

# Indiana Election Commission Minutes August 24, 2018

**Members Present:** Bryce H. Bennett, Jr., Chairman of the Indiana Election Commission (“Commission”); Michael Claytor, Proxy for S. Anthony Long, Vice Chairman of the Commission; Suzannah Wilson Overholt, member; Zachary E. Klutz, member.

**Members Absent:** S. Anthony Long, Vice-Chairman of the Commission.

**Staff Attending:** J. Bradley King, Co-Director, Indiana Election Division of the Office of the Secretary of State (Election Division); Angela M. Nussmeyer, Co-Director of the Election Division; Matthew R. Kochevar, Co-General Counsel of the Election Division; Dale Simmons, Co-General Counsel of the Election Division; Abbey Taylor, campaign finance staff, Election Division; Michelle Thompson, campaign finance staff, Election Division.

**Others Attending:** Mr. Kyle Babcock; Mr. Steven Bartels; Ms. Mary Beaver; Ms. Patricia Boy; Ms. Melissa Bruhn; Ms. Raju Chinthala; Mr. Jerry Coverstone; Mr. Jim Crews; Mr. Ryan Davis; Mr. Sylvester Coach Edwards; Ms. Estela Espinosa; Mr. Graham Fishell; Mr. Russell Flagle; Ms. Anna Foster; The Hon. Aaron Freeman; Mr. Kevin Gipson; Mr. Daniel Guthrie; Mr. Michael A. Harkness; Ms. Regan Hatcher; Mr. Louis Hickman; Mr. Todd Hiday; Ms. Suzanne Jaworowski; Mr. Thomas John; Mr. Charles Johnson; Mr. Jason Kline; Ms. Mary Lake; Mr. Norm Loudermilk; Ms. Thomasina Marsili; Mr. Trent McCain; Dr. Deanna McMillan; Ms. Deanne Mechling; Mr. Shelby Melvan; Mr. Kevin Mory; Mr. Clyde Myers; Mr. Elijah Neal, Jr.; Ms. Tasha Phelps; Mr. Felipe Rios; Ms. Lisa Seng Shadday.

## 1. Call to Order:

The Chair called the August 24, 2018 meeting of the Commission to order at 1:00 p.m. EDT in Conference Center Room B, Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana.

## 2. Transaction of Commission Business:

The Commission proceeded to transact the business set forth in the Transcript of Proceedings for this meeting prepared by Deanne S. Hutson of Connor Reporting, which is incorporated by reference into these minutes.

The Commission corrects the following scrivener’s errors in these documents:

Page 9, line 23, after “IEC” insert “MEMBER”.

Page 19, line 14, replace “\$1,000.50” with “\$100.50”.

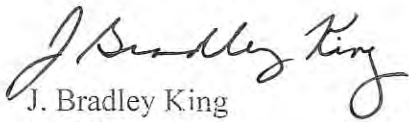
Page 20, line 16, replace “HARKENESS” with “HARKNESS”.

Page 26, line 22, replace “MR.” with “MS.”

Page 27, line 17, replace “MR.” with “MS.”

Page 30, line 21, replace "3915" with "3-9-1-5".  
Page 35, line 18, replace "2007" with "2017".  
Page 35, line 19, replace "2007" with "2017".  
Page 44, line 1, replace "3522.5" with "3-5-2-2.5".  
Page 45, line 19, replace "personal" with "personally".  
Page 49, line 6, replace "Zaffy" with "Zapfe".  
Page 52, line 25, replace "make" with "take".  
Page 91, line 10, replace "Aaron Houchins" with "Erin Houchin".  
Page 91, line 12, replace "Aaron Houchins" with "Erin Houchin".  
Page 96, line 25, replace "bare" with "bear".  
Page 106, line 21, replace "4" with "24".  
Page 107, line 6, replace "Chittister" with "Chidester".  
Page 120, line 3, replace "121" with "3-13-1-21".

Respectfully submitted,



J. Bradley King  
Co-Director



Angela M. Nussmeyer  
Co-Director

**APPROVED:**



**Bryce H. Bennett, Jr., Chairman**

*In the Matter Of:*

Indiana Election Commission Public Session

TRANSCRIPT OF PROCEEDINGS

August 24, 2018



**CONNOR REPORTING**

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Transcript of Proceedings  
August 24, 2018

2           TRANSCRIPT OF PROCEEDINGS  
3           INDIANA ELECTION COMMISSION  
4           PUBLIC SESSION

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9           Friday, August 24, 2018  
            1:00 p.m. EDT

10

11          Indiana Government Center South  
            402 West Washington Street  
12          Conference Center Room B  
            Indianapolis, Indiana

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18          A Stenographic Record By:  
            Deanne S. Hutson  
19          Notary Public  
            Stenographic Reporter

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1 INDIANA ELECTION COMMISSION:

2 Bryce H. Bennett  
Chairman

3 Michael Claytor  
4 Proxy for Vice-Chairman Anthony Long

5 Suzannah Wilson Overholt  
6 Member

7 Zachary E. Klutz  
Member

8

9

10 INDIANA ELECTION DIVISION STAFF:

11 J. Bradley King  
Co-Director

12 Angela M. Nussmeyer  
13 Co-Director

14 Dale R. Simmons  
Co-General Counsel

15 Matthew R. Kochevar  
16 Co-General Counsel

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1 CHAIRMAN BENNETT: The Indiana Election  
2 Commission Public Session for Friday August 24,  
3 2018, is called to order.

4 I would like to determine a quorum and  
5 introduce members of the Staff. The following  
6 members of the Commission are present: Myself,  
7 Chairman Bryce Bennett. We have Michael  
8 Claytor, proxy for Vice-Chairman Anthony Long.  
9 Member Suzannah Overholt is here with us and  
10 Member Zachary Klutz.

11 The Indiana Election Division Staff  
12 consists of co-director Brad King and  
13 co-director Angie Nussmeyer, co-general counsel  
14 Matthew Kochevar and Dale Simmons.

15 The court reporter today is Deanne  
16 Hutson from Circle City Reporting.

17 Before we begin, I want to remind  
18 everyone on behalf of the court reporter to  
19 identify yourself when beginning to speak, spell  
20 your name when identifying yourself, speak  
21 clearly and do not speak at the same time as  
22 others.

23 I would request that the co-directors  
24 confirm that the commission meeting has been  
25 properly noticed as required under the Open Door

1 Law.

2 MR. KING: Mr. Chairman, Members of the  
3 Commission, notice of this meeting was properly  
4 posted in accordance with the Indiana Open Door  
5 Law.

6 CHAIRMAN BENNETT: Thank you. For the  
7 benefit of those present for a specific campaign  
8 finance matter or a candidate challenge hearing,  
9 I'd like to announce that we do plan to take a  
10 15-minute recess after the Commission finishes  
11 the campaign finance portion of the agenda and  
12 before returning to meet to hear the candidate  
13 challenges. It's difficult to estimate how much  
14 time will be required to finish our campaign  
15 finance business, but from past experience I  
16 think it's safe to say we will not be taking up  
17 candidate challenges until at least 3:00 o'clock  
18 p.m. today. So please feel free to plan your  
19 schedules accordingly.

20 At this time I would like to ask for a  
21 presentation by Ms. Taylor and Ms. Thompson  
22 regarding ratification of campaign finance  
23 settlement agreements.

24 MS. THOMPSON: Mr. Chairman, Members of  
25 the Commission, in your packet there you have a



1 list of committees that are to ratify, that have  
2 agreed to pay the settlement agreement and waive  
3 the hearing.

4 CHAIRMAN BENNETT: Is there a motion  
5 ratify the campaign agreements as presented to  
6 us?

7 IEC MEMBER CLAYTOR: So moved.

8 CHAIRMAN BENNETT: Is there a second?

9 MR. KLUTZ: Second.

10 CHAIRMAN BENNETT: We have a motion and a  
11 second. Is there any discussion? Hearing none,  
12 all in favor say aye.

13 All opposed say nay.

14 The ayes have it. Motion to ratify the  
15 agreements is adopted.

16 At this time we'd like to administer the  
17 oath of individuals testifying before the  
18 Commission. Would everyone present who plans to  
19 testify at today's meeting on any matter please  
20 stand for the administration of the oath. I  
21 would recognize Brad King to administer the  
22 oath.

23 (All prospective people intending to  
24 testify before the Indiana Election Commission  
25 stood and were jointly sworn in.)

Transcript of Proceedings  
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1           CHAIRMAN BENNETT: Before proceeding with  
2 campaign finance enforcement actions, we want to  
3 give any committee present a final opportunity  
4 to pay a reduced civil penalty by waiving the  
5 right to present evidence and arguments to the  
6 Commission today. Any committee is welcome to  
7 present evidence and arguments regarding the  
8 proposed penalty, but this is an opportunity for  
9 those who want to waive that presentation and  
10 accept a reduced penalty without making any  
11 arguments or presentations today.

12           I move the adoption of the following  
13 arrangements. If this is the committee's first  
14 violation the arrangement is for the committee  
15 to agree to pay 25 percent of the proposed fine  
16 plus mailing costs. If this is the committee's  
17 second violation, the arrangement is for the  
18 committee to agree to pay 50 percent of the  
19 proposed fine plus mailing costs. If this is  
20 the committee's third violation, the committee  
21 would agree to pay 75 percent of the proposed  
22 violation plus mailing costs.

23           Is there a second to this motion?

24           IEC MEMBER CLAYTOR: Second.

25           CHAIRMAN BENNETT: Any discussion?

1 Hearing no discussion, all in favor say aye.

2 Opposed say nay.

3 The ayes have it. The motion is adopted.

4 Are there any committees who want to  
5 accept this arrangement? If so, come forward  
6 now and state your name, the committee's name  
7 and the cause number. Go ahead and line up  
8 there in front.

9 If we could have conversations at a  
10 minimum so we can hear ourselves conduct these  
11 hearings, we'd appreciate it.

12 Those of you who are in line, we'll take  
13 you in the order that you're standing right now.  
14 When it's your turn, state your name, the cause  
15 number which is found on your hearing notice and  
16 indicate that you are willing to accept the  
17 applicable penalty without further discussion.  
18 If you want to present evidence to the  
19 Commission or ask for a waiver of the proposed  
20 penalty, please do not come forward at this  
21 time. Instead, wait until the other committees  
22 who are willing to enter into this arrangement  
23 have been heard and dismissed.

24 In the past the Commission has followed  
25 certain procedures for conducting campaign

1 finance hearings, and I move that the Commission  
2 use the following procedures today. When each  
3 campaign finance matter is called, hearing will  
4 begin with recognizing campaign finance staff to  
5 provide information about the documents in this  
6 matter provided to the Commission Members,  
7 including letters from committees and notice to  
8 the given campaign committee.

9 I'm going to wait on the rest of these  
10 procedures until we hopefully clear the room of  
11 some of the people who are already standing. So  
12 if you would please come forward, state your  
13 name and cause number.

14 MS. SHADDAY: My name is Lisa Seng  
15 Shadday. I am here for the Friends of Lisa Seng  
16 Shadday. The cause number is 2018-6565-61.

17 CHAIRMAN BENNETT: Are you willing to  
18 accept the proposed penalty?

19 MS. SHADDAY: Yes, sir.

20 CHAIRMAN BENNETT: Very well. You're  
21 free to go. Let me make that clear that you  
22 will not pay today; you'll receive a bill later.

23 IEC OVERHOLT: I'm sorry, Mr. Chairman.  
24 Should we confirm that it is the first violation  
25 and what they're actually agreeing to do? I

1 thought we at least usually had some sort of --  
2 made a record as to what the violation was.

3 CHAIRMAN BENNETT: I think we should  
4 confirm that.

5 IEC MEMBER KLUTZ: Mr. Chairman, I  
6 propose that each person in line check in with  
7 this table first before you proceed up.

8 CHAIRMAN BENNETT: You want give us a  
9 report on this?

10 MS. THOMPSON: Mr. Chairman, you'll find  
11 this one on page 56. This is Change for the  
12 People, Cause No. 2018-7042-115. This committee  
13 has never been before the Commission before and  
14 has a civil penalty of \$1,000.47.

15 CHAIRMAN BENNETT: Are you willing to  
16 accept 25 percent of that penalty?

17 MS. MARSILI: Yes. My name is Thomasina  
18 Marsili. I am the candidate in question. This  
19 is my committee. I am the president and  
20 treasurer. I am willing to accept this fine.

21 CHAIRMAN BENNETT: Very well. You're  
22 free to go.

23 MS. MARSILI: Thank you.

24 CHAIRMAN BENNETT: I'd ask the staff to  
25 give us information on the next one.

1 MS. THOMPSON: Mr. Chairman, Members of  
2 the Commission, page 34. This is the Asian  
3 American Indiana Political Action Committee,  
4 Cause No. 2018-6697-70. Has never been before  
5 the commission before. Has a civil penalty of  
6 \$350.47.

7 CHAIRMAN BENNETT: Would you state your  
8 name, please?

9 MS. CHINTHALA: My name is Raju Chinthala.  
10 I'm the president of the Asian American Indiana  
11 Political Action Committee and I accept the  
12 offer to pay the 25 percent of fines.

13 CHAIRMAN BENNETT: Very good. Thank you.  
14 You're free to go.

15 MS. THOMPSON: Mr. Chairman, the next one  
16 is on page 57. Daniel Guthrie for Indiana State  
17 Senate No. 49, Cause No. 2018-7048-117. Has  
18 never been before the commission before. Has a  
19 civil penalty of \$300.47.

20 CHAIRMAN BENNETT: State your name,  
21 please.

22 MR. GUTHRIE: My name is Daniel Guthrie.

23 CHAIRMAN BENNETT: Are you willing to  
24 accept the penalty?

25 MR. GUTHRIE: Yes, sir.

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1 CHAIRMAN BENNETT: All right. Thank you.  
2 You're free to go.

3 MS. THOMPSON: Mr. Chairman, this is on  
4 page 71. Committee to Elect Pat Boy, Cause No.  
5 2018-7100-1486. Has never been before the  
6 Commission before. Has a civil penalty of  
7 \$50.50.

8 MS. BOY: Good afternoon. Thank you for  
9 hearing me today. My name is Patricia Boy.  
10 It's a dumb name, but somebody's got to have it.  
11 Yes, I'm willing to accept the fine and I  
12 apologize for not getting my form in. Thank  
13 you.

14 CHAIRMAN BENNETT: Very well.

15 MS. THOMPSON: Mr. Chairman, this is on  
16 page 50. GOP 43, Cause No. 2018-6895-101. Has  
17 never been before the Commission before. Has a  
18 civil penalty of \$300.47.

19 MR. BABCOCK: I'm Kyle Babcock. I'm here  
20 to accept the 25 percent penalty. I'm the  
21 treasurer of the PAC. My wife is not here. I  
22 have the form. She's the chairman of the PAC  
23 and so I'm eagerly ready to settle.

24 CHAIRMAN BENNETT: Very good. Thank you.

25 MS. THOMPSON: Mr. Chairman, the next one

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1 is on page 59. Committee to Elect Kevin Gipson,  
2 Cause No. 2018-7075-119. Has never been before  
3 the Commission before and has a civil penalty of  
4 \$1,000.50.

5 MR. GIPSON: My name is Kevin Gipson, and  
6 I accept the 25 percent.

7 CHAIRMAN BENNETT: Very good. Thank you.

8 MS. THOMPSON: Mr. Chairman, this is on  
9 page 61. Life Underwriters Indiana Political  
10 Action Committee, Cause No. 2018-3451-123. Has  
11 never been before the Commission before and has  
12 a civil penalty of \$1,000.50.

13 MS. BEAVER: My name is Mary Beaver. I'm  
14 here on behalf of Sandy Gray. I have a letter  
15 authorizing me to speak for her. I would like  
16 to accept the penalty.

17 CHAIRMAN BENNETT: Very good. You're  
18 free to go.

19 MS. THOMPSON: Mr. Chairman, bottom of  
20 page 50. Jerry Coverstone, Cause No.  
21 2018-6902-102. This is her second time before  
22 the Commission.

23 MS. COVERSTONE: I've never been before  
24 the Commission before. This is my first time.

25 MS. THOMPSON: So she has paid one



1 settlement agreement and has a civil penalty of  
2 \$300.47.

3 CHAIRMAN BENNETT: State your name,  
4 please.

5 MS. COVERSTONE: Jerry Coverstone,  
6 independent candidate. I plead no contest.

7 CHAIRMAN BENNETT: You're willing to  
8 accept the penalty?

9 MS. COVERSTONE: Yes, I am.

10 CHAIRMAN BENNETT: Thank you. You're  
11 free to go.

12 IEC MEMBER OVERHOLT: I'm sorry. Is it  
13 clear what penalty she's accepting? I want to  
14 make sure she understands what penalty she's  
15 accepting.

16 MS. THOMPSON: She has one settlement  
17 agreement before this. She paid a settlement  
18 agreement.

19 CHAIRMAN BENNETT: First time before the  
20 Commission but --

21 MS. THOMPSON: First time before the  
22 Commission but has had one --

23 MS. COVERSTONE: I've never been before  
24 the Commission before.

25 CHAIRMAN BENNETT: You understand that

1 the penalty would be 50 percent of the fine?

2 MS. COVERSTONE: Right. How much is the  
3 fine?

4 MS. THOMPSON: \$300.

5 MS. COVERSTONE: That's okay.

6 CHAIRMAN BENNETT: Thank you.

7 MS. THOMPSON: Mr. Chairman, this is on  
8 page 73. Friends of Charles Johnson, Cause No.  
9 2018-7135-149. Has never been before the  
10 Commission before. Has a civil penalty of  
11 \$900.50.

12 CHAIRMAN BENNETT: State your name,  
13 please.

14 MR. JOHNSON: Charles Johnson.

15 CHAIRMAN BENNETT: Do you accept the 25  
16 percent as penalty?

17 MR. JOHNSON: Yes.

18 CHAIRMAN BENNETT: Thank you.

19 MR. JOHNSON: How to, where to?

20 CHAIRMAN BENNETT: You will get  
21 information in the mail.

22 MS. THOMPSON: Mr. Chairman, page 53.  
23 Friends of Nate LaMar, Cause No. 2017-6958-107.  
24 Has never been before the Commission before.  
25 Has a civil penalty of \$450.47.

1 MR. HIDAY: My name is Todd Hiday. I'm  
2 here as the campaign treasurer and on behalf of  
3 Friends of Nate LaMar and we accept this.

4 CHAIRMAN BENNETT: You accept the 25  
5 percent penalty?

6 MR. HIDAY: Yes, sir.

7 CHAIRMAN BENNETT: Thank you.

8 MS. THOMPSON: Mr. Chairman, page 59.  
9 Committee to Elect Clyde Myers, Cause No.  
10 2018-6997-120. Has never been before the  
11 Commission before. Has a civil penalty of  
12 \$1,000.50.

13 MR. MYERS: My name is Clyde Myers and  
14 I'd like to settle on 25 percent of the proposed  
15 fine.

16 CHAIRMAN BENNETT: Very good. Thank you.  
17 You're free to go.

18 MS. THOMPSON: Mr. Chairman, this is on  
19 page 34. Tasha Phelps for Senate, Cause No.  
20 2018-6694-69. Has paid one settlement agreement  
21 before and has a proposed civil penalty of  
22 \$450.47.

23 CHAIRMAN BENNETT: Would you state your  
24 name, please.

25 MS. PHELPS: Yes, sir. Tasha Phelps.

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1 CHAIRMAN BENNETT: You are willing to  
2 accept the 50 percent reduction in the penalty?

3 MS. PHELPS: I am, sir.

4 CHAIRMAN BENNETT: Thank you.

5 MS. THOMPSON: Mr. Chairman, page 37.  
6 Committee to Elect Suzanne Jaworowski, Cause No.  
7 2018-6759-77. Has paid a settlement agreement  
8 before. Has a proposed civil penalty of  
9 \$750.47.

10 MS. JAWOROWSKI: My name is Suzanne  
11 Jaworowski and I accept the settlement  
12 agreement.

13 CHAIRMAN BENNETT: Thank you. You're  
14 free to go. You under that is 50 percent?

15 MS. JAWOROWSKI: Yes, sir.

16 MS. THOMPSON: Mr. Chairman, this is on  
17 page 53. Angola Professional Firefighters,  
18 Political Action Committee, Cause No.  
19 2018-6960-108. Has never been before the  
20 Commission before. Has a civil penalty of  
21 \$300.47.

22 MR. MORY: Ladies and gentlemen, my name  
23 is Kevin Mory and I am the treasurer for the  
24 Angola Professional Firefighters PAC, and we  
25 would like to accept your offer of 25 percent.

1 CHAIRMAN BENNETT: Very well. You're  
2 free to go.

3 MS. TAYLOR: Mr. Chairman, on page 71,  
4 Loudermilk for State Representative, Cause No.  
5 2018-7077-145. First time before the Commission  
6 and a proposed civil penalty of \$250.50.

7 MR. LOUDERMILK: My name is Norm  
8 Loudermilk and I accept the proposed 25 percent.

9 CHAIRMAN BENNETT: Thank you. You're  
10 free to go.

11 MS. THOMPSON: Mr. Chairman, this is on  
12 page 54. Committee to Elect Jamie Overdeer  
13 Kline, Cause No. 2018-6989-110. Has never been  
14 before the Commission before. Has a civil  
15 penalty of \$1,000.47.

16 MR. CLINE: My name is Jason Cline. I'm  
17 appearing for Jamie Overdeer Cline and I accept  
18 the proposed penalty.

19 CHAIRMAN BENNETT: 25 percent. Thank  
20 you. You're free to go.

21 MR. FISHELL: My name is Graham Fishell.  
22 I'm appearing on behalf of Citizens for Mara  
23 Candelaria Reardon.

24 CHAIRMAN BENNETT: Wait for her.

25 MS. THOMPSON: Page 81. This is Cause

1 No. 2018- 5378-163. They have paid a settlement  
2 agreement before. Has a civil penalty of  
3 \$1,000.50.

4 CHAIRMAN BENNETT: We've got you as far  
5 as your name.

6 MR. FISHELL: Graham Fishell appearing on  
7 behalf of Citizens for Mara Candelaria Reardon.

8 MS. THOMPSON: Mr. Chairman, they have a  
9 civil penalty of \$100.50 and they have had one  
10 settlement agreement.

11 MS. TAYLOR: This is their third.

12 CHAIRMAN BENNETT: So you're willing to  
13 accept the penalty of 75 percent of the  
14 \$1,000.50?

15 MR. FISHELL: Yes.

16 CHAIRMAN BENNETT: Very well. You're  
17 free to go.

18 MS. TAYLOR: Page 72 and 79. The first  
19 on page 72 is Cause No. 2018-7115-147. Proposed  
20 civil penalty of \$50.50. The second on page 79,  
21 Cause No. 2018-7115-160. Proposed civil penalty  
22 of \$1,000.50. This is their first time before  
23 the Commission.

24 CHAIRMAN BENNETT: Can you state your  
25 name then with respect to each cause number?

1 MR. FISHELL: Graham Fishell.  
2 2018-7115-147 and 2018-7115-160.

3 CHAIRMAN BENNETT: You're willing to  
4 settle at 25 percent of the fine for both?

5 MR. FISHELL: Correct.

6 CHAIRMAN BENNETT: Very well. You're  
7 free to go.

8 MS. TAYLOR: Mr. Chairman, the first one  
9 is on page 5. Committee to Elect Michael A.  
10 Harkness for State Representative of District  
11 73, Cause No. 2017-6724-57. Proposed civil  
12 penalty of \$1,000. The second one --

13 CHAIRMAN BENNETT: Let's do the first one  
14 first. Are you willing to accept the 25 percent  
15 penalty?

16 MR. HARKNESS: Do you want me to state  
17 my name first?

18 CHAIRMAN BENNETT: Yes, thank you.

19 MR. HARKNESS: Michael Harkness.

20 CHAIRMAN BENNETT: Are you willing to  
21 accept the 25 percent penalty on Cause No.  
22 2017-6724-57?

23 MR. HARKNESS: Would this be a bundle  
24 since it's the first time I've been here or each  
25 one separate?

1 CHAIRMAN BENNETT: Should we look at the  
2 other one?

3 MS. THOMPSON: On page 36.

4 MS. TAYLOR: The second one is Cause No.  
5 2018-6724-74 with a proposed civil penalty of  
6 \$150.47.

7 IEC MEMBER OVERHOLT: This looks to me  
8 like it's the second violation for each of  
9 these?

10 MS. TAYLOR: This is the first time he's  
11 been before the Commission. There's two  
12 violations before you right now.

13 IEC MEMBER OVERHOLT: Because each one is  
14 showing two delinquent reports.

15 MS. TAYLOR: And those are the two we're  
16 hearing today. 2016 annual which is on page 5  
17 and the 2017 annual on page 37.

18 CHAIRMAN BENNETT: Which one was first?  
19 The thousand dollars?

20 MS. TAYLOR: Yes, that was the 2016  
21 annual.

22 CHAIRMAN BENNETT: So he would be  
23 eligible for 25 percent on that one and then the  
24 second one would be 50 percent? Will you  
25 accept 25 percent on each?



1 MR. HARKNESS: On each, yes.

2 CHAIRMAN BENNETT: The remaining  
3 committees will be called to present evidence in  
4 these matters.

5 Before doing so, I want to note that in  
6 the past the Commission has followed procedures  
7 for conducting campaign finance hearings, and I  
8 move that the Commission use the following  
9 procedures today.

10 When each campaign finance matter is  
11 called, the hearing will begin with recognizing  
12 campaign finance staff to provide information  
13 about the documents in this matter provided to  
14 Commission Members, including letters from  
15 committees and the notice given to the campaign  
16 committee. Unless there is an objection, the  
17 documents provided to the Commission by the  
18 Election Division will be entered into the  
19 record of this meeting.

20 After campaign finance staff completes  
21 presentation, a representative of the committee  
22 will be recognized first and may present their  
23 case for no more than five minutes. Commission  
24 Members may ask questions during the  
25 presentation, but the time spent answering these

1 questions will not be counted against a  
2 presenter's time. The Election Division may  
3 signal the Chair when a presenter's time is up.  
4 If a presenter offers additional documents or  
5 other physical evidence not previously received  
6 by the Commission, then the original must be  
7 provided to the Election Division, Mr. Simmons  
8 or Mr. King, to preserve for the record.

9           If the Commission finds that a committee  
10 has violated the campaign finance statutes,  
11 state law requires unanimous vote of all four  
12 commissioners to waive or reduce the amount of  
13 the penalty set by law. If the Commission makes  
14 a decision at this meeting to either fine a  
15 committee or dismiss the case against the  
16 committee, then the Election Division will  
17 prepare a final order for the Commission to  
18 approve at a later meeting. If a committee is  
19 fined today, the committee will receive a notice  
20 from the Election Division to pay the fine after  
21 the Commission adopts the final order. So it  
22 may be some time after today before a committee  
23 will be required to actually pay the fine.

24           The Commission generally begins at the  
25 front of the room and asks those persons present

1 to come forward to have their matter heard. It  
2 is very helpful if you could speak up and say  
3 the cause number on your hearing material so  
4 that the Commission and Staff can quickly look  
5 it up on the spreadsheet. Remember to identify  
6 yourself when you start speaking.

7 Is there a second to this motion?

8 IEC MEMBER KLUTZ: Second.

9 CHAIRMAN BENNETT: Any questions or  
10 objections from Commission Members or any  
11 committee to these proceedings? Are there any  
12 questions? Is there any discussion?

13 Is there a motion to accept these  
14 proceedings?

15 MR. BARTELS: As far as you mentioned  
16 finance committees, what about businesses in the  
17 same aspect of violation? Is this part of the  
18 same procedure?

19 CHAIRMAN BENNETT: Same thing. And would  
20 you state your name, please?

21 MR. BARTELS: Stephen Bartels.

22 CHAIRMAN BENNETT: I think we have a  
23 motion to adopt the procedures on the table. We  
24 have a motion and a second.

25 All in favor say aye. All opposed say

1     nay.

2             The ayes have it. Motion carried.

3             Before we proceed, I wanted to go back  
4     and ask the staff if you have the identity of  
5     the first woman who took the deal?

6             MS. TAYLOR: Yes, her name was Lisa Seng  
7     Shadday.

8             CHAIRMAN BENNETT: Can you identify the  
9     page number?

10            MS. TAYLOR: She was on page 30. Did not  
11     get her cause number read in either. Her cause  
12     number was 2018-6565-61 and her proposed civil  
13     penalty was \$1,000.47.

14            CHAIRMAN BENNETT: And she agreed to  
15     accept the deal at 25 percent?

16            MS. TAYLOR: Yes.

17            CHAIRMAN BENNETT: Can you raise your  
18     hand if you're here for a campaign finance  
19     enforcement action. We'll start the first row  
20     farthest left. Have you all taken the oath?

21            MS. BRUHN: I came in late. I'm sorry.

22            CHAIRMAN BENNETT: You want to administer  
23     the oath.

24            (All prospective people intending to  
25     testify before the Indiana Election Commission

1 stood and were jointly sworn in.)

2 MS. THOMPSON: Page No. 57, Elect Bruhn,  
3 Cause No. 2018-7044-116. Has never been before  
4 the Commission before. Has a civil penalty of  
5 \$1,000.47 and is now closed.

6 CHAIRMAN BENNETT: Were you here when we  
7 announced the opportunity to settle a case at no  
8 contest and waive the hearing?

9 MS. BRUHN: I was. No, I came a few  
10 minutes late, but someone explained that the  
11 first time was 25 percent.

12 CHAIRMAN BENNETT: Are you willing to  
13 accept that deal?

14 MS. BRUHN: I would prefer not to.

15 CHAIRMAN BENNETT: Okay, go ahead. I'd  
16 ask the staff to tell us anything more you can  
17 about this.

18 MS. THOMPSON: The committee is closed  
19 right now and they do have a proposed civil  
20 penalty of \$1,000.47.

21 CHAIRMAN BENNETT: You may proceed.

22 MR. BRUHN: I am a first-time candidate.  
23 Not that that's an excuse. I spent time with  
24 Matthew Kochevar learning the process. I don't  
25 have any campaign employees. I never took a

1 dime from a single person. I was primarily  
2 running to highlight some issues. I had a  
3 whopping total of twelve dollars in my account  
4 just to hold it open.

5 Due to some personal things and also just  
6 the aggressive nature of running for office and  
7 what you try to do, I didn't go by my P.O. box  
8 and didn't realize that that's where it would be  
9 coming. It just became something that fell off  
10 the docket of things to do. I would  
11 respectfully request that I not have to pay this  
12 fine.

13 CHAIRMAN BENNETT: Any questions from the  
14 Commission Members? Is there a motion?

15 IEC MEMBER CLAYTOR: I assume there's no  
16 funds in your account?

17 MR. BRUHN: Yes, sir. I just want to  
18 make one point, if allowed. I was running as an  
19 Independent so I had the extra additional burden  
20 of gathering signatures, which was what I was  
21 really focused on. I gathered about 200  
22 signatures and was spending time doing that as  
23 the only person doing that.

24 Yes, the account is closed. There's no  
25 funds in it. The most it ever had was twelve

1 dollars. I'm mostly running to highlight  
2 women's issues. My county doesn't have a single  
3 woman's shelter, and we've been begging for  
4 years -- as a physical therapist and working in  
5 a hospital, I saw the issues with this that, and  
6 also as a survivor of sexual assault and  
7 domestic violence, I have concerns. That was my  
8 main reason for running, as well as gun issues.  
9 I got to talk to a lot of people and educate a  
10 lot of people, and that was my goal.

11 CHAIRMAN BENNETT: Motion?

12 IEC MEMBER CLAYTOR: Can I ask what kind  
13 of report this was?

14 MS. TAYLOR: This was the 2017 annual.

15 MS. BRUHN: It was the very first one  
16 that I was supposed to file, and then I  
17 definitely dutifully, once I realized I had a  
18 \$1,000 fine, put the next filing if I would have  
19 stopped running in July.

20 IEC MEMBER KLUTZ: It seemed that  
21 settlement offer was particularly designed for  
22 this situation. Your issues of running a  
23 campaign and the difficulty you had is no  
24 different than other candidate that runs for  
25 office and has to comply with Indiana code and

1 Indiana statute. So I really wish you would  
2 have taken that settlement offer because now I  
3 feel like it's difficult to say, okay, let's not  
4 fine you or let's just fine you 25 percent. I  
5 will say that in my mind -- I don't know about  
6 the other commissioners -- that the mitigating  
7 factor here is that you didn't raise any money  
8 or much money.

9 MS. BRUHN: I deposited solely my funds.  
10 I didn't raise any money. That's not -- that  
11 wasn't the point of my running. I also was  
12 dealing with respectfully -- I'm sorry. I don't  
13 mean to be interrupting you.

14 IEC MEMBER KLUTZ: I guess I see that as  
15 a mitigating factor but not enough to say, okay,  
16 you shouldn't have any penalty for not following  
17 Indiana code. So my motion would be that the  
18 fine be 25 percent of the proposed fine.

19 CHAIRMAN BENNETT: I'll second the  
20 motion. Is there any discussion?

21 MS. BRUHN: I spoke with a couple of  
22 attorneys. They said it would cost more to have  
23 an attorney represent me here than to actually  
24 do this, and they said they know plenty of  
25 people that have stood before the Commission



1 before and have just been honest and have not  
2 had to pay a single dime.

3 CHAIRMAN BENNETT: I think you made a  
4 very nice presentation.

5 MS. BRUHN: I also was dealing with a  
6 situation in my county as a peaceful protester  
7 having a Hamilton County deputy sheriff assault  
8 me, and that's been adjudicated, but that was  
9 again for the same issue, House Bill 1071,  
10 domestic violence and guns.

11 CHAIRMAN BENNETT: The hearing is closed  
12 at this point. We have a motion on the table  
13 with a second. Is there any discussion?

14 IEC MEMBER CLAYTOR: I wonder if I could  
15 ask counsel a stupid question. For campaign  
16 finance purposes, we have to open a committee  
17 once we have either raised or spent \$100. If  
18 she never raised or spent \$100, did she have to  
19 open this account at all?

20 MR. SIMMONS: Commissioner Claytor, the  
21 answer is, yes, it's triggered in 3915 by  
22 actually filing for office. So you have to open  
23 a committee within seven days of filing for  
24 office, and then once you have an open  
25 committee, 3-9-5-6 requires regular reports,

1 whether you raise or spend money or not.

2 IEC MEMBER CLAYTOR: Thank you.

3 CHAIRMAN BENNETT: Any further  
4 discussion? All in favor aye. Opposed say  
5 nay. Is there another motion?

6 IEC MEMBER CLAYTOR: Mr. Chairman, I move  
7 we waive the penalty in this matter. Is there a  
8 second?

9 IEC MEMBER OVERHOLT: Second.

10 CHAIRMAN BENNETT: Any discussion?

11 IEC MEMBER OVERHOLT: For purposes of  
12 discussion, I would say that my recollection is  
13 that in the past, especially when someone comes  
14 before us and they have closed their committee  
15 already, we have waived or significantly reduced  
16 the penalty, regardless of whether the person  
17 appeared when we were offering the deal that we  
18 offered in the beginning. So I think there's  
19 precedent from our past actions to do something  
20 less than the full amount.

21 CHAIRMAN BENNETT: When did you close the  
22 committee?

23 MS. BRUHN: Several months ago.

24 CHAIRMAN BENNETT: Why did you close it?

25 MS. BRUHN: Because I was no longer

1 running.

2 IEC MEMBER OVERHOLT: Did you file a  
3 Petition of Nomination with the Election  
4 Division?

5 MS. BRUHN: I filed a CFA-1. Is that  
6 what you're talking about? I'm sorry. I filed  
7 everything I was told to file and then the  
8 finance portion of it.

9 IEC MEMBER OVERHOLT: The Declaration of  
10 Candidacy with the signatures you would have  
11 collected.

12 MS. BRUHN: I did not get to that point  
13 because I needed to have 2.5 percent of the  
14 Secretary of State's 2014 numbers and I needed  
15 to have 255 plus additional in case some were  
16 from other counties.

17 IEC MEMBER OVERHOLT: Okay, thank you.

18 MS. TAYLOR: She closed her committee  
19 July 30, 2018.

20 IEC MEMBER OVERHOLT: So under the law  
21 she didn't necessarily have to even open it.

22 MR. KOICHEVAR: Correct. We've never  
23 received any filings from the person before us  
24 today to run as an independent candidate for any  
25 office that we would accept filings for.

1 MS. BRUHN: So I didn't file the correct  
2 paperwork?

3 MR. KOCHEVAR: What I'm trying to say is  
4 that the person before us never filed for office  
5 as an independent candidate. She has stated she  
6 opened this committee to run as an independent  
7 candidate. We have never received petition  
8 filings for signatures nor a consent form which  
9 is required by state law.

10 CHAIRMAN BENNETT: What is the impact?

11 MR. KOCHEVAR: The impact would be that  
12 she, at least from my perspective legally  
13 speaking, never became a candidate -- never  
14 filed to become a candidate for which the  
15 campaign finance code requiring that a CFA-1  
16 Statement of Organization be filed was never  
17 implemented for this candidate. She said that  
18 she's never raised \$100 or more in a calendar  
19 year. She did not file to become a candidate,  
20 but do remember that a CFA-1 was filed. When a  
21 person files a CFA-1, our reading of the  
22 Campaign Finance Act is that they become subject  
23 to the Campaign Finance Act. I also speak from  
24 personal experience having been a candidate for  
25 local office before.

1 CHAIRMAN BENNETT: I would ask Mr.  
2 Simmons for his view of this.

3 MR. SIMMONS: Mr. Chairman, Members of  
4 the Commission, I agree with Matthew. If those  
5 are the facts, she never filed and she never  
6 raised or spent \$100, she was never required to  
7 open a committee in the first place, but she did  
8 open a committee, and as Matthew explained, once  
9 you do that, then campaign finance laws attach  
10 and requires open committees to file campaign  
11 finance reports.

12 CHAIRMAN BENNETT: We have a motion to  
13 waive and a second. All in favor of that motion  
14 say aye. All opposed say nay.

15 IEC MEMBER KLUTZ: Nay.

16 CHAIRMAN BENNETT: The ayes have it.  
17 Motion carries. Thank you very much.

18 IEC MEMBER OVERHOLT: I'll make another  
19 motion. Can we entertain a new motion?

20 CHAIRMAN BENNETT: Think we have to.

21 IEC MEMBER OVERHOLT: I hereby move to  
22 dismiss this cause.

23 IEC MEMBER CLAYTOR: Second.

24 CHAIRMAN BENNETT: Any discussion? All  
25 in favor say aye. All opposed say nay.

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1 IEC MEMBER KLUTZ: Nay.

2 CHAIRMAN BENNETT: Motion carries. Thank  
3 you.

4 MS. TAYLOR: Page 53, Shelby for Indiana,  
5 Cause No. 2018-6956-106. First violation.  
6 Proposed civil penalty of \$1,000.47 and the  
7 committee is closed.

8 MR. MELVAN: For the record, Shelby  
9 Melvan. I'm going to read a prepared statement.  
10 I have a copy here for you.

11 IEC MEMBER OVERHOLT: I'm sorry. Which  
12 one is this?

13 MS. TAYLOR: Bottom of 53, top of 52.

14 IEC MEMBER OVERHOLT: Thank you. I  
15 apologize.

16 MR. MELVAN: So my name is Shelby.  
17 Thanks for letting me speak. I'm from Clayton  
18 Indiana. I opened a campaign committee in 2007  
19 in considering to run for office in 2018. 2007  
20 was not an election year, but I wanted the time  
21 to plan and evaluate if I really wanted to run  
22 for office.

23 During 2017 after filing my paperwork I  
24 experienced a divorce, the loss of three  
25 grandparents and lost all my belongings in a

1 fire. It was really rough and I decided not to  
2 run. I started my campaign committee without  
3 any coordination or help from anyone. I raised  
4 no money, no advertisements, didn't create a  
5 campaign staff. Since I decided to no longer  
6 proceed with running for office, I thought I was  
7 done. Having not raised any money, I thought my  
8 obligations were complete. However, upon  
9 receiving notice in the mail of my missed  
10 obligation of paperwork, I completed it  
11 immediately and dissolved my campaign. So all  
12 my paperwork has been filed.

13 Since I raised no money for my campaign  
14 in a non-election year, I hope you'll see to  
15 waive or dismiss my fine.

16 CHAIRMAN BENNETT: Any questions from the  
17 Commissioners?

18 IEC MEMBER CLAYTOR: I'm sorry, Mr.  
19 Chairman. This is probably for counsel or  
20 staff, but in this instance this was not an  
21 independent so he was not getting signatures, he  
22 would have filed and been a primary candidate?

23 MR. MELVAN: I filed for no office  
24 specifically. It was just to create a  
25 committee, an exploratory committee.

1 CHAIRMAN BENNETT: Does anyone have a  
2 motion?

3 IEC MEMBER OVERHOLT: So did he file a  
4 CAN-2?

5 MS. TAYLOR: No, he just opened an  
6 exploratory committee.

7 IEC MEMBER OVERHOLT: Is this similar to  
8 the previous one where he went beyond what he  
9 needed to do?

10 IEC MEMBER CLAYTOR: Good question. Mr.  
11 Chairman, I'm going to move to dismiss this  
12 cause.

13 CHAIRMAN BENNETT: Is there a second?

14 IEC MEMBER OVERHOLT: Second.

15 CHAIRMAN BENNETT: Any discussion?

16 IEC MEMBER KLUTZ: A question for  
17 counsel, Mr. Chairman. If no funds were raised,  
18 what triggered the reporting requirement?

19 MR. SIMMONS: Again, Commissioner Klutz,  
20 I think this is similar to the last one.  
21 There's nothing -- I've heard he said he raised  
22 or spent no money so there's nothing that  
23 triggered the filing -- opening of a committee,  
24 but once you open a committee, the reporting  
25 requirement becomes automatic. As far as filing



1 a campaign finance report, I don't know if this  
2 is annual or --

3 MS. THOMPSON: Annual.

4 MR. SIMMONS: That's the minimum he has  
5 to file is an annual report.

6 CHAIRMAN BENNETT: A motion and second to  
7 dismiss. Would you be willing to amend your  
8 motion?

9 IEC MEMBER CLAYTOR: I'd certainly be  
10 willing to.

11 IEC MEMBER OVERHOLT: I'll amend to the  
12 second -- I mean I'll second the amendment.

13 CHAIRMAN BENNETT: We have the motion to  
14 waive the fine and it has been seconded. Any  
15 further discussion?

16 Hearing none, all in favor say aye.

17 All opposed say nay. It is unanimous  
18 4-0. The fine is waived.

19 MR. MELVAN: Thank you.

20 MS. MECHLING: This is for everybody  
21 because I am very hard of hearing. I do okay on  
22 the telephone, but in a big room I sometimes  
23 can't hardly carry on a conversation. So I will  
24 tell you what is in this package and I don't  
25 have to talk because it's all typed down. My

1 name is Deanne Mechling.

2 MS. THOMPSON: Page 68. It's the Monroe  
3 County Republic Women, Cause No. 2018-6655-140.  
4 They have been before the Commission one other  
5 time and they have a proposed civil penalty of  
6 \$1,000.50.

7 MS. MECHLING: I'm sorry. I don't know  
8 what you said.

9 MS. THOMPSON: I just read your cause.  
10 Now you can tell them your name.

11 MS. MECHLING: Deanne Mechling. I  
12 haven't been here before so I don't know what  
13 I'm supposed to do, but you can tell me. I can  
14 just tell you that I brought a copy of  
15 everything that I would want to have you know,  
16 and that is, of course, you know about the  
17 notice that we got, and then I included a copy  
18 of our CFA form that I filed on April 20th, but  
19 then the next thing down is a page of  
20 explanation as to why I didn't file -- I filed  
21 that with Monroe County, but I didn't file on  
22 purpose with the state because I didn't think I  
23 had to. I didn't know that we had been  
24 designated as a PAC a few months earlier. We  
25 talked about it for a couple years and never did

1 it. So then I didn't know. I missed the fact  
2 -- we didn't get a formal announcement or  
3 anything and I missed a meeting where it was  
4 brought up that we were now going to have to be  
5 a PAC. And that was May 2017, and this, of  
6 course, didn't get filed until April, but in  
7 those few months I didn't hear that so I didn't  
8 know we were a PAC, and so I chose No. 1 on this  
9 campaign finance manual page 2 where I thought  
10 -- I had no thinking we were a PAC because we  
11 made, like, three hundred dollars in our budget  
12 in the last two years and we were not supporting  
13 any candidates except by word of mouth and  
14 letting people know what they stood for. So I  
15 didn't have any idea that we were a PAC until I  
16 looked backwards a few years and then I can see,  
17 well, we should be a PAC. But at this time  
18 April 20th I didn't know it, and so that's why I  
19 put all of this in here was to explain what my  
20 thinking was, well, I'm going to file as a  
21 regular party person. Then I remembered  
22 afterward that a few months before that I had  
23 read in the campaign finance manual something  
24 about there is a difference between a regular  
25 and an auxiliary party, and then after I filed

1 this I got to talking on the phone with one of  
2 your staff and I really saw it should have been  
3 -- if I wasn't filing as a PAC, then I probably  
4 should have filed as an auxiliary party. So I  
5 really mixed it up.

6 This is a copy of our bylaws because it  
7 shows that we have pulled out of the women's  
8 group which is the folks the Monroe County  
9 Republican party talk about. So I wanted to  
10 come and explain that to you. Two or three  
11 people have said, Don't go, Deanne, they just  
12 send people away very sad and you're not going  
13 to win. Why drive up there. But I said in my  
14 heart I think I did the right thing. I was  
15 intentionally looking at that one part thinking  
16 that's the thing to do, but I didn't ask enough  
17 people. One person knew from my group and she  
18 told me go ahead and file those papers by April  
19 20th, Deanne, but I didn't hear her say with the  
20 state, and then when I didn't know I was a PAC,  
21 then I had no thinking about the state. Plus  
22 since April I've learned a whole lot about all  
23 the campaign finance rules, and if I had known  
24 all that, I never would have said I'll be the  
25 treasurer. That happened because they needed a

1 treasurer back in January.

2 So I've learned a lot. I still have more  
3 to learn, but I just wanted to come and let you  
4 know that I wasn't just (unintelligible) it. I  
5 did it thinking in my heart that that was the  
6 right thing to do.

7 One other thing I want you to know is I  
8 know that you're allowed to charge me anything  
9 from one to a thousand dollars and anything in  
10 between, but when it comes to doing that, I hope  
11 you can put yourself in my place because if it  
12 comes to getting a bill to pay, I'll write a  
13 check with our Monroe County Republic Women  
14 check to you for whatever it is, but in my other  
15 hand I'm going to have a check out of my own  
16 account and reimburse the club because it  
17 wouldn't be right to make them have to pay for  
18 something that I did wrong. I just wanted you  
19 to think about that because it's not always easy  
20 to get that much extra money around when I'm not  
21 the youngest person in this room, but I want you  
22 to know that's what happened from us. Thanks  
23 for listening.

24 CHAIRMAN BENNETT: Thank you for your  
25 very thorough presentation, written and oral.

1 Now we will have discussion. Are there any  
2 questions? Is there any question about whether  
3 she needed to file these forms?

4 IEC MEMBER KLUTZ: Mr. Chairman, if I  
5 could. What triggered this notice, it appears  
6 that she filed it with our office, and we said  
7 it was late and so we sent her this notice of  
8 hearing, but have we determined whether she did  
9 in fact even need to file with us?

10 MR. SIMMONS: Commissioner Klutz, Members  
11 of the Commission, it's my understanding --

12 IEC MEMBER OVERHOLT: Can we all try to  
13 speak up as loudly as possible in deference?

14 MR. SIMMONS: It is my understanding that  
15 this committee is an open political action  
16 committee; is that correct?

17 MS. MECHLING: Are you talking to me?

18 MS. THOMPSON: Yes, it is.

19 MR. SIMMONS: A political action  
20 committee would have to file reports. I guess  
21 the question is do they qualify for an exemption  
22 for filing because they're an auxiliary party  
23 committee. If that were the case, they would  
24 never have to open a PAC in the first place. I  
25 don't know whether they qualify for that

1 exemption. There's a definition in 3522.5 that  
2 defines that particular type of organization,  
3 and they have to have a budget under a certain  
4 amount and not contribute more than, I think,  
5 \$1,000. I don't know if they meet that  
6 qualification or whether they should ever have  
7 filed a PAC in the first place, but they have  
8 filed as a PAC. As a PAC, reports would be due  
9 from the PAC.

10 MS. MECHLING: Well, when I did study the  
11 file since this has all happened, of course, we  
12 can't find the file before 2013, 2014, but in  
13 studying what is there from my getting a copy at  
14 the Monroe County Election Office, that was  
15 2013, '14, '15, '16 and the CFA-4 and I think we  
16 probably should be a PAC. I'd have to check on  
17 it more thoroughly, but it's just all volunteers  
18 and I'm afraid some girls before I came -- and  
19 I'm certainly not an expert, but I think that  
20 some were having trouble, just like me,  
21 wondering where to file and they didn't get  
22 expert advice. I was fortunate because I knew  
23 to call your office and I've learned.

24 IEC MEMBER KLUTZ: If I could ask you a  
25 question.

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1 MS. MECHLING: I think we have probably  
2 have some correcting to do anyhow.

3 IEC MEMBER KLUTZ: Has your annual budget  
4 been less than five thousand dollars in one of  
5 the last two years?

6 MS. MECHLING: Have we made less?

7 IEC MEMBER KLUTZ: Yes.

8 MS. MECHLING: Three hundred dollars,  
9 four hundred dollars.

10 IEC MEMBER KLUTZ: Have you made any  
11 contribution to another candidate or committee  
12 in excess of a thousand dollars?

13 MS. MECHLING: No, I'll say not in the  
14 last two years, but when I was able to look back  
15 three or four years ago, I think we probably  
16 did.

17 CHAIRMAN BENNETT: Any further questions  
18 or discussion? I'll make a motion to waive the  
19 fee under the circumstances. I think that  
20 lessons are learned and a lot of effort has gone  
21 into the materials that we've gotten. Is there  
22 a second?

23 IEC MEMBER CLAYTOR: I'll second.

24 MS. MECHLING: I was going to say we're  
25 trying to get more active again because over the



1 past 25 years the same club has been very active  
2 and made a lot of money to support the GOP party  
3 in Monroe County. So we're trying to get back  
4 on that track again so we may make over this  
5 requirement next year.

6 CHAIRMAN BENNETT: We have a motion on  
7 the table to waive. We have a second. I'm  
8 going to call for the motion. I'm going to  
9 close the hearing for any further testimony.

10 All in favor of the motion say aye. All  
11 opposed say nay.

12 The ayes have it 4-0. It's unanimous.  
13 The fine is waived.

14 IEC MEMBER OVERHOLT: You won.

15 MS. MECHLING: Well, thank you.

16 CHAIRMAN BENNETT: You're free to go.

17 MS. THOMPSON: Mr. Chairman, this next  
18 one is in your packet. It's marked with a  
19 yellow tab. This is Indy Cylinder Head, Cause  
20 No. 2018-170, contributed to Freeman for Indiana  
21 in the amount of \$5,000. This corporation has  
22 never been before the Commission before.  
23 Freeman for Indiana refunded \$5,000 back to Indy  
24 Cylinder Head. I'm sorry. The proposed civil  
25 penalty is three times the amount of the excess

1 contribution.

2 MR. FREEMAN: Commissioners, I'm Aaron  
3 Freeman. I am state senator in District 32 in  
4 the southeast corner of Marion County. Russell  
5 Flagle is with me. A good friend, a great guy  
6 and very good member of our community who gave  
7 the contribution. Your staff was great to work  
8 with. They informed me that I didn't need to be  
9 here, but I didn't feel leaving my friend alone  
10 with this situation would be good.

11 I think I've tried to live 41 years of  
12 life without coming here. I'm here. I don't  
13 think our case would be as easy as -- the same  
14 resolution as the last three, but we're hoping  
15 you will consider waiving the fine.

16 Mr. Flagle gave me a \$5,000 check on  
17 December 20, 2017. Mr. Flagle had given to my  
18 -- I was on the city council previously. He had  
19 given to prior campaigns of mine always with the  
20 personal check. When the check was given to my  
21 office, it was in a sealed envelope. I never  
22 saw the check. The check was deposited by my  
23 paralegal. We deposit checks into the computer  
24 nowadays. We don't even go to the bank. And it  
25 should be noted that the lovely woman -- my

1 paralegal's name is Kristen Bosma. She's new to  
2 my office. She was hired in May of 2017. My  
3 former paralegal since 2009 had gotten married  
4 and went off to -- her husband's in Florida in  
5 the Air Force. Brittany would have caught this  
6 and saw that it was a corporate check and would  
7 have given it back or made me aware of it.

8 Kristen did what she thought was right, put it  
9 in the computer, deposited it.

10 Matthew Albrecht is my campaign  
11 treasurer. He did the report. When I was made  
12 aware of the situation I immediately wrote a  
13 check from Freeman for Indiana back to Mr.  
14 Flagle and Indy Cylinder Head. You should know  
15 he gave me a personal check back. I can assure  
16 you lesson learned. Mr. Flagle now knows; I now  
17 know. I can assure there is not a check that  
18 goes into Freeman for Indiana anymore that I do  
19 not personally see, and I will not be back before  
20 you. True?

21 MR. FLAGLE: Very true.

22 CHAIRMAN BENNETT: Any questions from the  
23 Commissioners?

24 IEC MEMBER KLUTZ: Mr. Chairman. This  
25 was first learned when we notified you of the

1 correspondence?

2 MR. FREEMAN: No, we were in session at  
3 that time. I should tell you. We were in  
4 Florida, I took my family to south Florida. We  
5 were in Florida until the start of session. It  
6 was Carrie Zaffy who made us aware of it.  
7 Carrie is in the room today. Carrie does a lot  
8 of fundraising for Senate Republicans. She came  
9 to me. I think Matt Albrecht, my campaign  
10 treasurer, when he was doing our report had  
11 listed it, which he again was required to do,  
12 and when that became known, Carrie obviously  
13 knew first and then she told me about it. That  
14 day I went home, wrote the check back to Mr.  
15 Flagle and I took it to his office in Wanamaker  
16 that day. The check was written December 20,  
17 2017. I was made aware of it on January 18,  
18 2018, and I returned a check in \$5,000 to Indy  
19 Cylinder Head that day.

20 IEC MEMBER KLUTZ: That's helpful. So  
21 that all occurred before we notified you in  
22 June?

23 MR. FREEMAN: Correct.

24 IEC MEMBER KLUTZ: So that had all been  
25 rectified and then you get our letter?

1 MR. FREEMAN: Michelle is great to work  
2 with, by the way. As somebody who hasn't gone  
3 through this and doesn't know the process, she  
4 was very helpful in understanding what was going  
5 on.

6 IEC MEMBER KLUTZ: I guess I'll ask the  
7 representative of the corporation. Mr.  
8 Chairman, if I may. Have you taken any steps --  
9 if your entity continues or has a plan to  
10 continue to support candidates financially, have  
11 you taken any steps to make sure you're  
12 compliant with how you make such contributions?

13 MR. FLAGLE: Well, my personal secretary  
14 was notified of what we did. She knew about the  
15 whole thing. We traded checks right away when  
16 all this happened. I feel confident that  
17 between her and myself it'll never happen again.

18 CHAIRMAN BENNETT: Any further questions?  
19 Does anyone have a motion?

20 IEC MEMBER CLAYTOR: Mr. Chairman, just a  
21 question since I'm an occasional substitute.  
22 Have we typically made the 25 percent type  
23 reduction, have we typically made that available  
24 for corporate issues as well as to candidates  
25 and others who have filed?

1           CHAIRMAN BENNETT: My thought is it's  
2 available to anyone. I don't know that we've  
3 ever had a case where a corporation has taken a  
4 deal in my memory, but I think it's available  
5 for anyone. I know what the maximum fines are,  
6 but was there any fine that was actually sent?

7           MS. THOMPSON: Settlement agreement was  
8 sent to them for \$9,000 for the maximum.

9           IEC MEMBER KLUTZ: Mr. Chairman, I'll  
10 make a motion. When situations like this have  
11 arisen before, we have asked for mitigating  
12 factors such as a corporation taking steps to  
13 ensure future compliance as well as looking at  
14 when the timing of the correction occurred,  
15 whether it happened before or after we notified  
16 them. It appears that there were corrections  
17 taken prior to our letter in June and testimony  
18 that they are taking steps to comply with the  
19 contribution limitations on corporations.

20           So I would make a motion -- I see those  
21 as mitigating factors, and I would make a motion  
22 a fine of \$500.

23           CHAIRMAN BENNETT: I'll second the motion  
24 for purposes of discussion. Is there any  
25 discussion?

1 IEC MEMBER CLAYTOR: Mr. Chairman, I've  
2 been thinking about this myself and certainly  
3 think a reduction -- the corporate penalties are  
4 pretty salty, and something based on the excess  
5 contribution and a percentage of that would  
6 probably be more than \$500. I don't know if we  
7 had -- the excess in this case was \$3,000. If  
8 we did -- it wouldn't be too far off. It would  
9 be more than \$500 but then \$1,000, something in  
10 that neighborhood, to do 25 percent of the  
11 excess contribution. I don't know if Mr. Klutz  
12 would be willing to consider using the 25  
13 percent but basing it on the excess contribution  
14 amount.

15 IEC MEMBER KLUTZ: Sure. I want to see a  
16 resolution. I don't want a deadlock here. I  
17 would revise my motion that the fine be \$750.

18 CHAIRMAN BENNETT: I'll second that  
19 motion. Is there any further discussion?

20 All in favor of the pending motion say  
21 aye.

22 All opposed say nay.

23 The ayes have it. Motion carries. \$750  
24 fine.

25 MR. FREEMAN: Sorry to make your time.

1 MS. TAYLOR: Bottom of page 42. Deanna  
2 McMillan, Director of PAC 2016, Cause No.  
3 2018-6830-87. It's her second time before the  
4 Commission and this report has not been filed.

5 CHAIRMAN BENNETT: State your name,  
6 please.

7 MS. MCMILLAN: Dr. Deanna McMillan.

8 CHAIRMAN BENNETT: Do you have a  
9 response?

10 MS. MCMILLAN: Yes. I've never been  
11 before the Commission before. However, I did  
12 pay a penalty of \$50 in regards to this  
13 committee. I am an educator at a state  
14 institution and I ran for office. I did raise  
15 money and spend money in 2016. I was the  
16 candidate. I had a treasurer. I live in West  
17 Lafayette. I work in Kokomo. My treasurer  
18 lives in Indianapolis. She filed on my behalf.  
19 It wasn't available to fax. The machine was  
20 broken. She filed on my behalf our annual  
21 report in 2016. She was in the building.  
22 However, she was one minute late and it was  
23 stamped at 12:01. So that was the reason for  
24 the penalty that I paid. This Cause No. 2018-  
25 6830-87 is for failure to do an annual report in



1 2017. I wasn't aware, she wasn't aware that we  
2 had to file in 2017. When I spoke to Michelle a  
3 few days ago or a week or so ago, she explained  
4 to me that there was a box that was supposed to  
5 be checked off in 2016, and because that box was  
6 not checked off, our committee was not closed  
7 and that's why I had to file. The account has  
8 no money in it. It was closed. It is my  
9 responsibility as the candidate to know and I  
10 didn't know that that box needed to be checked  
11 off.

12 So I respectfully request that the \$1,000  
13 be reduced to \$100. Lesson learned to check  
14 over documentation myself. I know I'm  
15 responsible for knowing what my treasurer files.  
16 She was not aware, and she could not appear  
17 today.

18 CHAIRMAN BENNETT: Questions from the  
19 Commissioners? I've got a question. The same  
20 thing happened in 2016, right? You didn't file  
21 an annual report then?

22 MS. MCMILLAN: I did file in 2016, but it  
23 was one minute late. She was in the building,  
24 but there was a line and it was stamped one  
25 minute late. I paid a \$50 penalty. So that was

1 my first.

2 CHAIRMAN BENNETT: Was that the same  
3 treasurer?

4 MS. MCMILLAN: Yes.

5 CHAIRMAN BENNETT: She missed it  
6 completely in 2017?

7 MS. MCMILLAN: There was no requirement  
8 for 2017 if the box had been checked off and the  
9 committee had been closed. I was supposed to  
10 file 2017 if we knew the committee was open, and  
11 I thought it was closed.

12 IEC MEMBER OVERHOLT: May I ask a  
13 question? Did you have any balance in your  
14 account?

15 MS. MCMILLAN: No.

16 IEC MEMBER OVERHOLT: So it was a zero  
17 balance?

18 MS. MCMILLAN: Zero. It was zero  
19 balance, and had she checked off the box that  
20 she filed in 2016, I wouldn't be here.

21 IEC MEMBER OVERHOLT: I take it from what  
22 you were saying were you intending to close the  
23 committee in 2016?

24 MS. MCMILLAN: Yes, this is my first time  
25 running and this was her first time being

1 treasurer.

2 CHAIRMAN BENNETT: Why has not the  
3 committee not been closed yet?

4 MS. MCMILLAN: Because I didn't know that  
5 the committee was supposed to be closed until I  
6 got this. I can close it now. I didn't know it  
7 was still open. I'm asking that the penalty be  
8 reduced to \$100 acknowledging my ignorance.

9 CHAIRMAN BENNETT: I'm going to close the  
10 testimony hearing portion and ask if there's any  
11 motion.

12 IEC MEMBER CLAYTOR: Mr. Chairman, I make  
13 a motion that we continue this until the next  
14 meeting to allow her to file a 2017 annual  
15 report showing the committee is closed and then  
16 it would come to this Commission after it's been  
17 closed.

18 CHAIRMAN BENNETT: Is there a second for  
19 that motion?

20 IEC MEMBER KLUTZ: Second.

21 CHAIRMAN BENNETT: Motion seconded. Is  
22 there any discussion?

23 Hearing none, all in favor say aye.

24 All opposed say no.

25 Motion carries. The hearing is

1 continued.

2 MS. MCMILLAN: Thank you.

3 MS. THOMPSON: Mr. Chairman, this is on  
4 page 41. Democratic Women of Hamilton County,  
5 Cause No. 2018-6792-84. Has never been before  
6 the Commission before. Has a civil penalty of  
7 \$100.47. This committee is closed.

8 CHAIRMAN BENNETT: State your name,  
9 please.

10 MS. FOSTER: My name is Anna Foster. I'm  
11 here to read a statement on behalf of Brittany  
12 Solis who is not available to be here at this  
13 meeting today.

14 Dear Commissioners, in the fall of 2017  
15 the Democratic Women of Hamilton County decided  
16 to terminate their committee and agreed to  
17 contribute their remaining balance of \$698.32 to  
18 the Indiana Federation of Democratic Women PAC.  
19 Around the same time the treasurer of the  
20 Democratic Women of Hamilton County, Sonya  
21 Wendel, became gravely ill and went into hospice  
22 care. A few days before the 2017 annual reports  
23 were due to the Indiana Election Division I  
24 noticed that the Hamilton County organization  
25 had not yet filed their report. I reached out

1 to Sonya and spoke with her daughter, as Sonya  
2 was unable to speak on the phone due to her  
3 condition. Her daughter said that Sonya, the  
4 treasurer, completed the committee's annual  
5 report in November after contributing the  
6 remaining balance to the state-wide organization  
7 and mailed it to the Election Division.

8 The Indiana Election Division never  
9 received the mailing. Due to the treasurer's  
10 illness, I helped to create the termination  
11 report and filed it with the Election Division  
12 as soon as I had all the requisition information  
13 for the filing. Unfortunately, it was two days  
14 late. Sonya Wendel passed away a short time  
15 later.

16 Given the very unfortunate circumstance  
17 regarding the treasurer's illness, the  
18 Democratic Women of Hamilton County are asking  
19 that the Commission forgive the fine on this  
20 report. The committee has filed a termination  
21 report accepted by the Indiana Election Division  
22 and had an ending balance of \$100.

23 Respectfully, Brittany Solis, Treasurer of  
24 the Indiana Federation of Democratic Women.

25 CHAIRMAN BENNETT: So there is a balance

1 of \$100 left in the account?

2 MS. FOSTER: They filed a termination  
3 report. It is closed. When they filed that,  
4 there was zero balance.

5 CHAIRMAN BENNETT: Any questions?

6 IEC MEMBER CLAYTOR: Mr. Chairman, in  
7 light of the circumstances, I move we waive this  
8 penalty.

9 CHAIRMAN BENNETT: Is there a second?

10 IEC MEMBER OVERHOLT: Second.

11 CHAIRMAN BENNETT: Any discussion? What  
12 circumstances do you see that would support a  
13 waiver?

14 IEC MEMBER CLAYTOR: Just in light of the  
15 fact that the entity is closed, does not have a  
16 balance and the unfortunate circumstances in  
17 trying to get their 2017 annual report together.  
18 More a hardship argument.

19 CHAIRMAN BENNETT: I'm just wondering if  
20 we're creating a precedent here where any  
21 campaign that is closed, is that grounds alone  
22 to waive the fee?

23 IEC MEMBER CLAYTOR: I don't think in any  
24 circumstance -- certainly there are a lot of  
25 circumstances where our rules are somewhat tight

1 and sometimes people stumble over those and have  
2 an inability to make those right. I just felt  
3 this was a hardship case that may warrant that.

4 IEC MEMBER OVERHOLT: I would add to that  
5 the circumstances of the treasurer, who it  
6 appears had been making timely reports, entering  
7 hospice shortly before this deadline. The  
8 impression is that people scrambled and actually  
9 tried to get something filed. This isn't the  
10 normal story we hear about why people miss a  
11 deadline, but it seems that the person who had  
12 been making the reports and was normally capable  
13 of doing so and had the knowledge was in hospice  
14 and unable to do so and then appears to have  
15 passed away about the same time.

16 CHAIRMAN BENNETT: We'll call the  
17 question. All in favor of the pending motion  
18 say aye.

19 All opposed say nay.

20 Motion carries. The fine is waived.

21 MS. FOSTER: Thank you. Would you like  
22 me to submit this for the record?

23 CHAIRMAN BENNETT: Yes, please.

24

25

1 MS. THOMPSON: Edwards for State  
2 Representative Committee, 2018-7153-15. He's  
3 never been before the Commission before and has  
4 -- I'm sorry. We'll do the first one first.  
5 Has never been before the Commission before.  
6 Has a civil penalty of \$550.50. That's the  
7 first one. The first one is on page 1 and the  
8 second one is on page 74. Do you want to do  
9 these one at a time?

10 CHAIRMAN BENNETT: Let me find this one  
11 on page 74. Can the staff explain the  
12 difference between these two?

13 MS. THOMPSON: The first one was for his  
14 Statement of Organization being late, and then  
15 the second one was because his pre-primary  
16 report was late.

17 CHAIRMAN BENNETT: Let's discuss the  
18 first one, the Statement of Organization.

19 MR. EDWARDS: First of all, my name is  
20 Sylvester Edwards. I also go by Coach. That's  
21 what I filed under, Sylvester Coach Edwards.

22 CHAIRMAN BENNETT: What can you tell us  
23 about this status of organization report?

24 MR. EDWARDS: First of all, I applied on  
25 the deadline, about 15 minutes before the



1 deadline was going to cut off. What's happening  
2 in our area in Terre Haute, we have only had 13  
3 percent of the voters come out to vote, and part  
4 of my job in the community was to get out the  
5 vote. I'm also a part of an executive board of  
6 the League of Women Voters there in Terre Haute.  
7 They also had aligned with the Greater Terre  
8 Haute NAACP branch. I'm the branch president.

9 At the time that I filed I had to go ahead  
10 and resign for my position. Well, I didn't know  
11 that all this stuff -- this is the first time  
12 ever running for office. What I was doing is  
13 trying to do a civic engagement, get the people  
14 in the community involved in voting. At the  
15 time of the last election in 2016 only 16  
16 percent of the voters actually came out. I  
17 think I had something to do with getting the  
18 voters out there. There was 38 percent this  
19 time of the people came out. So, yes, I missed  
20 the deadline. I am ignorant to the fact of what  
21 was going on in the community. I had piles and  
22 piles of paper that was on my couch. When all  
23 the PACs and everybody's contacting you trying  
24 to get you to do this, that and the other. I  
25 did not create a bank account as far as

1 financial committee. I was my own committee.  
2 No one helped me out as far as running for  
3 office.

4 So what happened is there was a lot of  
5 interest. There was television and also the  
6 written media, and that spurred more people into  
7 coming out to vote.

8 I know that I made mistakes that I didn't  
9 file when I was supposed to and I did not have a  
10 financial report. All the paper was stacked up  
11 on my couch, as I was saying. And that was the  
12 reason that I was late in doing this, that and  
13 the other.

14 CHAIRMAN BENNETT: Did you talk with the  
15 Indiana Election Division staff to try to get  
16 help and figure out what the deadlines were?

17 MR. EDWARDS: Once I got the paperwork, I  
18 did make a few phone calls to find out what's  
19 going on, but to your question, during that  
20 period of time, no. I only contacted people  
21 when I got the notice.

22 IEC MEMBER OVERHOLT: Did you raise any  
23 money?

24 MR. EDWARDS: No, ma'am.

25 IEC MEMBER KLUTZ: Is the committee still

1 open?

2 MR. EDWARDS: I do not know about the  
3 committee being open. Like I said, I was the  
4 committee. Kind of strange. All these  
5 different non-profit organizations that I'm on  
6 their boards and things, not one person  
7 volunteered to help me. Like I said, I was  
8 trying to get people to come out to vote. I  
9 know Indiana last year -- the last time I think  
10 2016 we were 50th in the nation getting out the  
11 vote as far as voters. Like I said, part of our  
12 creed as far as NAACP and also League of Women  
13 Voters is get people out. That's why I was  
14 running.

15 CHAIRMAN BENNETT: What can you tell us  
16 about the other violation, the pre-primary  
17 report?

18 MR. EDWARDS: I neglected to see those in  
19 the pile of papers too. I went back through the  
20 papers and I saw it, and as soon as I did see it  
21 -- I didn't see it until my notice came, and  
22 that's when I called to the Commission.

23 CHAIRMAN BENNETT: Why didn't you take  
24 the deal at the front end of this proceeding?

25 MR. EDWARDS: Because I wanted to explain

1 myself.

2 CHAIRMAN BENNETT: Any other questions  
3 from the Commissioners?

4 IEC MEMBER CLAYTOR: Just a quick  
5 statement. Your committee is still open. Even  
6 though you do not have any money, if you don't  
7 file the next report, you will have another  
8 penalty.

9 MR. EDWARDS: How do I go about closing  
10 the committee?

11 IEC MEMBER CLAYTOR: You need to file a  
12 statement. The young ladies there will help you  
13 out.

14 MR. EDWARDS: Okay, thanks.

15 CHAIRMAN BENNETT: Is there a motion with  
16 respect to the two pending issues?

17 IEC MEMBER CLAYTOR: Mr. Chairman, I  
18 sympathize, but the gentleman did not accept our  
19 offer to begin with, and this is a matter of  
20 just neglecting to file the paperwork. I would  
21 make a motion that we assess a 50 percent  
22 penalty on both causes.

23 MR. EDWARDS: Sir, 50 percent. There's a  
24 lot of people getting 25 percent. I'm throwing  
25 myself at the mercy of the Commission. I do not

1 have the money. I work part-time and I'm  
2 retired.

3 IEC MEMBER KLUTZ: Mr. Chairman, if I  
4 may, it seems to me the difference here, though,  
5 is the reason for not complying isn't a hardship  
6 or any other explanation other than they were  
7 sitting in a stack of papers and no one was  
8 helping you. That again is the exact purpose of  
9 the settlement offer that's offered at the  
10 beginning of these hearings.

11 CHAIRMAN BENNETT: I'm going to move to  
12 second the pending motion. Is there any further  
13 discussion? The hearing is closed for  
14 testimony.

15 IEC MEMBER OVERHOLT: Sorry. Apologize.

16 CHAIRMAN BENNETT: Unless you had a  
17 question.

18 IEC MEMBER OVERHOLT: It's not a question  
19 for Mr. Edwards. I'm wondering how this differs  
20 from the prior matter where -- this is in the  
21 Deanna McMillan, page 42, where we asked her --  
22 we continued it and asked her to close her  
23 committee and return and we would address it  
24 then. I'm not quite sure what the distinction  
25 would be between these two cases.

1 IEC MEMBER CLAYTOR: That's a good point  
2 because he --

3 IEC MEMBER OVERHOLT: Tried to be  
4 consistent.

5 IEC MEMBER CLAYTOR: Right. That's a  
6 very point. To have him close it and come back.

7 IEC MEMBER OVERHOLT: And she had a prior  
8 penalty. These are two kind of contemporaneous  
9 issues. She actually had a prior.

10 IEC MEMBER CLAYTOR: And was an unclosed  
11 committee.

12 CHAIRMAN BENNETT: Did she have any  
13 hardship?

14 IEC MEMBER OVERHOLT: She talked about  
15 not checking the box on the form.

16 MR. CLAYTOR: Her treasurer did not know  
17 and she did not know. It is a very, very  
18 similar situation. Mr. Chairman, I'm willing to  
19 withdraw my motion.

20 CHAIRMAN BENNETT: Procedurally for  
21 withdrawal of a motion? Are you asking to  
22 withdraw your motion?

23 IEC MEMBER CLAYTOR: I am asking to  
24 withdraw my motion.

25 CHAIRMAN BENNETT: Motion is withdrawn.

1 Is there another motion?

2 IEC MEMBER CLAYTOR: Mr. Chairman, being  
3 consistent with the prior matter, I would move  
4 that we direct Mr. Edwards to get his account  
5 closed and continue this matter to the next  
6 finance meeting of the Commission and deal with  
7 it then.

8 CHAIRMAN BENNETT: Is there a second to  
9 that motion?

10 IEC MEMBER OVERHOLT: Second.

11 CHAIRMAN BENNETT: Any discussion?

12 Hearing none, all in favor say aye.

13 All opposed say nay.

14 Motion carries. This matter is continued  
15 pending the next meeting.

16 MR. EDWARDS: Do I get the papers now or  
17 will they be sending them to me to close my  
18 account?

19 MS. TAYLOR: I'll mail it to you.

20 MR. EDWARDS: Thank you.

21 MS. THOMPSON: Mr. Chairman, this is on  
22 page 35. Committee to Elect Ryan David State  
23 Representative District 32, Cause No.  
24 2018-6698-71. Has never been before the  
25 Commission before. Has a civil penalty of

1 \$800.47.

2 CHAIRMAN BENNETT: State your name for  
3 the record, please, and then tell us about your  
4 case.

5 MR. DAVIS: So my name is Ryan Davis. I  
6 was a first-time candidate in 2016 running for  
7 state representative in District 32. I got all  
8 my paperwork filed like I was supposed to, had  
9 my reports filed on time. I had a gentleman  
10 that was helping me with doing all that filing  
11 because I was not very inept to file online. It  
12 was a very confusing process. That gentleman  
13 had told me that he had worked for numerous  
14 campaigns from state to federal, had filed a lot  
15 of different campaign reports for various  
16 candidates, and that he had an MBA degree and  
17 all of this. Well, come to find out, he worked  
18 for several candidates, and my last annual  
19 report for 2017 did not get filed, and he was  
20 doing all the filing for me and some other  
21 people, and I was under the impression it had  
22 been filed and it had been disbanded, and when I  
23 got the notice in the mail, it was after  
24 everything was already done I realized it hadn't  
25 been closed out. So I got the account closed.



1           In the meantime, I found out the gentleman  
2           that was assisting me with that has two pending  
3           felony cases in Indiana and Ohio for fraud out  
4           of Delaware County and Montgomery County where  
5           he stole, I think it was, like \$17,000 from a  
6           candidate. Luckily for me, I never gave him  
7           access to the bank account, but he was doing the  
8           filing for me. Like I said, as soon as I found  
9           out that this hadn't been taken care of, I  
10          immediately got in there got it disbanded, and  
11          I'm just asking for a waiver of this penalty in  
12          light of the circumstances.

13          MS. THOMPSON: Mr. Chairman, we didn't  
14          note here, but this committee is closed.

15          MR. DAVIS: And I do have copies of his  
16          pending felony charges as well for Indiana and  
17          Ohio.

18          CHAIRMAN BENNETT: Any questions or do we  
19          have a motion? Can we have your papers?

20          IEC MEMBER KLUTZ: Mr. Chairman, if I  
21          could ask a question. Did you raise money  
22          during the campaign?

23          MR. DAVIS: I only accepted two checks,  
24          and I believe they were both under a hundred  
25          dollars. In total there was, I think, less than

1 seven hundred, and most of that was from  
2 personal funds.

3 CHAIRMAN BENNETT: Any questions or  
4 motion?

5 IEC MEMBER CLAYTOR: Why didn't you take  
6 the 25 percent?

7 MR. DAVIS: Again, I had put my trust in  
8 somebody to take care of this for me that was  
9 knowledgeable in the matter, and normally you  
10 can count on people to do something like that.  
11 If that's what you're consulting with somebody  
12 to do and then they don't do it and they kind of  
13 bale out on you. That's kind of what happened.  
14 In the middle of the night he was gone and all  
15 of these candidates and non-profit organizations  
16 were left. Like I said, I was very fortunate  
17 because I didn't lose any money from it, but I  
18 obviously have the penalty facing me for not  
19 having the paperwork filed. I've learned to  
20 make sure that I need to watch paperwork closer  
21 in the future.

22 CHAIRMAN BENNETT: How much time elapsed  
23 during the time that person left and you  
24 discovered that the paperwork had not been  
25 timely filed?

1 MR. DAVIS: I think I ended up filing --  
2 I filed on February 1st.

3 MS. THOMPSON: Filed February 1st and the  
4 due date was January 17th.

5 MR. DAVIS: About two weeks. I had  
6 thought when that last report was supposed to be  
7 filed -- so that would have been December. I  
8 thought it had already been filed and disbanded,  
9 and when I got the notice from the state that it  
10 hadn't been disbanded, I had a penalty and  
11 everything. Then I took care of getting it  
12 closed out.

13 CHAIRMAN BENNETT: So you didn't check to  
14 see whether it had been filed and disbanded  
15 until you heard from the state?

16 MR. DAVIS: Right, because he had told me  
17 that he had done that so I assumed it was. I  
18 know it's going to be a lot of he said/he said.  
19 I put my trust and faith in him that he had done  
20 what he said because consistently every other  
21 report had been filed and filed on time.

22 IEC MEMBER KLUTZ: Did you pay him as a  
23 consultant?

24 MR. DAVIS: No.

25 CHAIRMAN BENNETT: Do we have a motion?

1 I'll move to waive the fine because the  
2 committee's closed and there's no money in it  
3 and there was apparently some almost criminal  
4 activity involved in the people that were  
5 working on it.

6 IEC MEMBER KLUTZ: Second.

7 CHAIRMAN BENNETT: Discussion?

8 IEC MEMBER CLAYTOR: I think you're  
9 becoming a softie, Mr. Chairman. You might have  
10 to join our party.

11 I keep coming back to I want to encourage  
12 people to take the settlement agreements when  
13 they can. In this kind of assistance I  
14 understand your reasoning.

15 CHAIRMAN BENNETT: I could withdraw my  
16 motion.

17 IEC MEMBER CLAYTOR: No, I'm happy. I  
18 didn't mean to insult you.

19 CHAIRMAN BENNETT: All in favor say aye.  
20 All opposed say nay.

21 Motion carried.

22 MR. DAVIS: Thank you. I appreciate your  
23 time.

24

25

1 MS. TAYLOR: The first one is on page 18.  
2 Ethnic Republican Council, Cause No. 2018-  
3 5546-41. This is for the 2017 annual report and  
4 it has not been filed. Do you want to do them  
5 both?

6 CHAIRMAN BENNETT: What were the page  
7 numbers again?

8 MS. TAYLOR: The first one is on page 18  
9 and the second one is on page 66. The cause  
10 number for that is 2017-5546-134. This is the  
11 2018 pre-primary report and it has not been  
12 filed. They've been before the board 13 other  
13 times. This is the second time you've been  
14 here, the treasurer before you.

15 CHAIRMAN BENNETT: Would you state your  
16 name, please.

17 MR. NEAL: Elijah Neal, Jr.

18 CHAIRMAN BENNETT: What would you like us  
19 to know about this situation?

20 MR. NEAL: It wasn't until I walked in  
21 today I didn't know we still existed. For the  
22 pre-primary report that was due this year, I  
23 wouldn't have filed it because I thought we were  
24 closed. For the 2017 I guess that would be the  
25 annual for '16.

1 MS. TAYLOR: You filed the annual for  
2 '16. That was the last one you filed.

3 MR. NEAL: The annual '17, that takes  
4 care of the year for '16, right?

5 MS. TAYLOR: You took care of '16.

6 MR. NEAL: Then I guess it would be the  
7 same explanation. After the election in '16 it  
8 was my understanding we no longer existed. I  
9 guess I wouldn't have filed it because I thought  
10 we didn't exist, and I didn't know if there was  
11 paperwork that needed to be filed to close out  
12 the PAC or not. I was just the treasurer. I  
13 was doing reports one or two three times a year.  
14 Had no idea we still existed until I walked into  
15 the room. Anything after the election of '16  
16 that wasn't filed I wouldn't have filed because  
17 I thought we didn't exist.

18 CHAIRMAN BENNETT: Doesn't the treasurer  
19 have a duty to know whether the organization  
20 exists or not?

21 MR. NEAL: That's what I'm saying. We  
22 had decided to disband. Now, if it was my  
23 responsibility to file a paper or something,  
24 I'll take responsibility for that, but to say  
25 that we're closed. I'll take responsibility for

1 that, but as far as I understood, I thought we  
2 were closed. That's why I did not file a  
3 report.

4 IEC MEMBER OVERHOLT: Is there any money  
5 in the account?

6 MR. NEAL: There should be nothing now.  
7 If I give you a report now, it would be all  
8 zeros on it. I can give you a report with all  
9 zeros on it if that's a necessity, but as far as  
10 I'm concerned, we've been closed since the end  
11 of '16. I guess there's a technicality. We  
12 have to do a closing that I wasn't aware of.

13 CHAIRMAN BENNETT: It matters what the  
14 reality is.

15 MR. NEAL: Right, that's what I'm saying,  
16 that's exactly what I'm saying.

17 IEC MEMBER OVERHOLT: We're looking at  
18 the 2016 annual report that does show a  
19 \$1,700.34 balance at the end of 2016. My  
20 understanding is -- so the account couldn't have  
21 been closed with that because there's a balance.

22 IEC MEMBER KLUTZ: So your report for '17  
23 couldn't all be zeros. It would have to show  
24 how that seventeen hundred went out.

25 MR. NEAL: Like I said, I only found out

1 about this meeting because the notice didn't  
2 come to my house. I was told, hey, I'm going to  
3 be out of town. Could you show up today? If  
4 anything, could I ask for a continuance to  
5 figure out what's going on? I really thought  
6 we didn't exist anymore. That's just being  
7 honest.

8 IEC MEMBER OVERHOLT: My suggestion is  
9 going to be get the reports filed, get the  
10 committee closed and then we can continue it.

11 CHAIRMAN BENNETT: I'll move for a  
12 continuance.

13 IEC MEMBER KLUTZ: Second.

14 CHAIRMAN BENNETT: Motion and second.

15 All in favor say aye.

16 All opposed say nay.

17 The ayes have it. This hearing is  
18 continued.

19 MR. NEAL: May I ask you one question?

20 MS. TAYLOR: See us on Monday.

21 CHAIRMAN BENNETT: We want you to be  
22 fully prepared next time.

23 MR. NEAL: Thank you. I appreciate it.

24

25



1 MS. THOMPSON: This is on page 54. This  
2 is Trent McCain Exploratory Committee, Cause No.  
3 2018-6983-109. He's never been before the  
4 Commission before. He has a proposed civil  
5 penalty of \$1,000.47 and the committee is  
6 closed.

7 MR. McCAIN: Good afternoon,  
8 Commissioners. Again, my name is Trent McCain.  
9 I was considering seeking office in June of 2017  
10 for the 2018 election. I thought about it long  
11 and hard and decided that I could not be away  
12 from my three small children that much. So I  
13 decided to not explore candidacy see anymore. I  
14 opened up an account in June of 2017 with \$20.  
15 I never raised any money or took any  
16 contributions from anyone. The account went  
17 negative in September 2017 with an ongoing  
18 payment to Google for my e-mail. In October of  
19 2017 it was charged off. I did not file the  
20 2017 annual report on time, and as a lawyer, I  
21 should know better. I apologize to the  
22 Commission for doing that. On May 1, 2018, I  
23 filed my final disband CFA-4 and I also  
24 reimbursed Centier Bank for \$10.51 charge-off.  
25 So I'm asking the Commission to kindly

1 and respectfully waive the \$1,000 penalty.

2 CHAIRMAN BENNETT: Any questions?  
3 Motion?

4 IEC MEMBER KLUTZ: Mr. Chairman, my  
5 recollection is in situations where there is no  
6 money raised, the committee has been closed, and  
7 here we have an additional fact, I think, that  
8 the individual didn't even run for office. You  
9 never declared as a candidate; is that correct?

10 MR. McCAIN: No, sir, I did not.

11 IEC MEMBER KLUTZ: Under those  
12 circumstances we've dismissed or reduced the  
13 charge to zero. I would make that motion.

14 CHAIRMAN BENNETT: Is there a second?

15 IEC MEMBER CLAYTOR: Second.

16 CHAIRMAN BENNETT: Any discussion? All  
17 in favor say aye.

18 All opposed say nay.

19 The ayes have it. The motion carries.  
20 We waived the penalty.

21 MR. McCAIN: Thank you very much.

22 MS. THOMPSON: Mr. Chairman, this is on  
23 the bottom of page 73. Committee to Elect Ragen  
24 Hatcher, Cause No. 2018-7150-150. Has never  
25 been before the Commission before. Has a

1 proposed civil penalty of \$650.50.

2 CHAIRMAN BENNETT: Would you state your  
3 name, please?

4 MS. HATCHER: Ragen Hatcher.

5 CHAIRMAN BENNETT: You may proceed.

6 MS. HATCHER: Thank you. In May of this  
7 year I ran for State Representative District 3  
8 in Gary. Was successful. However, during the  
9 April requirement to submit my report -- let me  
10 back up a little bit. Since 2007 I've been  
11 involved in Gary politics. I was on the city  
12 council from '07 to '11 and I got back on in  
13 2015 after running for mayor unsuccessfully in  
14 2011. However, during all those periods I had  
15 an open campaign organization where I would file  
16 my reports in Lake County at the election board  
17 there. So this instance when I ran for state  
18 representative -- and I'm the second lawyer who  
19 has come up here without reading the fine print.  
20 I filed my campaign report again in Lake County.  
21 I got a call a couple weeks later saying, hey,  
22 we don't have your campaign report, and so I  
23 submitted my stamped campaign report that was  
24 stamped before the deadline, however, in Lake  
25 County. So I did submit that later.

1 I'm just asking the Commission for a waiver of  
2 the fine. It was filed technically on time.  
3 Just in the wrong location.

4 CHAIRMAN BENNETT: Why didn't you take  
5 the 25 percent deal?

6 MS. HATCHER: Because I felt that because  
7 of the circumstances, especially since it was  
8 filed timely -- and I'm not shifting blame here,  
9 but I did specifically ask the clerk at the Lake  
10 County election board office if this was the  
11 appropriate place to file, and she said yes. So  
12 that's how it got stamped. That's how it got  
13 sent down the line. So I didn't really have any  
14 idea until I got a call from someone here in  
15 Indy saying, hey, Ragen, where is your report?  
16 I wanted to make a donation to your campaign.  
17 Actually it was Cherrish Pryor who was a state  
18 representative here from Indy. I wanted to make  
19 a donation to your campaign, but I don't see  
20 your report on file. That was kind of my first  
21 notification. So after that I took what I had,  
22 file-stamped and filed it here in Indianapolis.  
23 So that was long before I -- and I don't know  
24 exactly what that date was, but it was long  
25 before I received a notification from the office

1 here.

2 CHAIRMAN BENNETT: Any other questions?

3 IEC MEMBER OVERHOLT: I might. We're  
4 looking the statute.

5 IEC MEMBER KLUTZ: Did you have  
6 Republican primary opposition?

7 MS. HATCHER: Yes, it was a pretty heated  
8 election in Gary. I'm glad it's over. I'm  
9 happy to not have to run.

10 IEC MEMBER OVERHOLT: We thought there  
11 was something that actually specifically stated  
12 that the document made it very clear that they  
13 had to be filed with the Election Division and  
14 could not be filed with a county office, but  
15 that's not actually what either of these  
16 statutes say. They aren't that clear. We're  
17 looking at 3-9-5-3.

18 CHAIRMAN BENNETT: You agree with --

19 MR. SIMMONS: 3-9-5-3 is the applicable  
20 statute, right. It requires filing with the  
21 Election Division.

22 IEC MEMBER OVERHOLT: It does say they  
23 shall file with the Election Division.

24 CHAIRMAN BENNETT: I'm going to move that  
25 the fine be reduced but not waived. This is a

1 successful candidate who is a lawyer,  
2 experienced in political matters. You did what  
3 you were used to by filing in the county, but  
4 when you're running in a state-wide race you  
5 need to know what the rules are.

6 MS. HATCHER: And if I could just say one  
7 other thing. I did not consider it a state-wide  
8 race because I was only running in my district.  
9 Even though I was aware that running for a seat  
10 like governor or treasurer or something like  
11 that will require filing in Indy, I assumed --  
12 and, of course, it was my fault for assuming  
13 that because it was a district race still in  
14 Lake County I would still file at Lake County.

15 CHAIRMAN BENNETT: I would move for 50  
16 percent reduction of the fine.

17 MS. HATCHER: Can I just respectfully  
18 request a reduction to 25 percent only because  
19 since it was not a Republican/Democrat November  
20 race, the money raised was not sufficient and at  
21 this point I do not even have \$650 in my  
22 account.

23 CHAIRMAN BENNETT: Is there a second for  
24 my motion?

25 IEC MEMBER KLUTZ: I'll second.

1 CHAIRMAN BENNETT: Motion and second.

2 Any discussion?

3 All in favor say aye.

4 All opposed say nay.

5 The ayes have it. Most carries. 50  
6 percent reduction.

7 MS. HATCHER: Thank you.

8 MS. THOMPSON: Page 56. Action West  
9 Lafayette, Cause No. 2018-7016-113. This is the  
10 first time before the Commission and proposed  
11 civil penalty of \$1,000.47.

12 MR. HICKMAN: My name is Louis Hickman.  
13 I'm the treasurer of Action West Lafayette.  
14 We're a local committee just seeking to  
15 influence local elections. While I've learned  
16 since receiving notice of this proposed penalty  
17 and through the first two hearings today that,  
18 of course, I was ambitious in forming the PAC  
19 because I formed the PAC prior to ever receiving  
20 contributions in excess of \$100, meaning we were  
21 not defined as a PAC according to Indiana law.  
22 I should not have ever filed to create the PAC,  
23 but then I found it awkward to request donations  
24 to a PAC that did not yet exist. So found it  
25 prudent to create the PAC.

1           Then because I'm not a lawyer to  
2 interpret financial law of the State of Indiana,  
3 I relied on the campaign finance manual that the  
4 State of Indiana produces. I was originally  
5 using the 2016 one because we filed to create  
6 the PAC last fall. According to my reading of  
7 the finance manual, which I have read now these  
8 passages dozens of times following the proposed  
9 penalty, which I'm happy to read to the  
10 Commission here. I should not have, according  
11 to these rules, should not filed an annual  
12 report, even though my understanding now is that  
13 any existing political action committee should  
14 file an annual report regardless of financial or  
15 political activity.

16           So on page 32 of the Campaign Finance  
17 Manual under subheading CFA-4, Report of  
18 Receipts and Expenditures of a Political  
19 Committee. It states, "Generally speaking, a  
20 political action committee treasurer must file  
21 three receipts and expenditures reports  
22 (pre-primary, pre-election and annual) for every  
23 calendar year in which the political action  
24 committee makes a contribution or expenditure to  
25 influence an Indiana election."



1           We made no contributions or expenditures  
2   to influence an Indiana election so I originally  
3   did not think that we needed to file any annual  
4   report. Then it goes on to note "If a political  
5   action committee hasn't received or made  
6   contributions or expenditures before a primary,  
7   general or municipal election, the political  
8   action committee must file a report stating that  
9   none have been made," which does not refer in  
10  this note to the annual report. So that's why I  
11  didn't file an annual report. By the time I  
12  found out that we needed to file, the proposed  
13  penalty was \$1,000 and I filed as soon as I  
14  found out.

15           IEC MEMBER OVERHOLT: Ask a question, Mr.  
16  Chairman.

17           CHAIRMAN BENNETT: Yes.

18           IEC MEMBER OVERHOLT: So I take it from  
19  your testimony your PAC wasn't supporting any  
20  state candidates?

21           MR. HICKMAN: No, we had just formed and  
22  were just creating a plan, just a few people  
23  working together.

24           IEC MEMBER OVERHOLT: So am I correct in  
25  thinking if they weren't supporting any state

1 candidates that they didn't have to file?

2 MR. KOCHEVAR: Political action  
3 committees that propose to influence a state-  
4 wide or state legislative race or a state-wide  
5 public question have to file with the Indiana  
6 Election Division. All other political action  
7 committees would have to file with the relevant  
8 county election board for the election that will  
9 appear on their ballot. But I would reiterate  
10 again, as in other cases that we've taken up,  
11 that once a person or an entity does file the  
12 CFA-2 to create the committee with the Election  
13 Division, they're obligated under the Campaign  
14 Finance Act to make the required reports under  
15 law.

16 IEC MEMBER OVERHOLT: Thank you.

17 MR. HICKMAN: My understanding now is  
18 that that's how the law reads so what I don't  
19 understand is why the Campaign Finance Manual  
20 muddies this issue. I would be happy to help  
21 with remedying this to make it clear. Basically  
22 you should always file the reports as long as a  
23 committee is not disbanded. It does not make  
24 sense to me to say "general speaking, when it  
25 has made contributions and expenditures it must"

1 regardless of whether it has made contributions  
2 or expenditures.

3 CHAIRMAN BENNETT: So why didn't you take  
4 the 25 percent?

5 MR. HICKMAN: I'm requesting the waiver  
6 or the dismissal because my reading of the  
7 Campaign Finance Manual is that either we should  
8 not have filed or that we should have not been  
9 assessed the penalty, but it seems the Campaign  
10 Finance Manual either is unclear and  
11 misrepresents what actual law is or that it's  
12 following law and the law doesn't require us to.  
13 So that's why I assumed that by looking at this  
14 Campaign Finance Manual that it would be clear,  
15 but it's not clear what the manual says.

16 CHAIRMAN BENNETT: Do you have any  
17 opinions on that, Mr. Simmons, about the  
18 Campaign Finance Manual versus Indiana law?

19 MR. SIMMONS: No, Indiana law is clear.  
20 It's been recited by Mr. Kochevar.

21 CHAIRMAN BENNETT: Questions.

22 MR. KLUTZ: What has your fundraising  
23 activity for this PAC been like?

24 MR. HICKMAN: Prior to the annual report  
25 we had not received any money above \$100. We're

1 still under \$100. So even though we had planned  
2 to then influence elections or issues, we should  
3 never have organized the committee because we  
4 hadn't even received \$100 yet. Now I think  
5 we're around \$700 in funds.

6 IEC MEMBER CLAYTOR: But you had received  
7 contributions?

8 MR. HICKMAN: I do have three copies of  
9 this. It states "Every calendar year in which  
10 the political action committee makes a  
11 contribution or expenditure." So it does not  
12 say anything about receiving contributions.  
13 Since the contribution was less than \$100, we  
14 never should have organized in the first place  
15 and we would have saved all of our time,  
16 including the Commission's.

17 IEC MEMBER CLAYTOR: Do you intend to  
18 remain as an open state PAC?

19 MR. HICKMAN: Yes. Do you have advice  
20 for making a --

21 IEC MEMBER CLAYTOR: I really don't.

22 CHAIRMAN BENNETT: Motions?

23 IEC MEMBER OVERHOLT: So this is an  
24 ongoing PAC? You aren't --

25 MR. HICKMAN: Right, the annual report

1 was apparently the first that we were required  
2 to file by law. We were unaware because we were  
3 following the wording in the --

4 IEC MEMBER MS. OVERHOLT: Right, I get  
5 all that, but my point is you're not planning to  
6 close the PAC?

7 MR. HICKMAN: Right, but I would  
8 appreciate the Commission's pity, as they've  
9 shown on so many people here today, because we  
10 are not by any means a large PAC.

11 CHAIRMAN BENNETT: I think the law is  
12 clear on this. These are sophisticated matters  
13 when you get involved with PACs and election  
14 laws. You seem to be an intelligent, educated  
15 person. It's hard for me to say that the law is  
16 not clear on this. It seems to be the kind of  
17 case where for a first mistake that a 25 percent  
18 deal would be appropriate. Given the sincerity  
19 of your presentation, I'm prepared to move to  
20 allow you to have the 25 percent deal, even  
21 though you didn't take it. That would be my  
22 motion.

23 IEC MEMBER CLAYTOR: I'll second.

24 CHAIRMAN BENNETT: Have a motion and a  
25 second. Any discussion?

1 All in favor say aye.

2 All opposed say nay.

3 The ayes have it. Fine reduced to 25  
4 percent.

5 MR. HICKMAN: Thank you all for your  
6 time. Appreciate it.

7 MS. THOMPSON: Mr. Chairman, this is your  
8 little yellow tab. This is Patoka Lake Marina  
9 and Lodging. This is Cause No. 2018-171,  
10 contributed to Aaron Houchens in the amount of  
11 \$2,500. This corporation has never been before  
12 the Commission. Friends of Aaron Houchens  
13 refunded \$500 to Patoka Lake Marina. The amount  
14 of proposed civil penalty is three times the  
15 excess.

16 MR. BARTELS: My name is Steve Bartels.  
17 I'm the secretary/treasurer of the corporation.  
18 Kind of stated in there what happened.  
19 Basically we were asked to contribute. We got  
20 involved in the political arena. Was not really  
21 aware. The campaign actually recognized after  
22 the deposit that there was a mistake. They  
23 reimbursed \$500, told us what the issue is.  
24 Kind of thought that was it until we were  
25 notified that by Election Board we had these

1 issues. So right after that, even with my new  
2 position in legislation, so now all my companies  
3 actually have line items. We track that and so  
4 there will be no overages. I ask that we be  
5 treated the same as the other corporation, 25  
6 percent of the overage, which is reasonable.

7 CHAIRMAN BENNETT: Any questions? Any  
8 motions?

9 IEC MEMBER CLAYTOR: If I can do math,  
10 that would be \$125, assuming the C.P.A.  
11 certificate was good for something when I got  
12 it. So Mr. Chairman, I would move that we fine  
13 the corporation \$125.

14 CHAIRMAN BENNETT: Is that excess?

15 IEC MEMBER CLAYTOR: It is.

16 CHAIRMAN BENNETT: Is there a second?

17 IEC MEMBER KLUTZ: Second.

18 CHAIRMAN BENNETT: Motion and second.

19 Any discussion? All in favor --

20 IEC MEMBER KLUTZ: Just for discussion  
21 and for the record, I think the evidence here is  
22 that the check, the excess was returned within a  
23 week and their statements they now have specific  
24 accounting safeguards in place that this won't  
25 happen again.

1 IEC MEMBER CLAYTOR: That's a good point,  
2 excellent point.

3 CHAIRMAN BENNETT: All in favor of the  
4 motion for a reduction to \$125 say aye.

5 All opposed say nay.

6 The ayes have it. Motion carried. Fine  
7 reduced 25 percent.

8 MR. BARTELS: Thank you.

9 MS. THOMPSON: Mr. Chairman, the first  
10 one -- he's got three. This is the supplemental  
11 report. This is page 80. There's one and two,  
12 and on the bottom of 81 is the third one. Do  
13 you want to do them separately or do you want me  
14 to read them all?

15 CHAIRMAN BENNETT: Page 80?

16 MS. THOMPSON: One, two and the bottom of  
17 81 is the third one.

18 CHAIRMAN BENNETT: So can you explain the  
19 difference between these three?

20 MS. THOMPSON: They were three separate  
21 contributions during a large contribution period  
22 that were filed late.

23 CHAIRMAN BENNETT: You may proceed.

24 MS. THOMPSON: This is Cause No.  
25 2018-7050-161. Has never been before the



1 Commission before. Has a civil penalty of  
2 \$250.50. The second one is Cause No. 2018-7050-  
3 162. It has a proposed civil penalty of  
4 \$100.50. The third one is Cause No. 2018-7050-  
5 164. Has a civil penalty of \$100.50. Those are  
6 the three.

7 CHAIRMAN BENNETT: Thank you. You may  
8 proceed.

9 MR. CREWS: My name is Jim Crews. I'm  
10 the treasurer of the Friends of Chuck Goodrich  
11 campaign and the person that filed the reports.  
12 We hired a firm called Political Bank to do some  
13 campaign management for us. That termination  
14 with them happened in March, but they had on  
15 their website an availability to make  
16 contributions through credit card. We received  
17 some of those. Then on the 23rd of April we  
18 became aware of three additional contributions.  
19 We filed a CF-11 form identifying those, but I  
20 think this was an accounting error in that we  
21 identified the date on those contributions as  
22 the date that the credit card was processed as  
23 opposed to the date that the money came into our  
24 account. So effectively the supplemental report  
25 was filed on 4/24. The CF-11 was filed on 4/24,

1 but on CF- 11 we had dated it back to April 18th  
2 and 20th, and so it appears like they were late,  
3 but I think this is more of an accounting error  
4 in the way we filed the CF-11 as opposed to the  
5 fact we were delinquent on getting the  
6 supplemental report in. Both were filed on the  
7 same day. The actual charge that we got is  
8 basically saying one of them came in on a --  
9 because it was filed on the 18th and we got the  
10 report in on the 24th. There's like a five-day  
11 fine. The other one was, I believe, a two-day  
12 fine or one-day fine.

13 So I would like to say that this is more  
14 of an accounting error in how we identify date  
15 of those moneys coming available to us as  
16 opposed to the fact that we didn't file the  
17 supplemental reports and the CF-11 on a timely  
18 basis. What I'm asking for is to have the  
19 causes waived.

20 CHAIRMAN BENNETT: Let me ask the staff  
21 about this accounting error issue. What is your  
22 position on that?

23 MS. THOMPSON: They actually filed the  
24 CFA-11 and we just went by what they had on  
25 their dates, when the reports were due and when

1 they actually filed them. I go by what they  
2 reported.

3 IEC MEMBER CLAYTOR: Mr. Chairman. Have  
4 the attorneys correct me if I'm wrong. I  
5 believe that the IEC has always interpreted  
6 received as being deposited, which I  
7 vociferously disagree with, but that is the  
8 interpretation of the Election Commission, and I  
9 know in most situations the merchant account  
10 payment usually comes two to three days after  
11 the card is actually swiped or the button is  
12 pushed. So I've had this issue myself in  
13 campaign finance issues.

14 I believe under the interpretation of the  
15 Election Commission that you should report it as  
16 received when it's been deposited, that that  
17 would trigger the CFA-11. I was going to say,  
18 therefore, they may have reported the date  
19 swiped on the CFA-11, and that was not  
20 necessarily the date deposited in the account.  
21 I believe that's what you're arguing?

22 MR. CREWS: Correct.

23 IEC MEMBER CLAYTOR: Assuming again if  
24 Dale and Matthew and I think Bradley and Angie  
25 would bare out what I'm saying, that has been

1 the normal interpretation of the IEC and it's a  
2 matter that they should not have used those  
3 dates on their CFA-11.

4 IEC MEMBER OVERHOLT: Do you have  
5 documents showing the swipe date versus the --

6 MR. CREWS: I don't have documents on the  
7 swipe date. I've just got documents on when  
8 money came into our account.

9 IEC MEMBER OVERHOLT: That's the more  
10 important one.

11 CHAIRMAN BENNETT: Mr. Simmons, can you  
12 cite any statute?

13 MR. SIMMONS: Mr. Chairman, Members of  
14 the Commission, in 3-9-2-5 Subsection B the code  
15 does address when a contribution is considered  
16 to be received and accepted. It includes both  
17 physical possession and manifesting intent to  
18 keep the contribution by depositing the  
19 contribution in the account. That's part of the  
20 election code.

21 CHAIRMAN BENNETT: Any further questions  
22 on this?

23 IEC MEMBER OVERHOLT: I'd like to see the  
24 information about the deposit dates if he's got  
25 it.

1 MR. CREWS: What I have here is the date  
2 of 4/20 but we recorded it as 4/18, and we have  
3 another deposit on 4/25 and we reported it 4/20.  
4 That's on the CFA-11. The 18th should have been  
5 reported on the 20th and the 20th should have  
6 been reported on the 25th.

7 IEC MEMBER OVERHOLT: Then what about the  
8 one on the 23rd?

9 MR. CREWS: There was actually two. This  
10 one here is for \$1,000. The other one is \$500.  
11 Those were both deposited on the same day and  
12 those were both recorded on 4/20, but they were  
13 deposited on 4/25. So the total of \$1,000 and  
14 \$500 made the \$1,500 deposit that we received on  
15 the 25th. The 20th and the 18th is the \$2,500.

16 IEC MEMBER OVERHOLT: I'm sorry. You  
17 need to pass those --

18 CHAIRMAN BENNETT: Leave that with Mr.  
19 Simmons.

20 MR. CREWS: Would you like me to explain  
21 the --

22 MR. SIMMONS: No, I just need it for the  
23 record.

24 CHAIRMAN BENNETT: Is there any motion?

25 IEC MEMBER KLUTZ: I'll make a motion to

1 dismiss all three causes of action. It seems  
2 it's an error in reporting and not a violation  
3 of the law.

4 IEC MEMBER CLAYTOR: I'll second.

5 CHAIRMAN BENNETT: All in favor say aye.  
6 All opposed say nay.

7 The ayes have it. All three causes are  
8 dismissed.

9 MR. CREWS: Thank you very much.

10 MR. KLUTZ: Mr. Chairman, I guess we  
11 would recommend that you file an amendment to  
12 your reports so that you correct the --

13 MR. CREWS: I'll check to find out how to  
14 do that. I attempted to do that online, but I  
15 couldn't figure out how --

16 MS. TAYLOR: It just makes a bigger mess.

17 MR. CREWS: That's what I found when I  
18 tried to do it. So I couldn't fix it.

19 CHAIRMAN BENNETT: Who is next? Anybody  
20 else?

21 MS. TAYLOR: We have a couple of  
22 clean-up.

23 CHAIRMAN BENNETT: At this time I would  
24 ask that the campaign finance staff identify any  
25 matters for which a motion for continuance was

1 received for today's meeting.

2 MS. TAYLOR: We have several requests for  
3 continuance. I'm just going to read off the  
4 cause numbers.

5 Cause Nos. 2018-7158-18, 2018-6860-94, those are  
6 both for the Committee to Elect Rosa Maria  
7 Rodriguez.

8 Cause No. 2018-7185-20, that's for Joslin for  
9 Indiana.

10 Cause No. 2015-6645-91, Wabash Democratic PAC.

11 Cause No. 2017-6938-86, Hoosiers for Justice  
12 Political Action Committee.

13 Cause No. 2016-6873-166, Wabash County Democrat.

14 Cause No. 2018-6511-58 and Cause No. 2018-6511-  
15 155, Tatgenhorst for Lieutenant Governor.

16 Cause No. 2018-6612-62, Fuller for State  
17 Representative Committee.

18 Cause No. 2018-6744-76, Elect Tammy Davis.

19 Cause No. 2018-6832-88, Friends to Elect Randy  
20 Howard.

21 Cause No. 2018-6836-90, Committee to Elect  
22 Linkmeyer.

23 Cause No. 2018-686-97, Partners for Restoring  
24 the American Dream.

25 Cause No. 2018-1376-121, Klinker for State

1 Representative Committee.  
2 Cause No. 2018-7117-148 and 2018-7117-159,  
3 Committee to Elect Mark Kurowski.  
4 Cause No. 2018-7160-168 and 2018-7160-169,  
5 Aguilera for Indiana.

6 Those are all causes that have asked for  
7 a continuance today.

8 CHAIRMAN BENNETT: Is there a motion to  
9 grant these requests for continuance?

10 IEC MEMBER KLUTZ: So moved.

11 CHAIRMAN BENNETT: Is there a second?

12 IEC MEMBER CLAYTOR: Mr. Chairman, I  
13 believe I need recuse myself on one of those  
14 matters. So if someone else would like to  
15 second that, it would make me much happier.

16 IEC MEMBER OVERHOLT: I'll second.

17 CHAIRMAN BENNETT: Do you want to say for  
18 the record which one?

19 IEC MEMBER CLAYTOR: It would be Cause  
20 No. 2018-7185-20.

21 CHAIRMAN BENNETT: All in favor of the  
22 motion to grant the motions for continuance,  
23 excluding the one that Mr. Claytor is recusing  
24 himself from, say aye.

25 All opposed say nay.



1 Motion carries for all of those motions  
2 other than the one recusal.

3 We just need a majority, I understand,  
4 for the motions. So let's vote on the cause  
5 number for which recusal has been stated.

6 All in favor of granting that motion for  
7 continuance say aye.

8 All opposed say nay.

9 The ayes have it. 3-0 vote with one  
10 abstention.

11 IEC MEMBER CLAYTOR: Thank you.

12 MS. TAYLOR: We also have a staff  
13 request.

14 CHAIRMAN BENNETT: I've got the  
15 administrative dissolution that we need to deal  
16 with. Does that anything to do with your  
17 request?

18 MS. TAYLOR: We also have the  
19 administratively dissolve.

20 CHAIRMAN BENNETT: Why don't we finish  
21 these items here and we'll handle yours, unless  
22 it's urgent at this point.

23 MS. TAYLOR: Doesn't matter to me.

24 CHAIRMAN BENNETT: Go ahead and do it  
25 now. What is your request?

1 MS. TAYLOR: We are asking to dismiss  
2 Cause No. 2018-4943-128. It's Clark Dietz PAC.  
3 Their 2018 pre-primary report was received in  
4 our office but placed in the wrong mailbox so we  
5 didn't get it and file-stamp it until a few days  
6 after the deadline.

7 CHAIRMAN BENNETT: Is there a motion to  
8 dismiss that matter?

9 IEC MEMBER CLAYTOR: So moved.

10 CHAIRMAN BENNETT: Is there a second?

11 IEC MEMBER KLUTZ: Second.

12 CHAIRMAN BENNETT: Any discussion?

13 Hearing none, all in favor say aye.

14 All opposed say nay.

15 The ayes have it. Motion carried. The  
16 matter is dismissed.

17 At this time I would recognize our staff  
18 to present information regarding administrative  
19 dissolution of certain campaign financial  
20 committees.

21 MS. TAYLOR: We have two committees to  
22 administratively dissolve today. The first is  
23 Hoosiers for West Bishop. It's the pink tab at  
24 the back of your campaign finance section in  
25 your binder. Hoosiers for West Bishop. Moving

1 forward, these committees have not filed reports  
2 in over three years and they will both have  
3 balances of less than \$1,000. The chairman and  
4 treasurer of each have been notified.

5 CHAIRMAN BENNETT: So none of these  
6 committees have filed a report during the  
7 previous three calendar years and the last  
8 report shows cash on hand not exceeding \$1,000?

9 MS. TAYLOR: Correct.

10 CHAIRMAN BENNETT: I move that the  
11 Commission do the following:

12 1, make a finding there is no evidence  
13 that any of these committees continue to receive  
14 contributions, make expenditures or otherwise  
15 function as a committee.

16 2, make a finding that according to the  
17 best evidence available to the Commission the  
18 dissolution of these committees will not impair  
19 any contract or impede the collection of any  
20 debt or judgment by a person.

21 3, make a finding that the prudent use of  
22 public resources makes further efforts to  
23 collect any outstanding civil penalty imposed  
24 against these committees wasteful or unjust and,  
25 therefore, any such penalties be waived.

1 4, administratively dissolve each of  
2 these committees.

3 Is there a second to this motion?

4 IEC MEMBER CLAYTOR: Second.

5 CHAIRMAN BENNETT: Any discussion?

6 All in favor of the motion say aye.

7 All opposed say nay.

8 The ayes have it. Motion carried.

9 Is anyone present to testify on any  
10 remaining campaign finance hearings scheduled  
11 for today? Hearing none, I declare the hearings  
12 on all remaining campaign finance matters  
13 scheduled for today are closed.

14 Is there a motion to impose the entire  
15 amount of the proposed penalty plus mailing  
16 costs in all remaining campaign finance  
17 enforcement actions?

18 IEC MEMBER CLAYTOR: So moved.

19 CHAIRMAN BENNETT: Is there a second?

20 IEC MEMBER KLUTZ: Second.

21 CHAIRMAN BENNETT: Any discussion? If  
22 not, all in favor of the motion say aye.

23 All opposed say nay.

24 Motion carried. Penalty is adopted.

25 At this time we'd like to take a short

1 break. We will hold this meeting in recess for  
2 10 minutes. We will resume and move to the  
3 issue of candidate challenge hearings.

4 (A short break was taken.)

5 CHAIRMAN BENNETT: I call the meeting of  
6 the Indiana Election Commission back to order.

7 At this time I would like to ask for the  
8 consent of the Commissioners to take a couple of  
9 agenda items out of order. The first would be  
10 the staff report and the second a motion to  
11 withdraw candidate challenge.

12 Is there consent of the Commissioners to  
13 taking that out of order?

14 IEC MEMBER CLAYTOR: Consent.

15 IEC MEMBER OVERHOLT: Consent.

16 IEC MEMBER KLUTZ: Consent.

17 CHAIRMAN BENNETT: Consent. Thank you.

18 At this time I'd ask for a staff report on the  
19 status of candidate challenges.

20 MR. KING: Mr. Chairman, Members of the  
21 Commission, noon August 4, 2018, is the deadline  
22 fixed by statute for a CAN-1 challenge to be  
23 heard by the Election Commission. I can report  
24 that as of noon today no additional challenges  
25 were filed.

1 CHAIRMAN BENNETT: Thank you. I  
2 understand there's a motion to withdraw a  
3 candidate challenge.

4 MR. KING: Yes, Mr. Chairman, I believe  
5 the Members have been furnished with a copy of a  
6 motion filed in the Jeffrey L. Chittister  
7 challenge to Cole Stutz by Mr. William Groth.  
8 The motion is to withdraw the challenge to the  
9 candidacy of Mr. Stutz as a candidate for Senate  
10 District 4.

11 CHAIRMAN BENNETT: Is there a motion to  
12 grant the motion to withdraw?

13 IEC MEMBER CLAYTOR: So moved.

14 CHAIRMAN BENNETT: Is there a second?

15 IEC MEMBER KLUTZ: Second.

16 CHAIRMAN BENNETT: Is there any  
17 discussion? Hearing none, all in favor of  
18 granting a motion to withdraw candidate  
19 challenge say aye.

20 All opposed say nay.

21 The ayes have it. Motion granted.  
22 Candidate challenge under the Stutz matter is  
23 withdrawn.

24 Which brings us to the adoption of  
25 candidate challenge hearing procedures for

1 today. In the past the Commission has followed  
2 certain procedures for conducting candidate  
3 challenge hearings, and I move that the  
4 Commission use the following procedures today.

5 After the candidate challenge is called,  
6 the hearing will be begin by recognizing  
7 Election Division staff to provide information  
8 about the documents provided to Commission  
9 Members, including candidate challenge forms and  
10 the notice given to the candidate and  
11 challenger. Unless there is objection, the  
12 documents provided to the Commission by the  
13 Election Division will be entered into the  
14 record of this meeting.

15 After the Election Division staff  
16 completes its presentation, the challenger will  
17 be recognized first. The challenger or the  
18 challenger's representative may present their  
19 case for no more than ten minutes, unless the  
20 Commission votes to allow additional time for  
21 the presenter. Commission Members may ask  
22 questions during a presentation, but the time  
23 spent answering these will not be counted  
24 against the presenter's time. The Election  
25 Division may signal the Chair when a presenter's

1 time is up.

2 If the presenter offers additional  
3 documents or other physical evidence not  
4 previously received by the Commission, then the  
5 original must be provided to the Election  
6 Division staff, which is Mr. Simmons, to  
7 preserve for the record.

8 The candidate or the candidate's  
9 authorized representative will be recognized  
10 following the last presentation by a challenger.  
11 The candidate may present their case for no more  
12 than ten minutes, unless the Commission votes to  
13 allow additional time for the presenter.

14 Following presentation by a challenger the  
15 candidate may cross-examine the challenger.  
16 Following the presentation by a candidate, a  
17 challenger may cross-examine the candidate. The  
18 cross-examination in all cases is limited to two  
19 minutes, unless the Commission votes to allow  
20 additional time. The cross-examination must be  
21 limited to questions regarding statements made  
22 by the presenter.

23 Following the presentation by a  
24 candidate, the challenger may present a rebuttal  
25 of no more than two minutes. The Commission may



1 dismiss the cause of any challenger who has  
2 failed to appear or testify before the  
3 Commission.

4 Is there a second to my motion for the  
5 Commission to adopt these procedures for today's  
6 candidate challenge hearings?

7 IEC MEMBER CLAYTOR: Second.

8 CHAIRMAN BENNETT: Is there any objection  
9 from Commission Members or any individual  
10 present to these procedures?

11 Hearing none, is there further discussion  
12 by the Members?

13 At this time all in favor of adoption say  
14 aye.

15 All opposed say nay.

16 The ayes have it and the motion is  
17 approved.

18 We'll begin with consideration of Cause  
19 No. 2018-122: In the Matter of the Challenge to  
20 Christina M. Espar, Candidate for Prosecuting  
21 Attorney of LaPorte County, 32nd Judicial  
22 Circuit.

23 The Election Division has provided a copy  
24 of the Candidate Filing Challenge form. A copy  
25 of the notice is given to the candidate and

1 challenger in this matter and documentation of  
2 their delivery. The challenge and related  
3 documents are found behind the orange tab in  
4 your binder.

5 An appearance has been entered in this  
6 matter by the challenger, Mr. James E. Kimmel of  
7 Lake Law Office, and an appearance on behalf of  
8 the candidate has been entered by Mr. Tom John  
9 and Mr. Derek Molter of Ice Miller. These  
10 documents are included in your binder.

11 We will now open the public hearing on  
12 Cause No. 2018-122. I would recognize Mr.  
13 Kimmel for presentation of the challenge.

14 (All prospective people intending to  
15 testify before the Indiana Election Commission  
16 stood and were jointly sworn in.)

17 MS. LAKE: My name is Mary Lake. I  
18 represent James Kimmel in the challenge against  
19 Christina Espar, the Republican candidate for  
20 LaPorte County Prosecuting Attorney.

21 You received packets that are tabbed with  
22 the exhibits that were previously submitted,  
23 with the exception of the first, which was the  
24 Affidavit of Public Records by the custodian.

25 The law is clear and unambiguous on this

1 challenge. Indiana Code Section 3-13-1-6(b)  
2 gives us three ways to fill an early ballot  
3 vacancy. If you look at Exhibit 5, that  
4 document is indicative of the choice the  
5 Republican Party in LaPorte County made to give  
6 appointment authority to their executive  
7 committee caucus. That's option 3 under the  
8 statute. To appoint a candidate in this matter  
9 they must hold a caucus comprised of the chair,  
10 vice-chair, secretary and treasurer, according  
11 to statute.

12 If you flip forward to Exhibit 6, you  
13 will see the resolution of Republicans of  
14 LaPorte County did adopt at their executive  
15 committee caucus meeting on June 27, 2018. They  
16 did hold such a caucus and according to Indiana  
17 Code Section 3-13-1-8-2, the county chairman  
18 shall call a meeting for the purpose of slating  
19 a candidate. According to IC 3-13-1-9, the call  
20 for the meeting must be in writing issued ten  
21 days before the such meeting and be filed with  
22 the Election Division. That is, a CAN-30 must  
23 have been filed by the June 17th date, which was  
24 ten days before the caucus committee meeting was  
25 held on June 27th.

1 Exhibit 1 is the custodian of records for  
2 the Election Division affidavit and Paragraph 3  
3 recites the list of documents filed with the  
4 Election Division in this matter. CAN-30 is  
5 noticeably absent from the list, I will point  
6 out. Paragraph 5 makes it clear that no other  
7 documents were filed as well. The Republicans  
8 never filed a CAN-30 as required in this matter  
9 to announce that caucus committee meeting.

10 Indiana Code Section 13-1-21 states  
11 clearly that the Election Division, i.e., the  
12 official responsible for receiving a Certificate  
13 of Candidate Selection, may not receive a filing  
14 if any of the prerequisites are not timely  
15 filed, any one of which would make the candidacy  
16 fail, and one of which is a Notice of Caucus  
17 which was not filed.

18 Exhibit 3 in the binders I presented to  
19 you indicates the CAN-31 that was filed on July  
20 2, 2018. That was filed five days after the  
21 candidate selection occurred on June 27th, 2018.  
22 The stamp on that document says June 32nd. You  
23 will note that that was an internal clock error  
24 apparently because obviously there's no such  
25 date.

1 Indiana Code Section 3-13-1-10.5(a)  
2 requires that the CAN-31 be filed 72 hours  
3 before a caucus is held. The deadline for  
4 filing thus would have been June 24th. Indiana  
5 Code Section 3-13-1-10.5(c) requires that a  
6 Statement of Economic Interest also be filed  
7 with the CAN-31 and file marked by the Office of  
8 Judicial Administration.

9 If you look at Exhibit 4, the Statement  
10 of Economic Interest filed with the Office of  
11 Judicial Administration was done on June 27,  
12 2018. That was three days after the deadline  
13 for such filing. The filing deadline with the  
14 Election Division was also June 24th, 72 hours  
15 prior to that committee caucus meeting, but that  
16 was not filed until July 2, 2018. So eight days  
17 late.

18 Once again, the provisions of 3-13-1-21  
19 are clear. The Election Division cannot accept  
20 a filing from a candidate selection if the  
21 CAN-31 was not timely filed. Therefore, this  
22 has to invalidate the candidacy even if it was  
23 filed and received in error.

24 For the forgoing reasons, we respectfully  
25 request the Commission sustain the challenge

1 filed by James Kimmel and direct the Election  
2 Division to amend the certified list of general  
3 election candidates so that the name of  
4 Christina Espar not be printed on the ballot.

5 Thank you. If you have any questions,  
6 I'd be happy to answer.

7 CHAIRMAN BENNETT: Any questions by the  
8 Commission?

9 Mr. John, cross-examination?

10 MR. JOHN: None.

11 MS. LAKE: Before I conclude, I'd like to  
12 move for the admission of the exhibits offered  
13 in the packet.

14 CHAIRMAN BENNETT: Any objection to the  
15 admission of the exhibits?

16 MR. JOHN: None.

17 CHAIRMAN BENNETT: The exhibits are  
18 admitted.

19 I call for the presentation from the  
20 candidate.

21 MR. JOHN: Tom John, Ice Miller, on  
22 behalf of the candidate, Christina Espar.

23 In short, just a brief introduction.  
24 This centers around the meaning of caucus. The  
25 challenger would have us believe that it's

1 clear-cut absolute law what it is. What I'll  
2 tell you and all of you know from working around  
3 the election code, very seldom is it clear-cut.  
4 In fact, we'll just start with the definition of  
5 caucus in the code at 3-5-2-7.5. As used in  
6 3-9, caucus refers to a caucus to fill a  
7 candidate vacancy under 3-13-1 or 3-13-2. The  
8 term does not include a caucus to fill a vacancy  
9 under 3-13-5 or IC 3-13-11. It's not clear.  
10 It's far from it. The code is replete with  
11 references to caucuses and meetings.

12 Why does this matter? Well, because at  
13 the end of the day they're saying that a county  
14 committee of four people that all were given  
15 notice because they were all at the meeting had  
16 to have notice given to them ten days before.  
17 This is not like an open door statute where you  
18 have notice that is out there for the community.  
19 Quite the contrary. This is simply to ensure  
20 that the rights of participants in meetings is  
21 protected. So in the case of a county  
22 committee, which there again the use of the word  
23 committee, which in here is through all the  
24 statutes referenced by the challenger, and a  
25 county caucus is referred.

1           Why are those two words used? A county  
2 committee is comprised of the entirety of the  
3 county precinct body. A caucus is comprised of  
4 the people in that district. Sometimes they're  
5 conterminous; sometimes they aren't. But in  
6 either case, those are places where you're  
7 having large groups that have to have their  
8 rights protected to ensure that they get to  
9 participate in the process to which they were  
10 elected -- for which they were elected by the  
11 voters.

12           In this case everybody participated in  
13 the process. I'm to argue it's not even clear  
14 that you have any need for this 10-day  
15 requirement. If you don't have a need for the  
16 10-day requirement, we have testimony that we  
17 will submit on DVD to you that is Mr. Simmons  
18 telling my client that in fact she could not  
19 even file her CAN-31 because she didn't have the  
20 package from the chairman or the committee.

21           Furthermore, you look at the 2018  
22 candidate guide and on page 21 it says,  
23 "However, if the county committee has adopted a  
24 resolution to delegate this candidate (ballot)  
25 vacancy filling authority to the county chairman



1 (or to the chairman, vice-chairman, secretary  
2 and treasurer of the county committee), then the  
3 candidate vacancy may be filled by direct  
4 appointment." There's no mention of a caucus  
5 there. This is the candidate guide.

6 All in all, we're dealing with a system  
7 where you had all of the people who are members  
8 of the group, the caucus, the committee,  
9 whatever we care to call it, who were in  
10 attendance and filed the papers.

11 Moreover, you could hear from my client,  
12 although given the shortness of time and I'd be  
13 happy to provide her testimony, but that in  
14 fact, she came down -- and you'll have this DVD  
15 or the tape which will show you the interaction.  
16 They were trying to file their candidate filing  
17 at the Election Division and were told, no, you  
18 can't do that. Moreover, there was a discussion  
19 about the 72-hour period of filing ahead because  
20 the county committee, which Mr. Renquist could  
21 also testify to, said that they were going to  
22 set the time for 72 hours after Miss Espar made  
23 her filing, but in fact, when they were told by  
24 Mr. Simmons that in fact they didn't have a 72-  
25 hour requirement, they went ahead and filed it

1 so they could submit it.

2           Moreover, I'll raise the very important  
3 concept of harmless error in the Election Code.  
4 IC 3-8-1.1 says if a candidate filing error is  
5 made by the Election Division or circuit court  
6 clerk, the error does not invalidate the filing.  
7 My client relied on what they were told. In  
8 fact, the division wouldn't accept her filing  
9 until after the committee had acted.

10           We are dealing with a case where nobody  
11 was harmed. In fact, the only person that will  
12 be harmed if you rule with the candidate is her  
13 opponent who wants to run unopposed, and replete  
14 throughout the Election Code is the fact that we  
15 should always strive to ensure that we have fair  
16 elections and every vote is counted.

17           By ruling with the challenger in this  
18 case, you will have essentially denied all the  
19 voters of LaPorte County the right to vote in  
20 the prosecutor's election, a constitutional  
21 office. This is something that when you look at  
22 all of how this fits together, there is no  
23 reason why this challenge should be there. All  
24 due process was met. All of the people who are  
25 a member of that county committee who would have

1 been the only people to receive that notice were  
2 there. They made sure all the filings were  
3 there. Now, 121 was raise by the challenger as  
4 saying that our filing was untimely. If you  
5 look at that, that talks about filings at the  
6 June 3rd date. It's not filings that have to do  
7 with the actual coming in on the 72-hour. So  
8 that doesn't even apply with respect to that.  
9 What we have is a confusing statute that uses  
10 caucus and meeting in a myriad ways that confuse  
11 any given candidate that apparently, if the  
12 challenger is right, confused the Commission.

13 One note is there's some discussion about  
14 whether a candidate challenge refers to it takes  
15 three votes or two votes for the Commission.

16 One brief note on that is that it takes -- if  
17 you look at the underlying statutes -- I'm happy  
18 to discuss this further. I would argue that she  
19 is on the ballot until such time as declared off  
20 the ballot by the Commission. I'd be happy to  
21 explore that further and it may not be an issue  
22 because I don't know how the Commissioners will  
23 vote. I don't want to belabor an issue that may  
24 not be at issue.

25 What we have is a case where if the

1 Commission strikes this, you'll have taken a  
2 process which basically down to a centimeter.  
3 The central committee if the process had given  
4 to the county chairman the direct appointment  
5 right, we wouldn't be here. There would be zero  
6 discussion, but because they gave it to the  
7 central committee, then we're here. Under no  
8 circumstance have I ever seen a central  
9 committee referred to as a caucus. In fact, a  
10 central committee is the governing body of a  
11 county party and it's the body that is given the  
12 authority to act on behalf of the county party,  
13 and they acted in a meeting. You do not have to  
14 notice every central committee meeting. There's  
15 nothing in there that says that. I would argue  
16 the reference to caucus is frankly a sloppy  
17 reference to something that has no import to  
18 this case. With the idea that there's no 10-day  
19 notice to a caucus, then in fact all three of  
20 their claims fall apart because they fall into  
21 two categories. One, being the fact that the  
22 notice was not filed 10 days. They claim that  
23 that invalidates it. Then the two filings by my  
24 client, the candidate, and both of those there's  
25 no dispute, and we have evidence from the

1 Election Division that clearly said that all  
2 comes in together.

3 So at worst, there is harmless error here  
4 and detrimental reliance, and we have a statute  
5 that even says that in such cases that the tie  
6 goes to the candidate. Moreover, we have myriad  
7 voters in LaPorte County that will be denied an  
8 opportunity to have a choice simply because of  
9 scrivener's errors at best. Because had the  
10 county committee simply delegated to the  
11 chairman and not the committee, we would never  
12 be here. This is yet another example of why  
13 this Commission is here. You're here to solve  
14 these problems that are difficult that come up  
15 and interpret the laws. This is a case where we  
16 have a vague statute that should be interpreted  
17 justly to find that we have an election this  
18 fall, not to ensure that a candidate gets to run  
19 unopposed.

20 I'll take any questions. Thank you.

21 CHAIRMAN BENNETT: Thank you. Any  
22 cross-examination?

23 MS. LAKE: Am I to receive any time for  
24 rebuttal after the question period? Just as a  
25 point of order.

1 CHAIRMAN BENNETT: Yes. Is there any  
2 other evidence or any further testimony at this  
3 point?

4 MR. JOHN: I would offer, if it would be  
5 helpful to the Commission, my client and Mr.  
6 Renquist, but I also want to be cognizant of the  
7 fact that it's 4:25 on a Friday. I articulated  
8 that evidence and I was sworn so for purposes of  
9 this committee, I think the gist of it is  
10 preserved.

11 CHAIRMAN BENNETT: What is this video or  
12 disc that you said we were going to --

13 MR. JOHN: I just gave it to you. What  
14 that is, it's a 12-minute video of the  
15 interaction when they were trying to file their  
16 documents with Mr. Simmons. Actually for  
17 purposes of --

18 MS. LAKE: I would object to that at this  
19 time. I have not had a chance to review that.  
20 I'm not even sure that it's authenticated or  
21 relevant to the proceedings.

22 MR. JOHN: This is actually the key.

23 CHAIRMAN BENNETT: Have you exchanged  
24 exhibits?

25 MR. JOHN: No.

1 MS. LAKE: I just handed it to them.

2 IEC MEMBER OVERHOLT: Is there a  
3 transcript of this?

4 MR. JOHN: This is a key part of it.  
5 There's not a complete transcript. Frankly, we  
6 just filed our appearance yesterday and didn't  
7 have time to transcribe, although that's the  
8 most salient part of it.

9 MS. LAKE: I just received it now.

10 CHAIRMAN BENNETT: Have you got a copy of  
11 the transcript?

12 MS. LAKE: Yes, I do.

13 CHAIRMAN BENNETT: From your standpoint,  
14 Mr. John, what does this transcript show?

15 MR. JOHN: It shows that she was told  
16 there's no 72-hour rule with respect to the  
17 filing when the county committee's involved.  
18 So as to Claims 2 and 3, that obviates them when  
19 you look at the -- when you consider it in  
20 conjunction with 3-8-1-1.1. That's a backup  
21 argument frankly because I believe, as I started  
22 when I read from the candidate guide, that in  
23 fact there's no requirement for a caucus. In  
24 fact, this is just an example of the code is  
25 unclear in its treatment of the committee acting

1 versus the chairman acting versus a caucus  
2 acting. We all know a caucus and we all  
3 understand why that notice requirement is so  
4 important in the caucus setting because you have  
5 a lot of people who have worked hard as precinct  
6 committeemen. They've been elected precinct  
7 committeemen who have a right to be protected.  
8 In this case the four people we're talking about  
9 were there and voted, and it's really almost  
10 nonsensical to think in terms of calling a  
11 caucus of your central committee that in a  
12 functioning party should be operating and  
13 working together weekly, if not daily.

14 CHAIRMAN BENNETT: Mr. Simmons appears to  
15 agree that this is not a caucus?

16 MR. JOHN: Well, this is specifically --  
17 he says if the chair has the authority of the  
18 central committee has the authority to fill the  
19 vacancies and -- so the start of the  
20 interaction. So 72 hours does not apply  
21 referring to her filings, both her CAN-31 and  
22 economic interest. Mr. Simmons: Doesn't apply  
23 here. Espar: Okay. Mr. Simmons: If the chair  
24 has authority or the central committee has the  
25 authority to fill vacancies. Taken in total,



1 that would indicate and give her reason to  
2 believe that she had no 72-hour requirement with  
3 regard to her filings.

4 IEC MEMBER OVERHOLT: I have to say I'm  
5 concerned about -- because he's saying there's a  
6 12-minute conversation and that this -- we have  
7 a portion of the --

8 MR. JOHN: I'd be --

9 IEC MEMBER OVERHOLT: I'm talking.  
10 Excuse me. We've got a brief part of that here,  
11 and I'm reluctant without -- I'm reluctant to  
12 consider this because, first of all, this is not  
13 what I would consider a trans -- I mean this is  
14 someone who has typed up what is purportedly on  
15 this DVD. I don't know if there's any way for  
16 us to actually -- you haven't provided --

17 MR. JOHN: We brought the ability to do  
18 it for you.

19 IEC MEMBER OVERHOLT: Mr. John. I think  
20 we either need to listen to the whole thing or  
21 we don't consider it. I guess that's -- in  
22 weighing it, but it seems to me that if this is  
23 something they want us to consider, we ought to  
24 be listening to it.

25 IEC MEMBER KLUTZ: I'm open to listening

1 to it.

2 MR. JOHN: Mr. Chairman, we brought the  
3 stuff to do it, if you wish. I'm just trying to  
4 be conscious because you said 10 minutes. We've  
5 got a laptop and a computer. Take five minutes.

6 CHAIRMAN BENNETT: Take 12 minutes plus  
7 five.

8 IEC MEMBER OVERHOLT: So are we giving  
9 them the additional time to do that?

10 CHAIRMAN BENNETT: Maybe there are some  
11 procedural things that we could discuss.

12 IEC MEMBER KLUTZ: I want to get this  
13 right. So if it's here, I don't want to say we  
14 only gave them five minutes and let's not listen  
15 to it. I say we amend our rules and have some  
16 discretion and listen to it.

17 IEC MEMBER CLAYTOR: Or we could just ask  
18 Mr. Simmons the gist of the conversation.

19 CHAIRMAN BENNETT: We can do that, but  
20 then why don't we see the tape to verify.

21 IEC MEMBER OVERHOLT: I think it would be  
22 better to listen to the actual conversation.

23 CHAIRMAN BENNETT: Are you --

24 MR. JOHN: It's warming up right now.

25 CHAIRMAN BENNETT: Are there any

1 questions from any of the Commissioners while  
2 we're waiting on that? Mr. John mentioned that  
3 the decision on this it's not clear what the  
4 impact of a 2-2 vote would be. Is there any  
5 thought from counsel on that issue how many  
6 people we need to -- how many Commissioners need  
7 to vote to either sustain the challenge or deny  
8 it?

9 MR. SIMMONS: Mr. Chairman, it takes  
10 three affirmative votes to do either, sustain it  
11 or deny it.

12 CHAIRMAN BENNETT: Do you agree with  
13 that, Mr. Kochevar?

14 MR. KOICHEVAR: I do, yes.

15 MR. JOHN: Mr. Chairman, this is ready.

16 CHAIRMAN BENNETT: Is everybody ready?  
17 Can you turn it our way?

18 MR. JOHN: Of course. I can bring it up  
19 there, if that's all right.

20 (DVD played at this time.)

21 CHAIRMAN BENNETT: I'd be interested to  
22 hear from counsel what we just saw.

23 MR. JOHN: Which counsel? Me?

24 CHAIRMAN BENNETT: Both.

25 MS. LAKE: I think it's clear that the

1 word "if" was used several times. If the chair  
2 appointed and made a selection of candidate on  
3 his own, we wouldn't be here. However, there  
4 was a caucus comprised of four members, the  
5 chair, the vice-chair, secretary and treasurer.  
6 I think it's clear that Mr. Simmons explained  
7 the law accurately, but the facts were not  
8 necessarily made clear, and there seemed to be a  
9 large amount of confusion there on the part of  
10 the prospective candidate as to what was  
11 supposed to be filed and how the appointment  
12 process was supposed to go. This portion seems  
13 accurate, but also the clear word is "if," and  
14 the chair didn't make the candidate selection on  
15 his own.

16 As far as the tape goes. I have other  
17 arguments to rebut, but I'll leave it at that as  
18 far as the transcript.

19 CHAIRMAN BENNETT: Counsel for the  
20 candidate.

21 MR. JOHN: As far as the tape, I'll make  
22 a couple of comments.

23 If you look at CAN-29, Section 1(C),  
24 which is the applicable section for our  
25 purposes. This is on the Election Division

1 form. "If no meeting described in paragraph (B)  
2 was conducted, the County Committee has  
3 authorized the county chairman or the officers  
4 of the county committee to fill the ballot  
5 vacancy, and a copy of the authorization is  
6 attached." There's discussion of the  
7 authorization, but there's no discussion of,  
8 okay, they called a caucus of the county  
9 committee or anything like that.

10 Once again, I understand counsel's  
11 reading, but when we're talking about denying  
12 somebody their ability to be a candidate and  
13 tens of thousands of people ability to have a  
14 choice in the election, are these the  
15 technicalities we're going to get into here?

16 I think that there are distinct  
17 arguments, which I won't go back over, that the  
18 statutes are very unclear about committee,  
19 caucus, meeting. Once again, it's nonsensical  
20 that four members would need a caucus notice  
21 and, at worst, it's harmless error because they  
22 were all there and signed it.

23 IEC MEMBER KLUTZ: Mr. John, is the  
24 purpose of trying to figure out whether this is  
25 a meeting or a caucus simply for purposes of

1 whether there should have been notice? That's  
2 the sole purpose?

3 MR. JOHN: Claim 1 it's a 10-day notice  
4 that they've made, and then 2 and 3 are the  
5 72-hour notice.

6 IEC MEMBER KLUTZ: But the reason we're  
7 talking about was this a caucus or a notice is  
8 if it was a caucus, there should have been a  
9 notice provided, but everybody that should have  
10 received a notice if it were a caucus was in  
11 attendance at the meeting that should have been  
12 noticed.

13 MR. JOHN: And signed the document.

14 IEC MEMBER KLUTZ: That's not accurate?

15 MS. LAKE: I would argue otherwise. The  
16 potential candidates that could have filed if a  
17 notice was filed according to state statute,  
18 they were denied their right to run as potential  
19 candidates.

20 Counsel has referenced other information  
21 from people that's not on the record so I'll do  
22 the same. We had discussions with other  
23 attorneys --

24 MR. JOHN: Except I was sworn; she was  
25 not.

1 MS. LAKE: I was earlier today. Other  
2 attorneys have expressed the opinion that they  
3 would have filed had they known that this was  
4 the only candidate selection made. They were  
5 never given that right or that opportunity. So  
6 there are more people involved than just the  
7 caucus comprised of these members of the  
8 executive committee. The statute is clear as to  
9 a caucus comprised of chairman, vice-chairman,  
10 secretary and treasurer. It is clear that a  
11 CAN-30 must be filed to give notice in the event  
12 that a caucus committee is used.

13 IEC MEMBER KLUTZ: Notice to who?

14 MS. LAKE: Notice to the members of the  
15 party that there will be a candidate selection  
16 in this matter.

17 IEC MEMBER KLUTZ: What about notice --  
18 you said other candidates would have wanted to  
19 show up. How would they have gotten notice?

20 MS. LAKE: If it were filed with the  
21 Election Division in a timely manner, they could  
22 have found out and then filed their own  
23 candidacy. That was not done. So we really  
24 won't ever know if other people had the  
25 opportunity who were denied that opportunity.

1 IEC MEMBER KLUTZ: Assuming it was a  
2 caucus.

3 MS. LAKE: Yes, as defined by the  
4 statute. Further, counsel makes reference to  
5 the campaign finance manual and to alleged  
6 advice that Mr. Simmons is giving to the  
7 candidate in that tape. It's not the province  
8 or the job of the Election Division to give  
9 legal advice. It's clear in the manual that if  
10 there is any inconsistency between the candidate  
11 manual or the campaign finance guide or anything  
12 of that nature and the statutory language, then  
13 the statutory language prevails. So the  
14 argument that the campaign finance manual said  
15 something or Mr. Simmons said something that was  
16 possibly misinterpreted, that must fail. I  
17 think the statutory language is clear.

18 Counsel also referenced a 72-hour  
19 timeline that would have been different.  
20 There's no arbitrary way to set the 72-hour  
21 timeline. It's set by the caucus committee that  
22 met on June 27th, and that is the only logical  
23 time from which to set that 72-hour timeline for  
24 filing.

25 Further, the harmless error argument, as



1 I said, must fail because other candidates had  
2 no opportunity here to file.

3 I have nothing further on that.

4 CHAIRMAN BENNETT: Any response?

5 Rebuttal?

6 MR. JOHN: One note which I mentioned  
7 earlier but just to emphasize. As far as the  
8 72 hours, the county committee -- and Mr.  
9 Renquist would have testified to that -- was  
10 planning to meet three days after Miss Espar  
11 filed her papers. They did not solely based on  
12 the conversation of Mr. Simmons where they  
13 called and said you don't have to do it. So my  
14 client sent an e-mail to the county committee,  
15 and if you'd like Mr. Renquist to speak to it,  
16 we can have him. Send an e-mail to the county  
17 committee and they'll like, well, let's just go  
18 ahead and get this done and get it taken care  
19 of. Yes, it's not legal, but they tried to do  
20 what it was. How was she supposed to file it if  
21 in fact it couldn't be accepted? So she was in  
22 a trick box with regard to that 72-hour rule.

23 Then we get into the 10-day discussion.  
24 That's a different discussion. With regard to  
25 the 72-hour rule, she tried to do it and there

1 was time for the county committee to do it,  
2 which was what the timing was that was on the  
3 27th and they intended to act on the 30th, and  
4 was precluded from doing so.

5 Then that leaves the only live issue, the  
6 caucus issue, which I would posit to you is at  
7 best confusing, and perhaps there would have  
8 been some candidate that was perusing the  
9 Election Division website and decided "oh, I'm  
10 going to run for prosecutor." I would say I  
11 doubt it, and in fact, that goes against all of  
12 us who have been in politics a very long time  
13 know how the system operates.

14 So what we're going to be talking about  
15 is the real issue at issue here is a 10-day  
16 notice of a meeting of four people who meet  
17 regularly necessary to go out and that will be  
18 the basis for tens of thousands of voters not  
19 having a choice in November.

20 I'd be happy to any other questions.

21 IEC MEMBER KLUTZ: Mr. Chairman, if I  
22 could just ask our staff a question.

23 If the notice was filed, would that have  
24 been -- in normal course would we have posted  
25 that on our website?

1 MR. KING: Commissioner Klutz, no, we  
2 would not. We receive notices and other  
3 documents that have been referenced related to  
4 filling candidate vacancies. We scan those. We  
5 enter those into a database that we use for the  
6 certification of ballots, but we do not post  
7 either the original documents or summary  
8 information about those on the website until the  
9 candidate selection process has been completed.

10 MS. NUSSMEYER: Mr. Klutz, if I may. I  
11 would agree with Brad's statement. We would  
12 also remind the Commissioners that the document  
13 would be a public record. If someone would  
14 contact the office to ask if a caucus has been  
15 noticed. I know in my time at the division  
16 we've had similar requests that if a notice of  
17 caucus has been filed, just out of public  
18 interest.

19 CHAIRMAN BENNETT: Is there anything  
20 either the candidate or challenger would like to  
21 add to this record?

22 MR. JOHN: We do have copies of the  
23 candidate guide, if you'd like us to give it to  
24 you, or the statutes or anything. It's up to  
25 you. They're all public documents. I also

1 don't want to burden you anymore.

2 CHAIRMAN BENNETT: Thank you for that  
3 offer.

4 MS. LAKE: One last note. This office is  
5 the office of the prosecuting attorney for a  
6 county, and if the candidate can't follow the  
7 law, then that standard should be held to, and  
8 the law is clear on this.

9 CHAIRMAN BENNETT: With that, any other  
10 questions by the Commissioners before I close  
11 the hearing?

12 Hearing none, the evidentiary portion of  
13 this hearing is closed.

14 Is there a motion from any of the  
15 Commissioners?

16 IEC MEMBER CLAYTOR: Mr. Chairman, I  
17 don't know if it's a motion or a comment. I  
18 know we're dealing with requirements of  
19 3-13-1-6, and just sort of as a comment, in the  
20 notice requirement which is in Section 9, it  
21 says that the call for a meeting under 3, 4, 5  
22 or 6, not a call for a caucus, but a call for a  
23 meeting, which would include various items  
24 requires the 10-day notice. So it's not just  
25 saying for caucus. In Section 10.5 where it

1 refers to 72 hours, at 10.5(A)2, at the end of  
2 the sentence it says "must be received at least  
3 72 hours before the time fixed for the caucus or  
4 committee meeting." So it's not just limiting  
5 to caucus in that particular section of the  
6 statute.

7 I think I know how the Election Division  
8 has interpreted this in the past. I don't know  
9 if the Election Commission has been right in the  
10 past as far as whether or not -- whether it's a  
11 committee -- the executive committee of the  
12 party or the chairman -- well, obviously the  
13 chairman has a little different requirement, but  
14 the executive committee of the county or caucus  
15 seem to have a different process under the  
16 statute than if it's just the chairman.

17 I must say I thought I was less confused  
18 yesterday than I am today, but I don't know if  
19 our co-counsels have particular issues that they  
20 feel like they should bring up or if we're on  
21 our own on this.

22 CHAIRMAN BENNETT: Mr. Kochevar, do you  
23 have any comments or thoughts on this?

24 MR. KOICHEVAR: Mr. Claytor has actually  
25 stated the sections that I turned to when this

1 matter first came up. I would say this is an  
2 interesting question. I don't know what the  
3 answer is. This is the first time I've ever  
4 dealt with a situation like this. I really have  
5 nothing further to add. Would anticipate the  
6 Commission's decision on this so can inform the  
7 Election Division going forward.

8 CHAIRMAN BENNETT: Mr. Simmons, do you  
9 have anything after seeing the video and  
10 thinking this through?

11 MR. SIMMONS: No, I think the relevant  
12 sections have been covered, argued.

13 CHAIRMAN BENNETT: Does anyone have a  
14 motion they'd like to make?

15 IEC MEMBER CLAYTOR: Mr. Chairman, I'd  
16 like to make a motion that we grant the  
17 petition.

18 IEC MEMBER OVERHOLT: Second.

19 CHAIRMAN BENNETT: I have concerns about  
20 disenfranchising voters and having an election  
21 without choice. Seems to me that things are not  
22 clear in this case and it's a pretty extreme  
23 remedy to remove someone's name from the ballot.  
24 I don't know that I can support that motion.

25 IEC MEMBER KLUTZ: I think we have a

1 candidate here -- let me address real quick.  
2 Your closing statement they need to follow the  
3 laws very clear, but after the video you said  
4 -- and I quoted it because I wrote it down --  
5 there's a large amount of confusion. There was  
6 a large amount of confusion, but at the end of  
7 the day we had a candidate who was taking all  
8 the best efforts she could to comply with the  
9 law to be a candidate like she wanted to and  
10 offer a choice to the voters. She relied upon  
11 direction that she received. I think it's  
12 unclear whether the direction was accurate or  
13 not. Whether it was or wasn't, it was the  
14 direction from our office. I think we would  
15 agree there was a large amount of confusion.  
16 She took every step to comply with the  
17 directions she was given.

18           When I look at the balance of the harms  
19 of having one candidate on the ballot versus  
20 having two candidates on the ballot and, in my  
21 mind, denying her a chance to be on the ballot  
22 because of a technicality of -- and again, in my  
23 mind, the technicality being because she relied  
24 on this advice, the technicality being there  
25 wasn't notice given to four particular

1 individuals that were at the meeting and  
2 attended the meeting so they knew the meeting  
3 was going to happen. There's only really one  
4 person harmed here, and that would be the  
5 voters, the voters who go into a ballot and have  
6 one candidate to pick from because a  
7 technicality or a footfall, if in fact that even  
8 happened.

9           So I have a real problem with the motion  
10 and there's no way I could support it.

11           IEC MEMBER OVERHOLT: I would say that  
12 the election law in my mind is (unintelligible).  
13 The rules that are set forth are -- I agree.  
14 I'm the last one to want to disenfranchise  
15 voters, but I don't think this is  
16 disenfranchising voters. I think that there's a  
17 structure that is in place and supposed to be  
18 followed, and when you have words like "must"  
19 repeatedly in these statutes, that's clear that  
20 it's a mandatory action that is required, and I  
21 don't see ambiguity in this language. The  
22 statutes that relate to the filling of vacancies  
23 have within them their own, I think, definition  
24 of caucus that is pretty clear in reading it. I  
25 hadn't read these provisions before this



1 challenge came up, and in reading it, it seemed  
2 to me that the language is clear that the notice  
3 requirements, the filings that have to be made  
4 to the Commission and to the Division, that that  
5 is clear.

6           Again, as a candidate, it would appear --  
7 and the county party, too, that you would think  
8 that they would be -- if there is any ambiguity,  
9 which I don't think there is, but they would be  
10 trying to err on the side of avoiding ambiguity.

11           I also don't believe the video that we  
12 listened to in its entirety says what the  
13 candidate is trying to say it says. According  
14 to my -- it sounded to me like there was not  
15 accurate information necessarily being conveyed  
16 to Mr. Simmons about what was going on. I wrote  
17 down he said the 72 hours applies to a caucus,  
18 not the chair, but this was a situation where  
19 the statute talks about a caucus comprised of  
20 the chair, vice-chair, secretary and treasurer.  
21 So we were talking about a caucus. In order to  
22 ensure that these rules get followed, I think  
23 it's our duty to make sure they get followed,  
24 and they weren't followed here. And that  
25 shouldn't be taken lightly.

1 IEC MEMBER KLUTZ: I don't disagree that  
2 it should not be taken lightly, but I also think  
3 if you look at the purpose of the law, the  
4 purpose of a notice -- putting people on notice  
5 so they can show up and hear the caucus members  
6 or the committee members of the Republican part,  
7 and they were there, and so the purpose of the  
8 law was fulfilled. Now we're going to have a  
9 situation -- or we could have a situation or  
10 you're advocating a situation where because it  
11 wasn't -- the law was fulfilled but perhaps  
12 wasn't followed by the statute that voters are  
13 going to go in a booth and their vote is simply  
14 not going to count. One vote this person will  
15 be elected. There's no choice here for reasons  
16 that I just think are absurd.

17 CHAIRMAN BENNETT: Go ahead and call for  
18 the vote. All in favor of the motion to sustain  
19 the candidate's challenge say aye.

20 All opposed say nay.

21 We have a 2-2 deadlock on that issue.  
22 I'd like to make a motion that the challenge be  
23 denied.

24 IEC MEMBER KLUTZ: Second.

25 CHAIRMAN BENNETT: For all the reasons

1 we've discussed. I have a second.

2 All in favor of the motion to deny the  
3 challenge say aye.

4 All opposed say nay.

5 We have a 2-2 deadlock on competing  
6 motions. I guess I would ask for some  
7 discussion from counsel what they understand  
8 that means. Do you have any --

9 MS. LAKE: I would just reiterate that  
10 the statutory language is clear that even if a  
11 filing was received in error, it can be later  
12 recognized as an error and invalidated is what  
13 we're asking the Commission to do. The voters  
14 did have a clear choice in the primary  
15 obviously. The general election now is with a  
16 candidate who has a close association with the  
17 primary. I don't think this is  
18 disenfranchisement in the sense that the voters  
19 aren't being given a choice here.

20 CHAIRMAN BENNETT: My question is really  
21 what does this mean in terms of the candidate's  
22 name on the ballot?

23 MS. LAKE: The other prosecuting attorney  
24 candidates that were possibly discussing whether  
25 to file as Republican candidates, there was

1 discussion with the Republican party chair and  
2 precinct people and there was an inquiry as to  
3 whether there was a prosecuting attorney  
4 candidate, and at the time of their meeting in  
5 June they indicated there was no candidate, and  
6 then suddenly a week later they had a candidate,  
7 and other possible candidates who were  
8 prosecuting attorneys who had experience in the  
9 field did not know about that, did not know  
10 there was a caucus committee. They might have  
11 filed, and again, we won't know because the law  
12 wasn't followed. As Miss Nussmeyer indicated,  
13 if people were to inquire with the Election  
14 Division whether there was a notice of caucus  
15 filed, that may have affected their decisions to  
16 file as a candidate and to declare their  
17 candidacy with the Republican party as an  
18 interested candidate.

19 CHAIRMAN BENNETT: Let me direct that  
20 question where it maybe should have been  
21 directed in the first place, and that would be  
22 co-counsel for the Division in terms of what  
23 they understand a 2-2 deadlock means in this  
24 situation in terms of whether the candidate's  
25 name was going to be on the ballot or not.

1 MR. KOICHEVAR: Mr. Chairman, I'll go  
2 first and give you have my thoughts. I promise  
3 this is just my thoughts on law and on the  
4 procedures of handling challenges.

5 A candidate challenge was filed because  
6 the Indiana Election Division had accepted a  
7 filing to fill a cause which would place a  
8 candidate on the general election ballot.  
9 To me, this is a -- we're using similar  
10 challenge proceedings as we would for someone  
11 who had filed to run in a primary election for  
12 which another person had filed a challenge  
13 against them. Until the challenge is resolved  
14 -- to uphold the challenge, the co-directors  
15 have usually certified the challenging  
16 candidate's name onto the ballot. We have  
17 encountered at this Commission during the  
18 primary cycle times when the Commission has gone  
19 2-2 and has not resolved this challenge at all.  
20 Usually the Commission has a certain time before  
21 the election to resolve the challenge, to have a  
22 hearing. After that date they lose the ability  
23 under law to continue to hear the matter, and  
24 the candidate in question has been certified to  
25 the relevant county and they have been included

1 on the ballot.

2 It is my view that what we know from  
3 challenges during the primary and the history  
4 that we have regarding this and regarding 2-2  
5 deadlocks would apply in this matter for the  
6 reason that we are using the same challenge  
7 proceeding. Indiana Code 3-8-1-2. There's also  
8 similar language in 3-13-1 regarding challenge  
9 dates, when challenges have to be filed and when  
10 the Commission has the deadline to resolve  
11 those. That is similar to language found in  
12 Indiana Code 3-8-2.

13 But I will defer to Mr. Simmons, my  
14 counterpart, who has a greater amount of  
15 experience with these matters than I do.

16 CHAIRMAN BENNETT: Thank you.

17 MR. SIMMONS: Mr. Chairman, Members of  
18 the Commission, I don't have anything to add to  
19 Matthew's comments.

20 IEC MEMBER OVERHOLT: If I could simplify  
21 what you said. The deadlock means the candidate  
22 stays on the ballot unless we take some action  
23 prior to some other action prior to it?

24 MR. KOICHEVAR: Yes.

25 MR. JOHN: One brief comment, if I might,

1 since counsel spoke.

2 I completely agree with everything you  
3 said there. There's a practical matter to this.  
4 If in fact a 2-2 vote led to a candidate being  
5 removed, we could then get in the situation  
6 where willy-nilly people could be challenged for  
7 a variety of reasons and you could literally be  
8 eliminating people from the ballot constantly.

9 I don't think that's what the intent of  
10 the statute is, and I do believe that it's  
11 exactly right that as of 60 days before the  
12 election this Commission is mandated to act, and  
13 if it doesn't act, it loses its ability to do  
14 so. That's all.

15 CHAIRMAN BENNETT: All right. Thank you.  
16 The hearing is closed. We'll move on to our  
17 next item on the agenda. Thank you for your  
18 presentations.

19 We will now begin consideration of Cause  
20 No. 2018-123: In the Matter of the Challenge to  
21 Denial of Candidate Certification for Felipe  
22 Jesus Rios, Independent candidate for Indiana  
23 State Representative, District 94.

24 The Election Division has provided a copy  
25 of the candidate's filing of the challenge, the

1 denial of the certification, a copy of the  
2 notice given to the candidate and documentation  
3 of their delivery. The challenge and related  
4 documents are found behind the yellow tab in the  
5 binder.

6 MR. RIOS: My name is Felipe Rios. I  
7 introduce my wife. My wife is more fluent in  
8 English and to talk today for everything the  
9 situation in the many, many months ago for the  
10 situation, the compilation of the signatures for  
11 running in the district. My wife is speaking  
12 everything for that today.

13 CHAIRMAN BENNETT: Can you state your  
14 name and spell it, please?

15 MS. ESPINOSA: My name is Estela  
16 Espinosa, E-S-T-E-L-A E-S-P-I-N-O-S-A. We're  
17 before you today because we challenge the denial  
18 of candidate certification. We already have  
19 what we wrote explaining what happened so we  
20 won't take a lot of time to repeat ourselves and  
21 say the same.

22 He is here because he wants an  
23 opportunity to run, an opportunity to be on the  
24 ballot. From the beginning we had a lot of  
25 turmoil, a lot of confusion from both the voters



1 registration and from the Election Division.  
2 First of all, they told him he need certain  
3 amount of signatures. We introduced more than  
4 700 signatures all together. Certain point we  
5 were told only 50 signatures were needed  
6 according to the computer and the system in the  
7 voters registration. After about a month, then  
8 they came back with a different number. No,  
9 there was a mistake. Clearly they stated  
10 election board made a mistake. It's a different  
11 number. Now you need this much signatures.

12           Afterward that we still continue working  
13 to get the signatures again, and then we come  
14 here to the Election Division when a package was  
15 given to my husband stating signatures submitted  
16 and we were told to bring it to Election  
17 Division, which we did that. We were told that  
18 he was certified to be on the ballot and that to  
19 wait in the mail for about a week that he was  
20 going to get certification letter. We waited a  
21 week. A week passed by. Nothing happened.  
22 Another week passed by and we got concerned and  
23 we said let's go and find out what happened.  
24 When we get to that department we were told, oh,  
25 I'm so sorry, we made a mistake. That's another

1 mistake again. You need more signatures to be  
2 certified. Then I asked why wasn't -- he didn't  
3 get a notification that there was a mistake  
4 made, that he needed more signatures -- to  
5 submit more signatures in order to be on the  
6 ballot. He never got a phone call. He never  
7 got a letter. He got nothing until he went to  
8 the division to find out what happened to that  
9 original letter that he was supposed to wait,  
10 which was the certification.

11 That prevented him from going to large  
12 events that at that time were happening in the  
13 city. Huge event. It was a Hispanic event.  
14 Many people there and we would have the  
15 opportunity to collect more signatures, but we  
16 were not given that opportunity by not letting  
17 us know that there was another mistake.

18 So all we are asking here is for another  
19 chance to be on the ballot, a chance to run.  
20 Because a lot of work had been done into it, a  
21 lot of effort into it, and that's all we want to  
22 ask today.

23 CHAIRMAN BENNETT: Any questions by the  
24 Commissioners? Anybody that wants to speak on  
25 behalf of the Division?

1 MR. KOICHEVAR: Mr. Chairman, I wasn't  
2 planning on testifying. My name is mentioned in  
3 the document. I have spoken with Dr. Rios when  
4 he's come to the office as well as his wife over  
5 the phone. I'm not planning on giving any  
6 testimony in this matter, but if the Commission  
7 has questions, I'll be happy to answer them, but  
8 I would just ask that Mr. King swear me in if  
9 you do have questions of me so this can be sworn  
10 testimony.

11 IEC MEMBER KLUTZ: Mr. Chairman, if I  
12 may. I guess I have questions just to bring  
13 myself up to speed. So how many signatures did  
14 you need?

15 MS. ESPINOSA: It was 211 signatures.

16 IEC MEMBER KLUTZ: That's what was  
17 determined you needed?

18 MS. ESPINOSA: Yes, that was what we find  
19 out after several texts back and forth from the  
20 voters registration. Prior to that they have  
21 said we only needed 38 signatures. That's what  
22 they have in their system.

23 IEC MEMBER KLUTZ: Can I interrupt and  
24 just ask who is they?

25 MS. ESPINOSA: The voters registration.

1 IEC MEMBER KLUTZ: Marion County voter  
2 registration?

3 MR. RIOS: Yes, for many times it change.  
4 One day 38. Okay, later you need more. Oh, you  
5 need only 10 more, and later change and no, no,  
6 you need 150 more.

7 MS. ESPINOSA: 183.

8 MR. RIOS: Many times it's not exactly  
9 how many needed, and finish process is, okay,  
10 you need 211.

11 IEC MEMBER KLUTZ: Is the nature of them  
12 saying you need this many just by virtue of how  
13 many they determined are certified so now  
14 they're saying you're this far short?

15 MS. ESPINOSA: Uh-huh.

16 IEC MEMBER KLUTZ: So that's why the  
17 number was changing? You were turning some  
18 in --

19 MS. ESPINOSA: After someone tells you  
20 you only need 50 more to be certified. The  
21 system says you only need 15. Let's say on 4/19  
22 they said 15. On 4/24 they said you need 183.  
23 I almost want to pass out when I heard that.

24 And not only that. We decided to work  
25 towards getting the signatures, but what really

1 hurt us was the matter that he was told he was  
2 ready, he was certified to run and he was going  
3 to be on the ballot, but we never got that  
4 letter and never got that certification saying  
5 we made a mistake, you needed more signatures.

6 CHAIRMAN BENNETT: Did you ever get 211  
7 signatures?

8 MS. ESPINOSA: No, we did not get. We  
9 didn't have a chance. By the time we find out,  
10 it was already close to July 2nd, which is the  
11 deadline, so we had no more time. We find out  
12 that we needed more when we got there to find  
13 out why he didn't receive the letter of  
14 certification.

15 CHAIRMAN BENNETT: Is this the first time  
16 that you've run for an office?

17 MR. RIOS: Yes.

18 CHAIRMAN BENNETT: Is there anything you  
19 would do different next time in running for  
20 office?

21 MS. ESPINOSA: Can I translate for him?

22 CHAIRMAN BENNETT: Yes.

23 MS. ESPINOSA: I think I could probably  
24 be more organized. This is a learning process.

25 MR. RIOS: Yes, I working seven months,

1 working my team, working for the signatures in  
2 different area for the District 94. Right now I  
3 come today I don't need nothing for any people.  
4 I only needed the opportunity for running.

5 CHAIRMAN BENNETT: I would like to  
6 encourage you to continue with your political  
7 aspirations in running for office and learn from  
8 this opportunity and get more organized, as you  
9 suggest, and then give it another shot, try it  
10 again. That's kind of what I'm thinking now.  
11 I'll turn it over to the others for questions or  
12 comments.

13 IEC MEMBER OVERHOLT: I guess this is a  
14 question for staff, I suppose. So when  
15 candidates come in with their signature pages,  
16 and we've seen the signature pages, what is the  
17 process if someone is coming in before the  
18 deadline, what is the process or is there one  
19 for letting candidates to know if they've met  
20 the goal, fallen short or whatever so that they  
21 know that they need to go out and hit the  
22 pavement again? What happens?

23 MS. NUSSMEYER: If I may, Mr. Chairman.  
24 Candidates running as an independent for state  
25 legislative races should contact the Indiana

1 Election Division for the petition signature  
2 counts. While it's true the petitions would be  
3 turned into the county voter registration  
4 offices for review and certification to see  
5 whether or not those individuals are registered  
6 voters within the election district, the  
7 candidate would know going in to filing what the  
8 threshold, what that minimum number of  
9 signatures they would need in order to qualify  
10 for the ballot. So in this case had they  
11 approached the Election Division first to get  
12 that calculation, both attorneys actually work  
13 toward determining what that number is and they  
14 come to an agreement, and that number was 211.

15 So on that the petition, the CAN-19, there  
16 is a certification on the back side of that  
17 petition that would indicate how many signatures  
18 were certified by the county as folks who are  
19 registered to vote within that election  
20 district. Those petitions had to be turned into  
21 the county by noon June 30th, and then the  
22 candidate would go and collect them from the  
23 county voter registration office, and they would  
24 know whether or not they met their burden of the  
25 211 signatures based on the certification coming

1 from the county. So when they come in to turn  
2 in that documentation, they know whether or not  
3 they met that threshold, but once filed with our  
4 office, then both attorneys would actually go  
5 through all the petitions, confirm that the  
6 count was correct, and whatever number they came  
7 to, then they would bring it to the co-directors  
8 and we would he provide notice to the Secretary  
9 of State who has the ultimate authority on  
10 deciding whether or not to approve or deny  
11 certification.

12 In this instance Dr. Rios fell a little  
13 short, and that was what was part of the  
14 Secretary's denial of certification to him.

15 I don't know if Mr. King has anything  
16 further.

17 MR. KING: My colleague has summarized  
18 the procedures and the law very accurately. I  
19 don't have anything to add.

20 CHAIRMAN BENNETT: At this time I would  
21 move to deny the challenge. I think that the  
22 signatures did fall short and it's unfortunate,  
23 but I think it is a good learning experience,  
24 and I would hope that the candidate would stay  
25 active and involved and come back and try again.



1 IEC MEMBER CLAYTOR: I'll second.

2 CHAIRMAN BENNETT: We have a motion and  
3 second. Any further discussion?

4 All in favor say aye.

5 All opposed say nay.

6 The ayes have it. The challenge is  
7 denied.

8 We wish you good luck and give it another  
9 try.

10 MS. ESPINOSA: What he wants to say is the  
11 mistake wasn't really his. The mistake was when  
12 they gave him the package to come to the  
13 Election Division, to bring the package with the  
14 signatures, the certified signatures. Because  
15 they said everything was right.

16 CHAIRMAN BENNETT: Thank you very much.

17 Due to the volume of other business, we  
18 did not include VSTOP and other related voting  
19 system matters on the agenda. To accommodate  
20 VSTOP, I move to amend our agenda for today to  
21 discuss the setting of a date for our next  
22 meeting. Is there a second?

23 IEC MEMBER CLAYTOR: Second.

24 CHAIRMAN BENNETT: Any discussion?

25 Hearing none, all in favor say aye.

1 All opposed say nay.

2 The ayes have it. The agenda is amended.

3 I think at this point it's appropriate to have  
4 informal discussion about the potential  
5 commission meeting dates.

6 Does this need to be on the record?

7 MR. KING: Yes.

8 CHAIRMAN BENNETT: We have a deadline,  
9 don't we, to meet on this next meeting because  
10 of the voting systems?

11 MR. KING: Mr. Chairman, perhaps I can  
12 address that. We have been informed by VSTOP,  
13 Ball State University that one vendor, Unisyn  
14 Election Systems, has an engineering change  
15 order that they hope to implement in their  
16 voting systems in time for the November 2018  
17 general election.

18 We have also been informed that the  
19 pending application for a new voting system from  
20 Election Systems and Software, the 5.2.4.0 is a  
21 voting system that ES&S would also like to  
22 provide to a county customer for use in the  
23 November 2018 elections. I was told indirectly,  
24 not from ES&S that as a practical matter they  
25 needed to know whether the Commission would

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1 approve their system by the end of September for  
2 them to accommodate their potential customer.

3 CHAIRMAN BENNETT: So September 27th, was  
4 that the date?

5 MR. KING: Yes.

6 CHAIRMAN BENNETT: So we need a meeting  
7 before that.

8 IEC MEMBER OVERHOLT: I would need a  
9 proxy on the 27th if we did it then.

10 CHAIRMAN BENNETT: The week of the 10th.  
11 Would that work? I would suggest Tuesday,  
12 Wednesday or Thursday that week. Anybody have a  
13 preference? September 11th, 12th, or 13th?

14 IEC MEMBER KLUTZ: The 12th or 13th for  
15 me.

16 IEC MEMBER CLAYTOR: I can't speak for  
17 Anthony. I may be the guy.

18 CHAIRMAN BENNETT: This is probably not a  
19 real long meeting.

20 MR. KING: No, Mr. Chairman, I would  
21 anticipate this would probably be a half hour  
22 meeting depending upon the amount of questions  
23 the Commission Members have, but VSTOP will be  
24 present and the engineering change order is a  
25 minor point. The voting system may have more

1 discussion, but I would anticipate a 30-minute  
2 meeting.

3 CHAIRMAN BENNETT: So maybe 10:00 o'clock  
4 in the morning, would that work?

5 IEC MEMBER OVERHOLT: Yes, that would be  
6 fine for me.

7 CHAIRMAN BENNETT: So let's set the  
8 meeting date for 10:00 o'clock a.m., September  
9 12th.

10 MR. KING: Mr. Chairman, we'll send out  
11 an invitation when we have a room reserved for  
12 that.

13 CHAIRMAN BENNETT: Very well.  
14 The Indiana Election Commission has finished its  
15 business for today. Is there a motion for the  
16 Indiana Election Commission to adjourn?

17 IEC MEMBER CLAYTOR: So moved.

18 CHAIRMAN BENNETT: I'll second the  
19 motion.

20 Those in favor say aye.

21 All opposed say nay.

22 The ayes have it. The Indiana Election  
23 Commission meeting is adjourned.

24

25 (Time noted: 5:38 p.m.)

1 STATE OF INDIANA )  
2 COUNTY OF MARION ) SS:  
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I, Deanne S. Hutson, Notary Public and Stenographic Reporter within and for the County of Marion, State of Indiana, do hereby certify that on the 24th day of August, 2018, I reported the foregoing proceedings; and that the transcript is a full, true and correct transcript made from my stenographic notes.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 12th day of September, 2018.

*Deanne S. Hutson*

Deanne S. Hutson, Notary Public,  
Residing in Marion County, Indiana

My Commission Expires:

October 21, 2022

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