

Indiana Election Commission Minutes June 15, 2016

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 of the Indiana Election Division of the Office of the Indiana Secretary of State (Election Division); Angela M. Nussmeyer, Co-Director of the Election Division; Matthew Kochevar, Co-General Counsel of the Election Division; Dale Simmons, Co-General Counsel of the Election Division

Others Attending: Mr. Scott Chinn; Ms. Tammi Davis; Mr. Earl Harris, Jr., and Ms. Rosa Maria Rodriguez.

1. Call to Order:

The Chair called the June 15, 2016 meeting of the Commission to order at 1:00 p.m. EDT in State House Room 125, 200 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 Rhonda J. Hobbs of Connor Reporting. This document is incorporated by reference into these minutes, with the following corrections of scrivener’s errors:

Page 2, line 7, replace “Brady” with “J. Bradley”.

Page 3, line 22, replace “Miss” with “Ms.”

Page 4, line 7, replace “Miss” with “Ms.”

Page 4, line 19, replace “CLAYTON” with “CLAYTOR”.

Page 5, line 12, replace “Miss” with “Ms.”

Page 5, line 23, replace “CLAYTON” with “CLAYTOR”.

Page 5, line 24, replace “in” with “and a”.

Page 7, line 5, replace “minutes. Unless” with “minutes, unless”.

Page 8, line 16, replace "CLAYTON" with "CLAYTOR".

Page 9, line 15, replace "our" with "your".

Page 60, line 15, replace "CLAYTON" with "CLAYTOR".

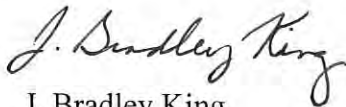
Page 60, line 25, replace "CLAYTON" with "CLAYTOR".

Page 64, line 5, replace "CLAYTON" with "CLAYTOR".

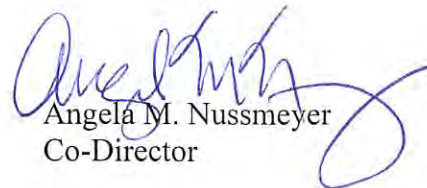
Page 64, line 9, replace "CLAYTON" with "CLAYTOR".

Page 65, line 6, replace "CLAYTON" with "CLAYTOR".

Respectfully submitted,

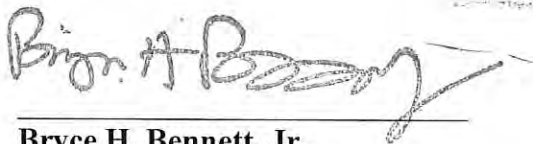


J. Bradley King
Co-Director



Angela M. Nussmeyer
Co-Director

APPROVED:



Bryce H. Bennett, Jr.
Chairman

In the Matter Of:

INDIANA ELECTION COMMISSION HEARING

TRANSCRIPT OF PROCEEDINGS

June 15, 2016



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June 15, 2016

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INDIANA ELECTION COMMISSION
PUBLIC SESSION NOTICE

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State House Room 125
200 West Washington Street
Indianapolis, Indiana 46204
Wednesday, June 15, 2016, 1:00 P.M.

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

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1 INDIANA ELECTION COMMISSION

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3 Chairman Bryce Bennett

4 Michael Claytor (Proxy for Vice Chair Anthony Long)

5 Commission Member Zachary Klutz

6 Commission Member Suzannah Wilson Overholt

7 Brady King - Co-Director

8 Angela M. Nussmeyer - Co-Director

9 Dale Simmons - Co-General Counsel

10 Matthew R. Kochevar - Co-General Counsel

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1 CHAIRMAN B. BENNETT: I'll call to order
2 this meeting of the Indiana Election Commission.
3 The following members of the Commission are
4 present; myself, Chairman Bryce Bennett, Vice
5 Chairman Anthony Long is not with us, but his
6 proxy, Mike Claytor is here. We have Member
7 Suzannah Wilson Overholt, Commissioner, and
8 Commissioner Member Zachary Klutz. The Indiana
9 Election Division staff, we have Co-Director
10 Brad King and Angela Nussmeyer, and Co-General
11 Counsels Matthew Kochevar and Dale Simmons.
12 The court reporter today is Rhonda Hobbs from
13 Connor & Associates.

14 Before we begin today, I want to remind
15 everyone on behalf of the court reporter to
16 identify yourself before you begin to speak,
17 spell your name, when you identify yourself,
18 speak clearly, and do not speak at the same time
19 as others. The court reporter cannot transcribe
20 two people speaking at once.

21 At this time, I would request that Mr. King
22 and Miss Nussmeyer confirm that the commission
23 meeting has been properly noticed as required
24 under the Open Door laws.

25 MR. B. KING: Thank you, Mr. Chairman and

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1 Members of the Commission. This meeting was
2 properly noticed in accordance with the Open
3 Door law.

4 CHAIRMAN B. BENNETT: Very well. We will
5 now seek ratification of the campaign finance
6 settlement agreements and would ask for a
7 presentation by Mr. King and Miss Nussmeyer.

8 MR. B. KING: Mr. Chairman and Members of
9 the Commission, campaign finance staff, Abbey
10 Taylor and Michelle Thompson, prepared the list
11 that's in your binder. It sets forth entities
12 who have entered into agreements to settle
13 potential campaign finance enforcement civil
14 penalties, and it is submitted with our
15 recommendation for your approval.

16 CHAIRMAN B. BENNETT: Is there a motion to
17 ratify the campaign finance settlement
18 agreements as presented?

19 PROXY M. CLAYTON: So moved.

20 CHAIRMAN B. BENNETT: We have a motion, is
21 there a second?

22 COMMISSION MEMBER Z. KLUTZ: Second.

23 CHAIRMAN B. BENNETT: Have a motion in
24 second, is there any discussion?

25 (No response.)

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1 CHAIRMAN B. BENNETT: Hearing none, all in
2 favor, say aye?

3 THE COMMISSION: Aye.

4 CHAIRMAN B. BENNETT: All opposed, say nay?

5 (No response.)

6 CHAIRMAN B. BENNETT: The ayes have it and
7 the motion to ratify the agreement is adopted.
8 We'll now move to the adoption of candidate
9 challenge hearings. We also have on our agenda
10 the approval of the February 19, 2016 commission
11 minutes, and I would ask that those minutes be
12 presented by Mr. King and Miss Nussmeyer.

13 MR. B. KING: Thank you, Mr. Chairman and
14 Members of the Commission. Co-Director
15 Nussmeyer and myself have reviewed the minutes
16 and present them to you with our recommendation
17 for approval.

18 CHAIRMAN B. BENNETT: Is there a motion to
19 approve the minutes?

20 COMMISSION MEMBER Z. KLUTZ: So moved.

21 CHAIRMAN B. BENNETT: We have a motion, is
22 there a second?

23 PROXY M. CLAYTON: Second.

24 CHAIRMAN B. BENNETT: I have a motion in
25 second, any discussion?

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1 (No response.)

2 CHAIRMAN B. BENNETT: Hearing none, all in
3 favor say aye?

4 THE COMMISSION: Aye.

5 CHAIRMAN B. BENNETT: All opposed, the
6 same?

7 (No response.)

8 CHAIRMAN B. BENNETT: The ayes have it.
9 The minutes are approved. Thank you. Now,
10 we'll move to the adoption of candidate
11 challenge hearing procedures. In the past, the
12 Commission has followed certain procedures for
13 conducting candidate challenge hearings, and I
14 move that the Commission use the following
15 procedures today.

16 After the candidate challenge is called,
17 the hearing will begin by recognizing Election
18 Division staff to provide information about the
19 documents provided to the Commission Members,
20 including candidate challenge forms and the
21 notice given to the candidate and challenger.
22 Unless there is objection, the documents
23 provided to the Commission by the Election
24 Division will be entered into the record of this
25 meeting.

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1 After the Election Division staff completes
2 its presentation, the challenger will be
3 recognized first. The challenger or the
4 challenger's representative may present their
5 case no more than ten minutes. Unless the
6 Commission votes to allow additional time for
7 the presentation, Commission Members may ask
8 questions during a presentation, but the time
9 spent answering these questions will not be
10 counted against the petitioner's time.

11 The Election Division will signal the Chair
12 when a presenter's time is up. If the presenter
13 offers additional documents or other physical
14 evidence not previously received by the
15 Commission, then the original must be provided
16 to the Election Division staff, and that would
17 be Dale, to preserve for the record.

18 The candidate or the candidate's authorized
19 representative will be recognized following the
20 last presentation by a challenger. The
21 candidate may present their case for no more
22 than ten minutes unless the Commission votes to
23 allow additional time for the presenter.

24 Following presentation by a challenger, the
25 candidate may cross-examine the challenger.

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1 Following the presentation by a candidate, a
2 challenger may cross-examine the candidate. The
3 cross-examination in all case is limited to two
4 minutes, unless the Commission votes to allow
5 additional time. The cross-examination must be
6 limited to questions regarding statements made
7 by the presenter.

8 Following presentation by a candidate, the
9 challenger may present a rebuttal of no more
10 than two minutes. The Commission may dismiss
11 the cause of any challenger who has failed to
12 appear to testify before the Commission.

13 Is there a second to my motion for the
14 Commission to adopt these procedures for today's
15 candidate challenge hearing?

16 PROXY M. CLAYTON: Second.

17 CHAIRMAN B. BENNETT: Is there a motion --
18 there is a second. Thank you. Is there any
19 objection from commission members to these
20 procedures?

21 (No response.)

22 CHAIRMAN B. BENNETT: Hearing none, is
23 there further discussion?

24 (No response.)

25 CHAIRMAN B. BENNETT: If there is no

1 discussion, all in favor, say aye?

2 THE COMMISSION: Aye.

3 CHAIRMAN B. BENNETT: All opposed, say aye?

4 (No response.)

5 CHAIRMAN B. BENNETT: The ayes have it.

6 The procedures -- or the motion for the
7 procedure is approved.

8 Now, at this time everyone present who
9 plans to testify before the Indiana Election
10 Commission regarding any matter today should
11 please stand for administration of the oath.

12 (Participants complied.)

13 CHAIRMAN B. BENNETT: I recognize Dale
14 Simmons to administer the oath.

15 MR. D. SIMMONS: Raise our right hand and
16 say I do after the administration of the oath.

17 (Participants complied.)

18 MR. D. SIMMONS: Do you solemnly swear or
19 affirm under the penalties of perjury that the
20 testimony you're about to give the Indiana
21 Election Commission is the truth, the whole
22 truth, and nothing but the truth, say I do?

23 THE PARTICIPANTS: I do.

24 MR. D. SIMMONS: Thank you.

25 CHAIRMAN B. BENNETT: We'll now begin

1 consideration of the candidate challenge. I
2 remind everyone to identify yourself before you
3 begin speaking.

4 The Hearing on Cause No. 2016-14 In The
5 Matter of the Challenge to Earl Harris, Jr.,
6 Candidate for the Democratic Party for State
7 Representative, District 2, is now open. The
8 Election Division has provided a copy of the
9 candidate filing challenge form and the copy of
10 notice given to the parties in this matter.

11 At this time, I would recognize Rosa Maria
12 Rodriguez, the Challenger, for presentation.

13 MS. R. RODRIGUEZ: May I have permission to
14 sit because I need my -- I need someplace to
15 work with, with my documents?

16 CHAIRMAN B. BENNETT: Yes, you may.

17 MS. R. RODRIGUEZ: And I speak loudly.

18 CHAIRMAN B. BENNETT: Can the court
19 reporter hear you?

20 MS. R. RODRIGUEZ: I speak loud, I
21 guarantee you.

22 THE COURT REPORTER: Okay, that's fine.

23 MS. R. RODRIGUEZ: Thank you. Good
24 afternoon, my name is Rosa Maria Rodriguez,
25 R-O-D-R-I-G-U-E-Z, Rosa, R-O-S-A, capital

1 M-A-R-I-A. I am a resident of East Chicago and
2 of Lake County. I have been in Lake County for
3 the majority of my life. I have 38 years as a
4 steelworker. I have been a -- I've been in the
5 union for just about the same amount of years.
6 I am the financial officer for United
7 Steelworkers Local 1010, a vice president for
8 the State of Indiana for the AFL-CIO. I'm an
9 organizer in my community. I have been for over
10 40 years. I have also been an activist and I
11 have pursued social injustices in my community.

12 Recently, I was one of the organizers for
13 the GEO that was trying to infiltrate itself in
14 Gary. I have been in the newspapers. I have
15 been on the radio. I have spoken on -- well, in
16 this room, too. I have been -- I am very well
17 known in my community in Lake County.

18 My reasoning for being here today is that I
19 am asking for the removal of Earl Harris, Jr.
20 also known as Earl Harris, Earl Harris, Jr.,
21 Earl L Harris, Jr. He was the candidate for the
22 general election on -- will be, I'm sorry, on
23 November 2016 as Indiana State Representative.

24 Earl Harris, Jr. is not qualified to
25 continue as a candidate to the office of State

1 Representative, Second District, because he was
2 not legally registered to vote at the address
3 where he claims to reside at the time,
4 April 24th, 2015.

5 On May 3rd, 2016, during the election, we
6 were dealt with -- fraught with violations,
7 misconduct by Earl Harris, Jr., the candidate.
8 The evidence gathered has raised suspicion in
9 many minds. In order to qualify -- according to
10 Indiana State law, in order to qualify for a
11 homestead, Indiana requires that this be your
12 principal residence.

13 As of yesterday, and I have documentation
14 to include, Mr. Harris recognized that he did
15 have a homestead. He's paid his taxes for 2015
16 that reflects 2014 -- I want to admit that for
17 evidence, and he also paid his 2015 homestead
18 going into now 2016. If you are --

19 CHAIRMAN B. BENNETT: Let me stop there.
20 Are you submitting evidence at this point in
21 time?

22 MS. R. RODRIGUEZ: Yes, I am submitting
23 evidence.

24 CHAIRMAN B. BENNETT: Do you have the
25 originals?

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1 MS. R. RODRIGUEZ: Those are the originals
2 coming from the auditors and the assessor's
3 office.

4 CHAIRMAN B. BENNETT: What documents do you
5 have?

6 MS. R. RODRIGUEZ: These are the Indiana
7 property records, as well as the taxes to
8 include the spring where he shows that he's
9 paid, as well as the fall that he has for the
10 2016. What you have is from May 20th.

11 CHAIRMAN B. BENNETT: So are these new
12 documents?

13 MS. R. RODRIGUEZ: These are new documents
14 to support that Mr. Harris continues with the
15 homestead. Again -- may I continue.

16 CHAIRMAN B. BENNETT: Yes.

17 MS. R. RODRIGUEZ: Okay. He is the sole
18 owner of this address and is still accepting the
19 tax exemption. He has not made any efforts to
20 sell the home or to say that he still lives
21 there.

22 On April 25th, Mr. Harris changed his voter
23 registration from his address in Indianapolis to
24 which he claims is his primary address, at 4114
25 Butternut Street. How is it that Earl Harris

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1 now lives on Butternut Street in East Chicago
2 and still takes a homestead exemption for his
3 two residences in Indianapolis in 2015 and 2016.
4 Voter fraud, tax code violation, or both?

5 As of May 20th, 2016, Earl Harris was
6 considered delinquent -- he's paid his taxes so
7 I can take that off. But my question is was he
8 waiting to see if he had won election so that he
9 can once again claim the homestead, had he lost?
10 In November 2015, he cast his vote in East
11 Chicago in North Township. January 6, he turns
12 his documentation to run for state
13 representative while he states that he lives in
14 East Chicago.

15 May 14th, he changes his business address
16 because he owns a business, and it's from his
17 home, the same address -- just the address. The
18 business is still here and is still alive and
19 kicking. On May 3rd, he runs for the position
20 of state representative while still holding his
21 homestead. On May 20th, I requested for the
22 Indiana property record which you have. I also
23 went yesterday and requested for the same
24 information to verify his homestead. It is
25 still active.

1 Mr. Harris has been deceitful and cheated
2 the State of Indiana in taxes, giving false
3 information on residency, and deprived the
4 residents of Lake County, Second District, of a
5 fair and honest representative race.

6 Mr. Harris claims that he moved back to
7 East Chicago with his mother after the death of
8 his father, the late Earl Harris, yet, he owns
9 the home of 19 years at 1032 Selkirk Lane,
10 Indianapolis, Indiana, where he has been
11 receiving, since 2013, a 3.6 percent local
12 homestead credit.

13 Documentation from Mr. Harris' Indiana
14 property tax shows him receiving the homestead
15 credit for the year of 2015, which I'm
16 challenging. And because he has made no effort
17 to remove such statement, he is still receiving
18 that homestead.

19 Mr. Harris has had many times and many
20 opportunities to remove the homestead from his
21 home but he hasn't yet. For him to come forward
22 and say I forgot is not an excuse to abuse our
23 laws. The law is the law. Ignorance of the law
24 is not acceptable. This is what this
25 institution taught me in Lake County sometime

1 ago.

2 Mr. Harris, by his own admittance and also
3 his mother, State Representative, Donna Harris,
4 stated in newspaper articles, TV interviews and
5 radio, that he moved to East Chicago to be with
6 his mother after the death of his father. But
7 according to Mr. Harris' Facebook profile that
8 he posted, he was back in Indianapolis on April
9 the 6th.

10 He then registered to vote April 4th. His
11 application was processed on 5/27. Again,
12 according to Mr. Harris' Facebook profile, local
13 newspapers, both in Indianapolis and in
14 Northwest Indiana, there is no proof that he has
15 a split time between East Chicago and
16 Indianapolis.

17 What does show is Mr. Harris is in
18 Indianapolis on a daily basis and Mr. Harris
19 comes to East Chicago for social and political
20 events but didn't quite get there til about
21 March 13th, which is now the primary time of the
22 election.

23 He posted constantly from Indianapolis what
24 is now the heart of the primary season on
25 Facebook a program called -- from Fox Sport

1 Indiana channel, it was called Chevrolet Indiana
2 Prep Zone. Mr. Harris owns and operates since
3 2005, Motivation Media. It is located at the
4 address with the homestead in Indianapolis. On
5 March 6th, 2016 is when he submitted the change
6 of principal address, giving the East Chicago
7 address but is still advertising in
8 Indianapolis.

9 I feel that there has been no known
10 activity advertising Motivation Media in
11 Northwest Indiana, instead according to his own
12 postings on Facebook, he continues working in
13 Indianapolis.

14 The charges that I'm hoping that this body
15 will agree upon is the Class D felony of false,
16 fictitious, or fraudulent voter registration
17 application for knowingly or intentionally
18 sending a voter registration change of address
19 form to Lake County of Voter Registration on
20 April 25th, 2015 representing his new address
21 was 4114 Butternut Street in East Chicago, when
22 he knew that he was and has been living for the
23 past 19 years and with a homestead since 2013.

24 At the time of the next election, which was
25 then the November general election, 2015, he

1 casted his vote. He also and still with the
2 homestead, he perjured himself on the voter
3 registration. Again, in April, still with the
4 homestead. He has been -- I don't know if I'm
5 supposed to continue?

6 CHAIRMAN B. BENNETT: Well, my clock says
7 you have about 30 seconds left.

8 MS. R. RODRIGUEZ: Okay. Well, you have a
9 copy. There's ten counts that I have cited.
10 Now, I don't know the law. I don't pretend to
11 know the law about, but I did my research and I
12 investigated. If you're familiar with the
13 Charlie White case, this is exactly the same
14 thing. All you've got to do is -- and that's
15 what I did when I did my felonies. All I did
16 was replace the name of Mr. Earl Harris, and
17 instead of the ex-wife, I put his mother. It's
18 the exact same thing.

19 Lake County has been given a black eye over
20 and over for four decades. We're tired of
21 having individuals. And this -- when we talk
22 about a Democrat -- because it was thrown at me,
23 a Democrat is a Democrat. Mr. Earl Harris is
24 not a Democrat. I guarantee you if his late
25 father would have been a Republican, he would

1 have been doing the same thing. This is a
2 shyster. This is somebody that they thought
3 they could use this body to create a monarchy of
4 our system. I'm asking that he be removed from
5 the position of state representative.

6 CHAIRMAN B. BENNETT: Okay. Thank you. Is
7 there any cross-examination?

8 MR. S. CHINN: Mr. Chairman, Scott Chinn
9 from Faegre Baker Daniels Law Firm, counsel of
10 record for Earl Harris, Jr. The short answer is
11 I don't know because I haven't seen those
12 documents, so may I take a second to look at
13 what's been entered -- of new evidence?

14 MS. R. RODRIGUEZ: I have a copy, too.

15 MR. S. CHINN: I would be pleased to
16 receive a copy.

17 MS. R. RODRIGUEZ: Sure. I have a copy of
18 that. That is the original.

19 MR. S. CHINN: Well, I've seen the original
20 challenge information, but I'm just talking
21 about any new --

22 CHAIRMAN B. BENNETT: Well, these are new
23 and you may see them.

24 MR. S. CHINN: Thank you. No questions,
25 Mr. Chairman.

1 CHAIRMAN B. BENNETT: Do you wish to prep
2 any other witnesses?

3 MS. R. RODRIGUEZ: No. Tammy Davis
4 was -- by the way, I should have said, I was one
5 of the candidates for state rep, and I apologize
6 for not bringing that forward. My opponent was
7 Tammy Davis, who at one point asked Mr. Harris,
8 and if you would allow her to speak, I would
9 like to call her forward.

10 CHAIRMAN B. BENNETT: Okay. Before you
11 leave, does the Commission have any questions,
12 Commissioners?

13 COMMISSION MEMBER Z. KLUTZ: I do not.

14 CHAIRMAN B. BENNETT: I have one question.
15 You said you had learned a lesson about this
16 yourself?

17 MS. R. RODRIGUEZ: Uh-huh.

18 CHAIRMAN B. BENNETT: What was that?

19 MS. R. RODRIGUEZ: In Lake County, when I
20 first began, I had taken three names of
21 individuals that I liked as running for office
22 and I wrote them on a piece of paper. I called
23 Lake County and I spoke to the lawyer. I said
24 is this considered slating because I had heard
25 the word slating? She said no, as long as you

1 don't put a PAC or identify like a body that is
2 in support of this organization.

3 Well, the representative there from the
4 Democratic Party challenged me and took me
5 before the Lake County Election Board, and when
6 I told them I didn't know, he said ignorance of
7 the law is not accepted. The law is the law.
8 And so I was just repeating what I was taught
9 before this body.

10 CHAIRMAN B. BENNETT: Okay. Anything else?

11 (No response.)

12 CHAIRMAN B. BENNETT: You may call your
13 next witness or exchange seats with the witness.

14 MS. R. RODRIGUEZ: Tammi.

15 CHAIRMAN B. BENNETT: Have you taken the
16 oath?

17 MS. T. DAVIS: I have not but I don't mind
18 doing so.

19 MR. D. SIMMONS: Raise your right hand and
20 say I do after the administration of the oath.

21 (Ms. Davis complied.)

22 MR. D. SIMMONS: Do you solemnly swear or
23 affirm under the penalty of perjury the
24 testimony you're about to give to the Indiana
25 Election Commission is the truth, the whole

1 truth, and nothing but the truth, say I do?

2 MS. T. DAVIS: I do.

3 CHAIRMAN B. BENNETT: You may be seated.

4 Any questions for this witness?

5

6 DIRECT EXAMINATION,

7 QUESTIONS BY MS. ROSA MARIA RODRIGUEZ:

8 Q Tammi, we were both -- all three of us were at
9 the TV production on April the 19th, and you
10 asked Mr. Harris about his residency. Do you
11 recall that?

12 A I do.

13 Q And what was his statement?

14 A We were interviewing with Counter Point, which
15 is Dr. Garrard McClendon on a local TV station,
16 and the question came up relative to his
17 residency, and Mr. Harris, Jr. replied that no
18 one -- none of his opponents filed against him,
19 he had the opportunity to do so, and that he was
20 a resident of the region, is what he had
21 responded.

22 MS. R. RODRIGUEZ: I also have

23 documentation to support her statement, in that

24 I have a copy of the transcript that occurred on

25 April the 19th.

1 Q Also, Tammi, prior to the season of our running
2 for candidacy, had you ever seen Mr. Earl Harris
3 in our community?

4 A That was a long time but --

5 Q No. I said during the primary election, prior
6 to, had you seen Mr. Harris in our community?

7 A The only time that I saw Mr. Harris, Jr. was
8 during the passing and mourning of his father at
9 their residence.

10 Q Do you believe that Mr. Harris lives in East
11 Chicago?

12 A I do not.

13 Q Thanks.

14 CHAIRMAN B. BENNETT: Would you state and
15 spell your last name, please.

16 MS. T. DAVIS: Sure. It's Tammi,
17 T-A-M-M-I, Davis, D-A-V-I-S.

18 CHAIRMAN B. BENNETT: Any
19 cross-examination?

20 MR. S. CHINN: None, Mr. Chairman.

21 CHAIRMAN B. BENNETT: Any questions from
22 the commissioners?

23 COMMISSION MEMBER Z. KLUTZ: None.

24 CHAIRMAN B. BENNETT: Very well. You may
25 be excused. Thank you.

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1 MS. T. DAVIS: Thank you.

2 CHAIRMAN B. BENNETT: Is there anything
3 else you wish to present?

4 MS. R. RODRIGUEZ: Not at this time. I
5 think I've given you enough evidence. The law
6 is the law. If you have a homestead, it is
7 considered a permanent location.

8 CHAIRMAN B. BENNETT: Okay. We may
9 consider this as closing argument, but no other
10 evidence that you wish to present?

11 MS. R. RODRIGUEZ: No.

12 CHAIRMAN B. BENNETT: All right. Is there
13 anything from the challenger -- or from the
14 candidate?

15 MR. S. CHINN: Yes, Mr. Chairman.

16 CHAIRMAN B. BENNETT: Thank you. You may
17 proceed.

18 MR. S. CHINN: Mr. Chairman and Members of
19 the Commission, good afternoon. Again, for the
20 record, my name is Scott Chinn, last name,
21 C-H-I-N-N, from the Faegre Baker Daniels Law
22 Firm. I've entered my appearance in this matter
23 on behalf of the Respondent Candidate, Earl
24 Harris, Jr.

25 A couple of quick housekeeping things.

1 Here with me is my summer associate at our law
2 firm, Jason Rauch. He has just handed out to
3 you all, everybody, both commissioners and
4 staff, an appendix. That appendix contains both
5 legal matters, that is cases and points on
6 authority, as well as things that I anticipate
7 will become exhibits, but as to those exhibit
8 matters, we will authenticate all those exhibits
9 and give Mr. Simmons the original, which have
10 been premarked, as the authenticated exhibits,
11 but you will be able to follow along through
12 your appendixes if that pleases the Commission.

13 CHAIRMAN B. BENNETT: Very well.

14 MR. S. CHINN: You've seen Mr. Harris stand
15 and be sworn for his testimony, but just -- by
16 way of quick introduction, I'll be calling him
17 as a witness in just one second. My client and
18 the candidate who received the most votes in the
19 primary election, Mr. Earl Harris, Jr. is here
20 with me today. Mr. Harris, if you could stand
21 and acknowledge the commission?

22 MR. E. HARRIS, JR.: Good afternoon.

23 MR. S. CHINN: And what I intend to do --

24 Members of the Commission, I'm going to --
25 unless you make me sit down, I'm going to stand

1 to address the Commission. I'm going to give
2 just a quick overview of the case.

3 You know, the law in Indiana is abundantly
4 clear, that it is the intent to make one's place
5 of residence one's domicile and residence
6 coupled with a physical manifestation of that
7 intent to establish residency, or sometimes
8 statutes and cases talk about conduct instead of
9 physical manifestation.

10 But it's two things; right, intent and some
11 sort of kind of conduct or physical
12 manifestation. What we'll show today, in terms
13 of the law and the facts, that both of those are
14 present here, which brings me to my first time
15 when I want to direct your attention, at least
16 just, in general, to the appendix that I've
17 given you. We have provided you, in fact, that
18 law.

19 So the very first tab you have is 1 -- of
20 that appendix is the Points and Authorities in
21 Support of District 2 Residency of Earl Harris,
22 Jr. We assert that the constitutional provision
23 at issue are before Section 7, as well as the
24 three operative statutes that we think are most
25 relevant, and three cases, excerpts from three

1 cases that we've provided as well -- the cases
2 that this Commission certainly and counsel and
3 staff are very well familiar with the Bayh case,
4 the Charlie White case, and then perhaps less
5 familiar, the Lugar residency issue that went
6 before the Marion County Election Board.

7 Each of those cases are provided in
8 addition to the excerpts behind Tabs 2, 3 and 4,
9 and then the case of the stipulation of
10 dismissal in the Lugar case, that document, of
11 course, is not a published case but a
12 stipulation of dismissal from the Marion Circuit
13 Court. So I would point, in terms of the law
14 that I've just described and those two
15 components, to that authority submitted.

16 Now, in addition to that law, as you'll see
17 in a moment, the facts are also clear that Earl
18 Harris, Jr. intends to and does reside at 4114
19 Butternut Street in East Chicago, Indiana. The
20 context of this case is that Earl Harris, Jr.
21 ran in the primary for state rep in District 2.
22 He won the primary. The issue of residency was,
23 in fact, raised by his opponents during the
24 primary election.

25 This challenge is brought by one of those

1 primary opponents who did not receive the most
2 votes in the primary and, ultimately, it is a
3 challenge that is without merit and should be
4 denied by the Commission.

5 So procedurally, I'm going to call in just
6 one second Mr. Harris as a witness. I'll
7 introduce some documentary evidence quickly
8 through him, in my direct examination of
9 Mr. Harris, and then I'll give just a short
10 argument at the end based on the evidence that
11 we've deduced, if that's okay, Mr. Chairman.

12 CHAIRMAN B. BENNETT: Okay.

13 MR. S. CHINN: So I will now call as my
14 first witness and probably hopefully the only
15 witness, Earl Harris, Jr. I think in light of
16 there being two of us, perhaps you'll sit there.

17 MR. E. HARRIS, JR.: My name is Earl
18 Harris, Jr. Good afternoon.

19 THE COMMISSION: Good afternoon.

20 CHAIRMAN B. BENNETT: You have taken the
21 oath; correct?

22 MR. E. HARRIS, JR.: Yes.

23

24

25

1 DIRECT EXAMINATION,

2 QUESTIONS BY MR. SCOTT CHINN:

3 Q Good morning, Mr. Harris.

4 A Good morning.

5 Q Now, you've just stated your name for the record
6 so I won't ask to you repeat that. But are you
7 a candidate for State Representative from
8 District 2, Indiana?

9 A Yes.

10 Q Mr. Harris, I've just handed you what's been
11 premarked as Exhibit 1, Respondent's Exhibit 1
12 in this case, and I should note for the
13 commission and the staff that that is at Tab 6,
14 Tab 6 of the appendices.

15 Do you recognize, Mr. Harris, that exhibit?

16 A Yes, I do.

17 Q So can you tell us briefly what it is?

18 A This is the paperwork, the filing for me to run
19 for State Representative for House District 2.

20 Q All right. So that paperwork was paperwork that
21 you filed; right?

22 A Yes.

23 Q You filed with, in fact, the Indiana Election
24 Division?

25 A Uh-huh.

1 Q And it also contains information filed with the
2 Indiana House of Representatives principal
3 clerk?

4 A Correct.

5 Q And Mr. Harris, were you certified as the winner
6 of the primary election for that office in
7 District 2?

8 A Yes, I was certified.

9 Q Let me hand you what's been marked as
10 Respondent's Exhibit 2, and for purposes of our
11 appendix, that's Tab 9, Tab 9 of the appendix.

12 Mr. Harris, do you recognize that exhibit?

13 A Yes, I do.

14 Q Now, I asked you if you were certified, the
15 winner of the primary election, and you said
16 yes. This is not a certification, is it?

17 A This looks like the results from the Secretary
18 of State's website.

19 Q Right. So do you see that there are the
20 candidates listed there for District 2 and their
21 vote totals?

22 A I do.

23 Q And are you listed as a candidate there?

24 A Yes, I am.

25 Q Miss Rodriguez is listed as a candidate there?

1 A Yes, she is.

2 Q Miss Davis?

3 A Yes, she is.

4 Q Any other candidates?

5 A There is a fourth candidate, Mr. Drake Morris.

6 Q Okay. And Mr. Harris, you have a candidate
7 committee in Indiana that's called the Committee
8 to Elect Earl L. Harris, Jr.; is that right?

9 A That is correct.

10 Q I hand you what's been previously marked as
11 Respondent's Exhibit 3, and I'll take these two
12 from you.

13 Do you recognize that exhibit?

14 A Yes, I do.

15 MR. S. CHINN: And by the way, this is Tab
16 7, I should say, for the Commissioners and
17 Staff. This is Exhibit 3 and it's Tab 7.

18 Q So I'm sorry, you said you know what that
19 exhibit is?

20 A Yes.

21 Q And what is it?

22 A This is the Statement of Organization for the
23 committee.

24 Q Okay. And it's your committee?

25 A Yeah.

1 Q Committee to Elect Earl L. Harris?

2 A Yes.

3 Q And that committee's address is what?

4 A 4114 Butternut Street in East Chicago, Indiana,
5 46312.

6 Q Okay. I'll take that back from you.

7 MR. S. CHINN: And at this time, I'm going
8 to give these original exhibits as now
9 authenticated to Mr. Simmons and would move for
10 their admission.

11 CHAIRMAN B. BENNETT: Any objection?

12 (No response.)

13 CHAIRMAN B. BENNETT: Hearing none, the
14 exhibit may be admitted.

15 Q Now, you said, I think, just a second ago, your
16 committee's address, again, is what?

17 A 4114 Butternut Street in East Chicago, Indiana.

18 Q Okay. Now, where do you reside?

19 A 4114 Butternut Street in East Chicago, Indiana.

20 Q Well, where did you grow up?

21 A I grew up at 4114 Butternut Street in East
22 Chicago, Indiana.

23 Q Okay. Now, were you born in that house?

24 A No. I lived about the first four years of my
25 life at another home, and then we moved there

1 when I was about four.

2 Q Okay. So you moved to 4114 Butternut Street in
3 East Chicago at about four years old?

4 A Uh-huh.

5 Q And how long did you live there?

6 A Until I came to Indianapolis in 1990 to finish
7 college.

8 Q And so in 1990, you came to Indianapolis, and
9 you with to college?

10 A I did my last two years at IUPUI.

11 Q Okay. And then what did you do in Indianapolis
12 after that?

13 A I was hired so I continued to live here after
14 that. I applied a job and continued to live
15 here in Indianapolis after that.

16 Q All right. And when did you move back to East
17 Chicago?

18 A March of 2015.

19 Q And where did you move when you moved back to
20 East Chicago?

21 A To 4114 Butternut Street in East Chicago,
22 Indiana.

23 Q Okay. So the house where you grew up?

24 A Uh-huh.

25 Q All right. And the house from which you cam

1 when you came down to Indianapolis?

2 A Correct.

3 Q Now, who owns that house?

4 A It was previously owned by my parents, until my
5 father's death, so now it's owned by my mother.

6 Q Now, I think you said that you moved back to
7 East Chicago in March of 2015; right?

8 A Correct.

9 Q So why did you move back?

10 A My father passed away that month, I'm an only
11 child, and so I moved back basically really to
12 take care of my mother.

13 Q Okay. What else have you done from East Chicago
14 since you've moved back, with respect to your
15 parents?

16 A We have a business, a family, so I've become
17 responsible for that. Supporting my mother.
18 She actually ran for state representative to
19 replace my father, so supported her in that. I
20 have a company which I believe that they already
21 brought up earlier and so I had to move some
22 things in terms of that here.

23 Moved clothing, moved possessions, moved
24 everything I need to live here. Changed the
25 bank account, changed credit cards, changed

1 insurance. I'm sure there's some other things
2 I'm forgetting I did but all those things.

3 Q Were you involved in East Chicago with matters
4 to resolve your father's estate as well?

5 A Yes. We're actually still working on those,
6 yes.

7 Q Now, you mentioned your credit cards and bank
8 account statements and that sort of thing. Are
9 you testifying, with respect to credit cards,
10 and bank accounts and other commercial and
11 personal transactions, that you used the 4114
12 Butternut Street residence for those things?

13 A Yes, I did.

14 Q Since you've moved back?

15 A Uh-huh.

16 Q When do you stay there? How do you stay there?

17 A That is my primary residence, so I stay there
18 most of the time. I have a bedroom. I
19 actually -- as I talked about business, one of
20 the things I had to do was adjust how I do
21 business, and so there's things I use in the
22 house to do things that I need to do business
23 related.

24 Q Okay. So all those credit card statements and
25 bank statements and that sort of thing, you

1 receive those in the mail at 4114 Butternut?

2 A Yes. I changed those on -- all the official --
3 afterwards, your credit cards and bank
4 statements go there, and insurance. I forgot to
5 add that.

6 Q Now, do you also own or maintain a post office
7 box in East Chicago?

8 A Yes, I do.

9 Q What's the purpose of that?

10 A That was created so I didn't have to have all
11 the mail come to the house, election campaign
12 related. Actually, it was suggested to me to
13 create a post office box and use as an address
14 to receive things.

15 Q Now, I'm going to hand you what we premarked
16 Respondent's Exhibit 4, and if you just give
17 that a glance, and tell me if you recognize that
18 exhibit, and I should say that that is Tab 5,
19 Tab 5 of the appendix?

20 A This is the candidate filing challenge by
21 Miss Rodriguez.

22 Q Okay. So now, if you will turn -- and I don't
23 think these pages are internally numbered on the
24 challenge, but if you will turn to, it looks
25 like physically the --

1 CHAIRMAN B. BENNETT: Counselor, my clock
2 says you've used your ten minutes. Are you
3 asking for most time?

4 MR. S. CHINN: I appreciate that. I think
5 perhaps the Petitioner went a little over, too,
6 and I would like the same latitude, if that's
7 okay. I'll actually try to expedite the matter.

8 CHAIRMAN B. BENNETT: An extra five
9 minutes.

10 MR. S. CHINN: That would be great. Thank
11 you, Commissioner. I appreciate it.

12 BY MR. S. CHINN:

13 Q If you look at the -- about the seventh or
14 eighth page of that exhibit, Mr. Harris, and
15 I'll show you that document and show the
16 Commission that I'm looking at something that is
17 an official document.

18 CHAIRMAN B. BENNETT: Which tab is this?

19 MR. S. CHINN: This is Tab 5.

20 Q So do you recognize what this official document
21 is?

22 A Yes. This is when I changed my voter
23 registration.

24 Q Okay. So the Challenger has done us the favor
25 of including your voter registration information

1 in the challenge; is that right?

2 A That is correct.

3 Q Okay. So what does this voter registration card
4 say your address is?

5 A 4114 Butternut Street in East Chicago, Indiana.

6 Q So when you said earlier that you had moved back
7 to East Chicago and that you had registered to
8 vote there, is this the document that you were
9 referencing?

10 A Uh-huh, yes, it is.

11 Q With regard to your voter registration change?

12 A Correct.

13 Q And that was when again?

14 A Dated -- I filled it out, as it's dated on here,
15 4/25 of '15.

16 Q I'm going to hand you one more document, and
17 it's Respondent's Exhibit 5, and for purposes of
18 the appendix, it is Tab 8. You recognize that
19 document, Mr. Harris?

20 A Yes, I do.

21 Q And what is it?

22 A This is when I changed my voter registration at
23 the BMV in East Chicago.

24 Q So is that your receipt?

25 A Yes, it is.

1 Q So you told us that you saw the voter
2 registration card reflecting your change of
3 voter registration address, and this is the
4 receipt that you got for that?

5 A Correct.

6 Q I'll take those back from you.

7 MR. S. CHINN: And at this time I would
8 move to admit Exhibits 4 and 5.

9 MS. R. RODRIGUEZ: May I see the license?

10 MR. S. CHINN: I should have already done
11 that, and I will hand you, Miss Rodriguez,
12 copies of all the exhibits. Exhibits 1, 2, 3, 4
13 and 5, so I would move for their admission.

14 CHAIRMAN B. BENNETT: Any objection?

15 MS. R. RODRIGUEZ: No, I'm fine with it. I
16 just wanted to make sure on the date.

17 CHAIRMAN B. BENNETT: The exhibits are
18 admitted.

19 MR. S. CHINN: Thank you, Mr. Chairman.

20 BY MR. S. CHINN:

21 Q Now, do you vote in East Chicago, or I should
22 say did you vote in East Chicago in the
23 municipal election in 2015?

24 A Yes.

25 Q And did you vote in East Chicago in the primary

1 election of 2016?

2 A Yes.

3 Q Now, there's been discussion about property that
4 you own in Indianapolis. Do you still own
5 property in Indianapolis?

6 A Yes, I do.

7 Q So you moved back to East Chicago, and that's
8 your primary residence; right?

9 A Correct.

10 Q But you still own property in Indianapolis?

11 A Correct.

12 Q Okay. How do you use that property in
13 Indianapolis?

14 A It is the primary address for the business. As
15 I mentioned earlier, my mother was elected to
16 replace my father as state representative, so
17 she has to be here in Indianapolis for part of
18 her time. As I've explained, I've done a lot of
19 support backing her and working with her, so
20 when we have to be in the City of Indianapolis,
21 that's where we stay.

22 Q What's the address of that property?

23 A 1032 Selkirk Lane.

24 Q So that's the property that you had before you
25 moved back to East Chicago?

1 A Correct.

2 Q And you still own it and maintain it?

3 A Correct.

4 Q Now, there was discussion from the Challenger
5 about a homestead deduction on file. Did you
6 hear that testimony and that information?

7 A Yes, I did.

8 Q Okay. And when you changed your residence -- I
9 think you testified and the record will show --
10 in April of 2015 to 4114 Butternut Street in
11 East Chicago, did you notify the Marion County
12 Auditor of your change in address?

13 A No.

14 Q Why didn't you notify them?

15 A With everything else that was going on, with my
16 father's death, his estate, my mother running
17 for a campaign, eventually, her health issues
18 that had been going on, which transitioned into
19 me running her campaign, it slipped through the
20 cracks.

21 Q But your failure to notify the Marion County
22 Auditor of your change in address from Marion
23 County to Lake County, that wasn't an attempt to
24 maintain the Indianapolis address as your
25 primary residence; right?

1 A No.

2 Q And was the issue of your residency -- so the
3 thing that you heard Miss Rodriguez testify to
4 on her case-in-chief on the challenge, was that
5 an issue raised during the campaign?

6 A That was an issue raised by all three of my
7 opponents during the campaign.

8 Q Okay. So you identified those three opponents
9 earlier; right, with respect to that exhibit?

10 A Yes.

11 Q And you're saying that that was an issue raised
12 by them during the campaign?

13 A That's correct.

14 Q In the primary, an issue?

15 A Correct.

16 Q So it's not a new issue?

17 A No, it's not a new issue at all.

18 Q Now, is it your intent that your lawful
19 permanent residence is and continues to be 14114
20 Butternut Street in East Chicago?

21 A Yes, it is.

22 MR. S. CHINN: Having moved all the
23 exhibits, I think I have no other questions for
24 this witness, Mr. Chairman.

25 CHAIRMAN B. BENNETT: Any

1 cross-examination?

2 MS. R. RODRIGUEZ: Oh, definitely.

3 Mr. Harris has perjured himself, and I'll tell
4 you why.

5 CHAIRMAN B. BENNETT: It's not your time to
6 make a speech.

7 MS. R. RODRIGUEZ: Oh, oh.

8 CHAIRMAN B. BENNETT: No, no, no, it's your
9 time, but only ask questions of the witness.

10

11 CROSS-EXAMINATION,

12 QUESTIONS BY MS. ROSA MARIA RODRIGUEZ:

13 Q Mr. Harris, where is that home your parents
14 owned in Indianapolis, because when I went to
15 get information from the auditor, they asked me
16 do you want the information from the other Earl
17 Harris' home. Don't they reside -- don't they
18 have a home here in Indianapolis?

19 A No.

20 Q They don't?

21 A No.

22 MS. R. RODRIGUEZ: Then I'm going to make
23 sure to go back to the auditor because they told

24 me there was a home that they owned that

25 Mr. Harris, when he was alive, would go to. And

1 that's fine. We'll leave that.

2 Q When did I challenge you or even question your
3 challenge, because believe it or not, I believed
4 you. When have you ever -- when have I ever
5 said I don't believe that you live where you
6 live at?

7 A Actually, I should modify that then. I had been
8 told that you did. I didn't actually hear you,
9 so I correct myself on that.

10 Q All right.

11 A I had been told during the campaign season
12 saying that I did not live here.

13 Q Okay.

14 A So I guess that's hearsay, so I apologize.

15 Q How did you prove your residency for East
16 Chicago? What did you use?

17 A All the information that has been handed in,
18 voter registration.

19 Q How did you get your voter registration, because
20 I know when we went to get our license, I had to
21 have a NIPSCO bill. I mean, I had to have -- my
22 husband couldn't even get a driver's license
23 because he didn't have anything on his -- you
24 know, on water bill, light and gas bill,
25 everything was in my name so we had to look for

1 documents. So what did you use?

2 MR. S. CHINN: Mr. Chairman, I realize that
3 the rules of evidence are relaxed here, but I'm
4 going to object to the foundation of the
5 question.

6 CHAIRMAN B. BENNETT: This is your chance
7 to ask questions of the witness.

8 BY MS. R. RODRIGUEZ:

9 Q My question is: What documentation, business
10 documentation did you use to receive your voter
11 registration?

12 A There is a form, and I don't know the name of
13 the form, I don't remember, but my mother, as
14 the owner of the home, she can validate, verify,
15 I don't know what term to use, that I am going
16 to move into the house and be a resident.

17 Q So you're going to, so you never did move in?
18 You haven't moved in yet?

19 A Yeah, I did. At the time of -- I moved in
20 there.

21 Q When?

22 A I moved in March of 2015, which I've said
23 already.

24 Q And yet, you continue in your Facebook, which I
25 will submit for my evidence --

1 MS. R. RODRIGUEZ: That book is my bible,
2 which I do use, but I want to submit that.
3 These are inserts or postings from Mr. Harris
4 admitting that he has been in Indianapolis --

5 MR. S. CHINN: Same objection,
6 Mr. Chairman?

7 CHAIRMAN B. BENNETT: We need to frame your
8 discussion and form a question for the witness.

9 MS. R. RODRIGUEZ: All right.

10 BY MS. R. RODRIGUEZ:

11 Q When did you actually change that residency?
12 You said 4/23? When was it?

13 A Are you talking the official voter registration?

14 Q When did you officially move to East Chicago?

15 A Okay. Do you mean physically moved or when I
16 filled out the paperwork?

17 Q When you said I moved out of Indianapolis to
18 East Chicago, what day was that?

19 A I physically started moving -- began the moving
20 process to East Chicago in March. I'm going to
21 say approximately the 26th, 27th. My mother and
22 I came to Indianapolis, picked up things, and I
23 started the process of moving.

24 Q On the 26th?

25 A 26th or 27th. I don't remember the exact date.

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1 Q 26th or 27th, just to make sure?

2 A Yeah.

3 Q Because according to this, your voter
4 registration, you put the 25th?

5 A So that's why I asked you --

6 Q So you weren't there for the 30 days that you
7 said that you were supposed to be in order to
8 qualify for the voter registration, you were
9 past that day by two days?

10 A I'm sorry. Let me, once again, say --

11 Q You know what, you have changed it. You knew
12 that I didn't challenge you. It's --

13 MS. R. RODRIGUEZ: You know, what, I'm
14 done, because he's not being honest, and we can
15 go back and forth and he can create this -- what
16 he wants.

17 CHAIRMAN B. BENNETT: Do you have any other
18 questions of this witness?

19 MS. R. RODRIGUEZ: No. No, I'm done.

20 CHAIRMAN B. BENNETT: You'll have an
21 opportunity to summarize your position just a
22 moment.

23 MR. S. CHINN: Mr. Chairman, I have one
24 question on redirect.

25 CHAIRMAN B. BENNETT: Okay.

1 REDIRECT EXAMINATION,

2 QUESTIONS BY MR. SCOTT CHINN:

3 Q And my only question, Mr. Harris, on redirect,
4 is -- just so the record is clear about this,
5 but when you were talking about moving back to
6 East Chicago in March, you didn't say the year?

7 A Oh, 2015.

8 MR. S. CHINN: That's it.

9 CHAIRMAN B. BENNETT: Any recross on that?

10 MS. R. RODRIGUEZ: No, because he's right,
11 it was after the fact.

12 CHAIRMAN B. BENNETT: Any questions by the
13 Commissioners?

14 COMMISSION MEMBER Z. KLUTZ: No.

15 CHAIRMAN B. BENNETT: I have one question,
16 Mr. Harris. Have you notified the Marion County
17 Auditor as of this date that the Indianapolis
18 property is no longer your homestead?

19 THE WITNESS: Yes, I made contact with them
20 yesterday. I had a telephone conversation,
21 explained the situation, and was told the form
22 to download. I downloaded the form, filled it
23 out, and mailed it yesterday.

24 CHAIRMAN B. BENNETT: And that was the
25 first time you've told them that you no longer

1 intended to use that as your homestead?

2 THE WITNESS: Yes.

3 CHAIRMAN B. BENNETT: Have you applied for
4 a homestead credit in Lake County?

5 THE WITNESS: I don't believe I can because
6 officially my mother is the owner of the home.

7 CHAIRMAN B. BENNETT: Any questions on
8 that?

9 MR. S. CHINN: I just have one redirect
10 question on the Commissioner's or Chairman's
11 question -- on your question.

12 CHAIRMAN B. BENNETT: Go right ahead.

13

14 FURTHER REDIRECT EXAMINATION,

15 QUESTIONS BY MR. SCOTT CHINN:

16 Q Mr. Harris, you testified in response to the
17 Chairman's question about contacting the Marion
18 County Auditor's office, that you contacted and
19 filled out the form and sent it yesterday; is
20 that right?

21 A That is correct.

22 Q Did you previously seek advice from legal
23 counsel with respect to that matter?

24 A Yes. I wasn't sure if I needed to provide that.

25 Q Without waiving the privilege of what you and

1 counsel talked about, we saved the record, but I
2 want to phrase the question clearly: When did
3 you seek advice from counsel about the homestead
4 issue?

5 A Sometime in May 26. I don't remember the date.
6 When things were beginning to talk -- talk about
7 this issue coming up, I decided that it was time
8 to have some conversation to find out if I
9 needed to do and what I needed to do.

10 MR. S. CHINN: Thank you.

11 CHAIRMAN B. BENNETT: Was it in connection
12 with your -- with this challenge? What was the
13 reason why you --

14 THE WITNESS: Yeah, it slipped through the
15 cracks. I started hearing there was going to be
16 a challenge, it was discussed, and I decided it
17 was something I should check on and work on.

18 CHAIRMAN B. BENNETT: Any other witnesses?

19 MR. S. CHINN: No, Mr. Chairman, no other
20 witnesses.

21 CHAIRMAN B. BENNETT: At this time the
22 public hearing in Cause No. 2016-14 is closed
23 with respect to testimony, but I would permit
24 the Challenger to make a closing statement, if
25 you like, and we'll try to keep that to three

1 minutes, and then we'll have an opportunity for
2 the candidate, another two minutes, and then
3 maybe a one-minute rebuttal, if you choose.

4 MR. E. HARRIS, JR.: Do I stay here or do I
5 get up?

6 CHAIRMAN B. BENNETT: You may be excused
7 from the witness stand.

8 MS. R. RODRIGUEZ: I do want to submit this
9 for evidence. I've taken the liberty for
10 download. It's all here, all my evidence,
11 everything that shows that Mr. Harris did not
12 move to East Chicago. What he did was he took
13 an opportunity to run for office for whatever
14 reason.

15 I didn't ask Mr. Harris, but I should have,
16 who his campaign manager was, his mother. His
17 mother was his campaign manager. Now, I don't
18 know about you guys, but I know y'all have
19 mothers, and I know as a mother and being in the
20 political arena -- I was campaign manager three
21 mayors, and I'll tell you what, I knew where
22 that individual was.

23 I knew that -- just like my children, I
24 knew where they were. Right now, and I'm saying
25 it here, both individuals knew that Mr. Harris

1 was not residing in East Chicago, Indiana. They
2 found a opportunity. They have tried to make a
3 monarchy of our system.

4 I'm from Lake County. Like I said earlier,
5 four decades of being trashed in the political
6 arena. We're tired of it. We're tired of
7 carpetbaggers coming in thinking they have the
8 answers in a little bag, and if you vote for me,
9 this is what you're going to get.

10 We need individuals that are going to
11 represent the community. We need people that
12 are going to be present and know what's going on
13 in our city and our county. Mr. Harris does not
14 live here and the law is the law.

15 I don't care what other documentation that
16 is being put before you, even mine, the law is
17 the law. The homestead is a tax credit. If
18 he's not in violation of taxes, then he's in
19 violation of the voter registration, of our
20 system.

21 Either way, this man is guilty and he
22 should not be a representative for our
23 community. We need people that live in our
24 community that know the needs of our people.
25 And again, I -- you saw him. He was going back

1 and forth, back and forth. Do you really think
2 we're going to allow and want an individual like
3 that, somebody that has lied and deceived from
4 the very beginning and continues and -- and put
5 up his right hand in front of God and said I
6 tell the truth, and he lied.

7 I'm going to check about that home that I
8 was told because they -- and if I'm wrong, I'm
9 wrong, I'll apologize up front, but they did
10 tell me that there was another residency of an
11 Earl Harris in Indianapolis, and I will get that
12 today. That's it. Thank you.

13 CHAIRMAN B. BENNETT: Thank you.

14 Mr. Chinn.

15 MR. S. CHINN: Yes, thank you,
16 Mr. Chairman. Well, I'll start the end where I
17 began, which is the statutes and case law that
18 make it clear that residency in Indiana is based
19 on intent and conduct or physical manifestations
20 demonstrating that intent.

21 The Supreme Court has also told us, and
22 this is, of course, is excerpted in the cases
23 that I've committed to your review in a Ponts
24 and Authorities memo. The Supreme Court has
25 told us that residency laws must be construed to

1 give effect to Democratic values and not be read
2 so technically so as to deprive candidates duly
3 elected access to office.

4 Of course, you heard and know that Mr.
5 Harris was, in fact, duly elected in the primary
6 election and is set to be on the general
7 election ballot. Courts and this commission
8 have and routinely do provide therefore a
9 presumption of residency where intent and
10 conduct evidencing residency is present.

11 So what did we learn -- as a legal
12 background, what have we learned in this case,
13 about those two things, about intent, about
14 physical manifestations or conduct. Well, with
15 respect to the evidence of intent, for
16 Mr. Harris to reside at 4114 Butternut in East
17 Chicago, Mr. Harris is -- first, there is an
18 unequivocal statement that he has intended and
19 does intend to make 4114 Butternut Street his
20 lawful permanent residence, and it's completely
21 consistent with the law. Second, his changing
22 of his voter registration to 4114 Butternut in
23 April 2015, which is before you in evidence,
24 which is well before the November 2015 deadline
25 under Article IV, Section 7, of the Indiana

1 Constitution is before you as well. Third, his
2 declaration of candidacy for District 2 State
3 Representative is declaring his residence as
4 4114 Butternut in East Chicago, and that is
5 before you. His having voted forth in both
6 municipal election in 2015 and the primary
7 election in 2016 from his precinct in East
8 Chicago is also recorded.

9 What about physical manifestations? What
10 about conduct? Well, these things are clear in
11 the record. He has the consent of his mother to
12 live in his family home, which he does. He
13 stays there and conducts business there. He
14 receives mail there. He has credit cards,
15 banking accounts, and other personal and
16 commercial communications, all from 4114
17 Butternut Street. He also maintains a Post
18 Office Box elsewhere in East Chicago so it can
19 be near to him so he can receive his political
20 communications.

21 He moved his personal effects there after
22 the death of his father in March of 2015 in
23 order to assist for the care of his mother. He
24 desires to continue to assist his mother and
25 other family members in East Chicago as he

1 resides there and serve the district and the
2 Statehouse, if he's elected in the fall.

3 And on those factual points -- I will just
4 make one comparison to the authority that's
5 before you, and that's that third case, the
6 Lugar versus Marion County Election Board case
7 as a way of comparing that set of physical
8 manifestations to what was going on the Lugar
9 case.

10 So, there, the issues were a little
11 different, right, because it was about
12 ultimately whether he could vote from a
13 particular precinct in Indianapolis, a precinct
14 that the Lugars, both Dick and Shirley Lugar
15 used to live at but did not live at anymore,
16 hadn't in like 17 years but had continued to
17 vote from there.

18 It became an issue, of course, about that
19 and a challenge -- actually, a notice of
20 violation case was filed before the Marion
21 County Election Board, and that case got
22 resolved, including by the Marion County
23 Election Board's opinion and the Lugars'
24 opinion, and all of that is in the letter back
25 and forth that were attachments to that

1 stipulation of dismissal, under the notion that
2 the Lugars owned a family farm in the south part
3 of Indianapolis.

4 They didn't reside in that family farm, by
5 the way, but they had a physical manifestation
6 because they had an ownership interest in that
7 family farm. And the Lugars said under oath
8 that they maintained a present intent to make
9 that their domicile, their residence, and return
10 to that family farm, or at least potentially
11 return to that family farm when their duties in
12 Washington were over.

13 I would similarly submit to you that if
14 that is enough under the law, which it plainly
15 is under the Bayh case, under the Charlie White
16 case, and under the Lugar case, if that is
17 enough of a physical manifestation in that
18 situation -- the testimony and the documentary
19 evidence that you have before you completely
20 transcends the quantum and quality of evidence
21 as necessary to demonstrate that conduct of
22 physical manifestation and his intent to reside
23 at 4114 Butternut Street in East Chicago is
24 unchallenged.

25 And for those reasons, we respectfully ask

1 that the Commission deny the challenge.

2 CHAIRMAN B. BENNETT: Thank you. Anything
3 further that you would like to add,
4 Miss Rodriguez?

5 MS. R. RODRIGUEZ: I think one of the sad
6 things is the word "intent." Again, I know I'm
7 passionate, but we don't need a person that
8 intended to come to our community that's going
9 to make the laws and the decisions of our
10 community. We need someone that knows the
11 community that's been there.

12 You know, Mr. Harris is lying, he's lied
13 right here in front of you, and the fact that he
14 got a lawyer and it was told to him yesterday to
15 go do the homestead, that's deceitful.

16 You know, in November, and I'll give you --
17 in November, I moved. I had -- so when I went
18 to register for my candidacy, I had to give my
19 old address, and I went to the state, what do I
20 need to do? I said I have a homestead here, and
21 it's funny that -- the young man, I wish I would
22 have found his name, I said I've got a homestead
23 at my old building, I'm getting ready to move
24 into another one, what do I do? He says Rose,
25 keep the address as you have it right now. When

1 you move, then change it and then go from there.

2 As a candidate, you've got to know the
3 laws. I'm not saying you have to know all the
4 laws, but there's things in place that you have
5 a responsibility. If he's going to do that with
6 the homestead -- and the difference between the
7 governor, he didn't have a homestead, he had an
8 investment. Mr. Harris has a homestead that he
9 intentionally -- many times that he was in the
10 Statehouse, many times that he was in the
11 vicinity, why didn't he change it, and that's my
12 question? Why didn't you change it?

13 And for him to say yes, the challenge --
14 the challenge of him not being a resident, it
15 was out there. But maybe I'm naive, maybe I --
16 I don't know. I believe in the system. I
17 believe that if his -- his truth was on
18 April 24th, he had moved, I believed him, and so
19 I never challenged it. It wasn't until
20 afterwards that there was an incident with a
21 young woman that said Rose, I called Lake County
22 and I asked and told them they don't live here,
23 that he doesn't live here? And I said what did
24 they say? Well, they said they'd look into it.

25 Why didn't that person give the individual

1 that information like they gave me when I called
2 on how to do a challenge? It's very
3 frustrating, and I apologize for being the way
4 that I am right now, but it's an injustice, it's
5 an injustice to our community, and I hope you do
6 the right thing.

7 I hope you don't -- I hope that you see
8 things for what they were. You couldn't see it
9 better than right here when he sat here. Thank
10 you.

11 CHAIRMAN B. BENNETT: Very well. Thank
12 you. At this time the public hearing on Cause
13 No. 2016-14 is closed. Is there any discussion
14 by the commission members prior to the vote?

15 PROXY M. CLAYTON: Mr. Chairman, I would
16 like to chastise the attorney for not bringing
17 up a matter that I feel helps be determinative,
18 and I believe, hopefully, counsel will back me
19 up on this point.

20 I've done a lot of practice in the property
21 tax arena and homestead deductions in Indiana
22 are effective on a March 1st date, if I
23 understand that correctly.

24 MS. R. RODRIGUEZ: Right.

25 PROXY M. CLAYTON: And taxes are due the

1 following year. So if someone was a resident on
2 March 1st of 2015, that homestead deduction
3 would be applied to the 2016 taxes, even if that
4 individual moved away March 2nd.

5 Therefore, the fact that someone had a 2015
6 homestead deduction on a property was completely
7 legal, even if they moved away March 2nd, or has
8 been said here, sometime in March, as long as
9 they lived at that property on March 1st, 2015.

10 So that particular piece of evidence, I
11 don't believe is relevant in this matter, and I
12 just wanted to address that because that is a
13 point that I have looked at that has been
14 repeated several times, but I don't believe it
15 has a bearing on the case.

16 The bearing in the case, the way I
17 understand it and understand especially the Bayh
18 case, it is intent and action, and those are the
19 issues that should be before this body, not
20 things such as a homestead deduction. So I just
21 wanted to make that point. I don't know if our
22 counsel will back me up on my March 1st date as
23 far as that point.

24 CHAIRMAN B. BENNETT: Okay, very good.
25 Thank you.

1 COMMISSION MEMBER Z. KLUTZ: I just want to
2 make a comment to that. Even if it were
3 relevant, it's not a trump card, in my opinion.
4 It's a totality of the facts.

5 MS. R. RODRIGUEZ: Sure.

6 COMMISSION MEMBER Z. KLUTZ: And so if we
7 look at intent and conduct and we look at all
8 the facts and not the trump card, it seems to me
9 that the facts -- the conduct and the intent of
10 Mr. Harris outweighs one fact, whether it's
11 relevant or not, of his -- of establishing
12 residency, and I don't feel based upon the
13 evidence presented that your notion of the
14 homestead credit trumps everything -- all the
15 other evidence that was given.

16 So relevant or not, I just don't -- I don't
17 think that makes up for the other facts on the
18 conduct of Mr. Harris.

19 COMMISSION MEMBER S. OVERHOLT: If I may
20 say, too, there hasn't been any evidence
21 presented that really truly disputes, you know,
22 what Mr. Harris has testified about his intent
23 was. I mean, that's one of the other issues
24 here, too, because there's a claim that
25 Mr. Harris lied. There's nothing before us that

1 really -- you know, any, I think, valid evidence
2 that gives question to what he has stated his
3 intent was.

4 CHAIRMAN B. BENNETT: I want to compliment
5 you, Miss Rodriguez, for your presentation, for
6 your courage for bringing this to our attention
7 and so eloquently advocating for your position.
8 I think that you brought some very important
9 facts to our attention and you presented your
10 case very well.

11 I have to say that I'm feeling constrained
12 by what I understand fairly clear Indiana law
13 with regard to the wariness of the courts to
14 overturn the will of the voters who have already
15 voted in a free and voluntarily election.

16 Whether the candidate was appropriately
17 certified or not, once the voters have spoken,
18 Indiana law has demonstrated that the court
19 should uphold the will of the voters to the
20 extent that's possible.

21 We've had situations like this last spring,
22 supporting the will of the voters, and in this
23 situation where we've already had a primary
24 election, it's very difficult for this body to
25 overturn that. But that's my concern about the

1 case. Are there any other comments that the
2 commissioners wish to make to that response?

3 (No response.)

4 CHAIRMAN B. BENNETT: Is there a motion?

5 PROXY M. CLAYTON: Mr. Chairman, I would
6 move that we dismiss the complaint -- or I'm
7 sorry, deny the complaint.

8 CHAIRMAN B. BENNETT: Deny the challenge.

9 PROXY M. CLAYTON: Motion to deny the
10 challenge, is the right terminology.

11 CHAIRMAN B. BENNETT: Okay. There's a
12 motion to deny the challenge, is there a second
13 for that?

14 COMMISSION MEMBER S. OVERHOLT: Second.

15 CHAIRMAN B. BENNETT: Is there any further
16 discussion?

17 (No discussion.)

18 CHAIRMAN B. BENNETT: All in favor of
19 denying the challenge, say aye?

20 THE COMMISSION: Aye.

21 CHAIRMAN B. BENNETT: Those opposed, the
22 same?

23 (No response.)

24 CHAIRMAN B. BENNETT: Challenge is denied.
25 That draws this matter to a close, and looking

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1 at the agenda and realize that the Indiana
2 Election Commission has finished its business
3 for the day, is there a motion for the Indiana
4 Election Commission to adjourn?

5 COMMISSION MEMBER Z. KLUTZ: So moved.

6 PROXY M. CLAYTON: Second.

7 CHAIRMAN B. BENNETT: Those in favor, say
8 aye?

9 THE COMMISSION: Aye.

10 CHAIRMAN B. BENNETT: Those opposed, the
11 same?

12 (No response.)

13 CHAIRMAN B. BENNETT: The ayes have it.
14 The Indiana Election Commission meeting is
15 adjourned. Thank you.

16 (At 2:09 p.m., the proceedings were
17 adjourned.)

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1 STATE OF INDIANA)
2) SS:
3 COUNTY OF HENDRICKS)

4 I, Rhonda J. Hobbs, RPR, and a Notary Public
5 and Stenographic Reporter within and for the County
6 of Hendricks, State of Indiana at large, do hereby
7 certify that on the 15th day of June, 2016, I took
8 down in stenograph notes the foregoing hearing;

9 That the witnesses were duly sworn to tell the
10 truth, the whole truth, and nothing but the truth;

11 That the transcript is a full, true and
12 correct transcript made from my stenograph notes.

13 IN WITNESS WHEREOF, I have hereunto set
14 my hand and affixed my notarial seal this _____
15 day of July, 2016.

16
17 

18 NOTARY PUBLIC
19

20 My Commission Expires:
21 August 24, 2017
22 County of Residence:
23 Hendricks County
24
25

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