loaned myself. And then a late year-end reporting. At the last hearing I was given a continuance and was asked