

**Indiana Election Commission**  
**Minutes**  
**August 22, 2014**

**Members Present:** Bryce H. Bennett, Jr., Chairman of the Indiana Election Commission (“Commission”); Adam Dickey, 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:** Leslie Barnes, Co-General Counsel of the Election Division of the Office of the Indiana Secretary of State (Election Division); Dale Simmons, Co-General Counsel of the Election Division; Rhonda J. Hobbs, RPR, Notary Public, Stenographic Reporter, Connor Reporting, Inc.

**Others Attending:** Mr. William L. Brand; Ms. Ashley A. Keith Qualkenbush; Mr. Steve Runyan; Mr. Bradford D. Williamson.

**1. Call to Order**

The Chair called the August 22, 2014 meeting of the Commission to order at 2:32 p.m. EDT in Conference Room 1, Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana.

The Chair recognized the Co-General Counsels of the Election Division, who noted that proper notice of the meeting had been given, as required by state law. A copy of the meeting notice and agenda are incorporated by reference in these minutes. *[Copies of all documents incorporated by reference are available for public inspection and copying at the Election Division Office.]*

**2. Transaction of Business**

The Commission transacted the business set forth in the Transcript of Proceedings prepared by Ms. Rhonda J. Hobbs of Connor Reporting. A copy of this document is incorporated by reference in these minutes.

The following corrections of scrivener’s errors in this document are approved:

Page 3, line 6, replace “Suzanna” with “Suzannah”.

Page 4, line 5, replace “Miss” with “Ms.”.

Page 4, line 17, replace “Barns” with “Barnes”.

Page 20, line 6, after “Commission” insert “know”.

Page 22, line 4, replace "52" with "62".

Page 26, line 8, replace "Statehouse" with "State House".

### 3. Adjournment

The Commission meeting was then adjourned at 3:30 p.m.

Respectfully submitted,



Trent Deckard  
Co-Director



J. Bradley King  
Co-Director

**APPROVED:**



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

*In the Matter Of:*

INDIANA ELECTION COMMISSION HEARING

HEARING PROCEEDINGS

August 22, 2014



CONNOR REPORTING  
1650 One American Square  
Indianapolis, IN 46282  
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Hearing Proceedings  
August 22, 2014

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INDIANA ELECTION COMMISSION  
PUBLIC SESSION AGENDA

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Conducted On: Friday, August 22, 2014

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Location: Indiana Government Center South  
Conference Room 1

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402 West Washington Street  
Indianapolis, Indiana 46204

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

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

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A P P E A R A N C E S

INDIANA ELECTION COMMISSION:

- Mr. Bryce Bennett - Chairman
- Mr. Adam Dickey - (Proxy for Vice Chairman Anthony Long)
- Ms. Suzannah Overholt Commission Member )
- Mr. Zachary Klutz - Commission Member

INDIANA ELECTION DIVISION STAFF:

- Mr. Dale Simmons - Co-Legal Counsel
- Ms. Leslie Barnes - Co-Legal Counsel

1           CHAIRMAN B. BENNETT: So it is 2:32 and  
2 this meeting of the Indiana Election Commission  
3 is called to order. The following members of  
4 the Commission are present: Myself, Chairman  
5 Bryce Bennett; Adam Dickey, proxy for Vice  
6 Chairman, Anthony Long; Suzanna Wilson Overholt;  
7 and Member Zachary Klutz; and the Indiana  
8 Election Division staff.

9           The co-directors are both attending a national  
10 association of election directors conference today.  
11 But we have co-general counsels, Leslie Barnes and  
12 Dale Simmons. The court reporter is Rhonda Hobbs  
13 from Connor & Associates.

14           I want to welcome everyone to today's meeting.  
15 I know this was short notice, but we're operating  
16 under statutory deadlines and we're able to meet  
17 those deadlines so we are here today to hold this  
18 rather special meeting of the Indiana Election  
19 Commission in a public session.

20           Before we begin today's proceedings, I want to  
21 remind everyone, on behalf of the court reporter,  
22 to identify yourself before beginning to speak,  
23 spell your name, when you identify yourself, and  
24 speak clearly, and do not speak at the same time  
25 that others are speaking because the court reporter

1 cannot try and transcribe two conversations  
2 simultaneously.

3 For the record, documentation of compliance  
4 with the Open Door Law, would ask Mr. Simmons and  
5 Miss Barnes to report.

6 D. SIMMONS: Mr. Chairman and Members of  
7 the Commission, a notice of today's meeting was  
8 posted and properly published to our website  
9 pursuant to the Open Door Law so we can certify  
10 to that fact.

11 CHAIRMAN B. BENNETT: Ms. Barnes, do you  
12 agree with that?

13 L. BARNES: I do. Thank you, Mr. Chairman.

14 CHAIRMAN B. BENNETT: First item of  
15 business is the ratification of campaign finance  
16 settlement agreements, and I would ask, again,  
17 for presentation by Ms. Barnes and Mr. Simmons.

18 D. SIMMONS: Mr. Chairman and Members of  
19 the Commission, behind your second tab titled,  
20 "Campaign Finance", there's listed four  
21 committees who have entered into settlement  
22 agreements with the Election Division for  
23 payment of the full proposed fine under state  
24 law.

25 Once those agreements have been submitted,

1 however, those need to be ratified by the Indiana  
2 Election Commission.

3 CHAIRMAN B. BENNETT: Is there a motion to  
4 ratify the campaign finance settlement  
5 agreements as presented in our materials today?

6 COMMISSION MEMBER S. OVERHOLT: So moved.

7 CHAIRMAN B. BENNETT: We have a motion. Is  
8 there a second?

9 COMMISSION MEMBER Z. KLUTZ: Second.

10 CHAIRMAN B. BENNETT: Is there any  
11 discussion?

12 (No response.)

13 CHAIRMAN B. BENNETT: Hearing no  
14 discussion, all in favor say aye?

15 THE COMMISSION: Aye.

16 CHAIRMAN B. BENNETT: All opposed, the same  
17 sign?

18 (No response.)

19 CHAIRMAN B. BENNETT: The ayes have it and  
20 the motion to ratify the agreements are adopted.  
21 The next item of business is the approval of  
22 forms under 2014-4, and I would again for  
23 presentation by Ms. Barnes and Mr. Simmons.

24 D. SIMMONS: Mr. Chairman and Members of  
25 the Commission, I will defer here in a minute to



1 Ms. Barnes because she did work extensively on  
2 some of these forms. I have reviewed them, and  
3 of course, Mr. King and Mr. Deckard have  
4 reviewed them as well.

5 But Forms Order 2014-4 does a number of  
6 things. It revises the order issued last week in a  
7 couple respects. For example, the Spanish language  
8 absentee ballot application in person was revised  
9 to allow counties to leave off the designation of  
10 party ballot -- you know, when you're requested in  
11 a primary Republican or Democratic ballot, to leave  
12 that off when they're having a general election to  
13 avoid confusion.

14 There's also another revision to last week's  
15 order to grandfather, that is to approve the use of  
16 one of the forms that was revised in last week's  
17 order, just through the end of this year, just use  
18 up current stock counties may have.

19 Other than that, Sections 2 and 3 deal with  
20 updates to several forms that reflect statutory  
21 changes or date changes for forms that are going to  
22 be used in next year's election, including a  
23 substantial revision to our form, the VRG 4/12,  
24 which is to document fail safe provisions that  
25 allow voters to vote on election day, even though

1 they may have moved, for instance, from the  
2 residence listed on the poll book, and that's the  
3 one in particular that Leslie Barnes had worked  
4 extensively on redesigning that particular form,  
5 and of course, she can address that in more detail  
6 than I can because she worked on that.

7 CHAIRMAN B. BENNETT: Anything else?

8 D. SIMMONS: No.

9 CHAIRMAN B. BENNETT: Ms. Barnes.

10 L. BARNES: Thank you, Mr. Chairman. I  
11 concur with what Mr. Simmons said. These forms  
12 have had bipartisan sets of eyes and agreement  
13 on them. If you look on Section 2 of your order  
14 form, you'll notice that there's a reference to  
15 a couple of these forms being retroactively  
16 approved at the last commission meeting on  
17 August 15th.

18 When we did that, we learned that one of  
19 military and absentee voter forms were available  
20 online and a military overseas voter had already  
21 used it and submitted it to Allen County so we  
22 wanted to make sure there was no question that that  
23 form would not be challenged because the new  
24 version of the form was already being used and in  
25 circulation available to the public.

1           We try to hold these forms and not put them on  
2           our website until after you all, the Commission,  
3           have reviewed and approved the forms, but that one,  
4           somehow a voter got ahold of it, and since it was  
5           an overseas voter, we did not want to -- to  
6           interfere.

7           If you have any questions on any of the forms,  
8           including the VRG 4/12, the one Mr. Simmons  
9           mentioned, has had kind of a substantial revision.  
10          One of the reasons we needed to revise the 4/12 is  
11          we now -- Indiana law permits counties to use  
12          electronic poll books and some of our counties have  
13          traditional paper poll books.

14          And so the way that you handle a fail safe  
15          voter, someone who maybe has changed their name  
16          since the last time they registered to vote or  
17          somebody who moved within the same county and same  
18          congressional district -- the way you can add a  
19          voter to an electronic poll book is different. You  
20          just can't just write on a paper poll book.

21          And so we needed a way to document that that  
22          voter was eligible to vote, and so we modified this  
23          form to allow voters using -- in counties using the  
24          poll books, electronic poll books. The General  
25          Assembly had concurred with that recommendation,

1 and they recommended that we use this form, so  
2 that's what did on that form.

3 We tried to make it a little easier by putting  
4 all of the instructions on the second page. We've  
5 got a blank line so that the inspectors and poll  
6 clerks can call the county election board on  
7 election day. These types of exceptions are very  
8 hard for our poll workers to understand -- they're  
9 hard enough for our clerks to understand, and so we  
10 just wanted to give the poll workers a phone number  
11 that they can call on election day if they weren't  
12 sure.

13 Sometimes a voter will appear and even their  
14 name is not the same on the poll book or their name  
15 is not on the poll book, but every once in a while  
16 a voter like that is still eligible to vote, and  
17 this form capture those specific eligible voters.  
18 Thank you.

19 CHAIRMAN B. BENNETT: How soon in advance  
20 of the election is that number available to put  
21 on these forms?

22 L. BARNES: As soon as the Commission  
23 approves the form today, tomorrow or on Monday  
24 we will mail these forms out to the counties and  
25 they can begin to put their number on them.

1 This form will be available for absentee voters  
2 who vote by mail, which is going on right now,  
3 and so we would encourage our counties to put  
4 their phone number on it and make it available.  
5 That's a good question.

6 CHAIRMAN B. BENNETT: Is there a motion to  
7 adopt the forms as presented?

8 COMMISSION MEMBER Z. KLUTZ: So moved.

9 CHAIRMAN B. BENNETT: We have a motion. Is  
10 there a second?

11 COMMISSION MEMBER S. OVERHOLT: Second.

12 CHAIRMAN B. BENNETT: Any discussion?

13 (No response.)

14 CHAIRMAN B. BENNETT: Hearing none, all in  
15 favor of approving the forms as presented, say  
16 aye?

17 THE COMMISSION: Aye.

18 CHAIRMAN B. BENNETT: All opposed, the same  
19 sign?

20 (No response.)

21 CHAIRMAN B. BENNETT: Motion carried.  
22 Thank you. Thank you Ms. Barnes and Mr. Simmons  
23 for your work on these forms. The next item on  
24 our agenda is the candidate challenge hearing or  
25 hearings, and in the past I would remind

1 everyone that the Commission has followed  
2 certain procedures for conducting candidate  
3 challenge hearings, and I would move today that  
4 the Commission use the following procedures:

5 After the candidate challenge is called, the  
6 hearing will begin by recognizing election division  
7 staff to provide information about the documents  
8 provided to commission members, including candidate  
9 challenge forms and the notice given to the  
10 candidate and challenger;

11 B) Unless there is an objection, the documents  
12 provided to the Commission by the Election Division  
13 will be entered into the record of this meeting;

14 C) After the election division staff presents  
15 its presentation, the challenger will be recognized  
16 first. The challenger or challenger's  
17 representative may present their case for no more  
18 than ten minutes unless the Commission votes to  
19 allow additional time for the presenter;

20 D) Commission members may ask questions during  
21 a presentation, but the time spent answering these  
22 questions will not be counted against the  
23 presenter's time. The election division may signal  
24 the chair when a presenter's time is up.

25 If the presenter offers additional documents

1 or other physical evidence not previously received  
2 by the Commission, then the original must be  
3 provided to the election division staff, that would  
4 be Dale Simmons, to preserve for the record.

5 The candidate or the candidate's authorized  
6 representative will be recognized following the  
7 last presentation by a challenger. The candidate  
8 may present their case for no more than ten minutes  
9 unless the commission votes to allow additional  
10 time for the presenter;

11 G) Following the presentation by a challenger,  
12 the candidate may cross-examine the challenger  
13 followed by the presentation -- I'm sorry,  
14 following the presentation by a candidate, a  
15 challenger may cross-examine a candidate. The  
16 cross-examination in all cases is limited to two  
17 minutes unless the Commission votes to allow  
18 additional time.

19 The cross-examination must be limited to  
20 questions regarding statements made by the  
21 presenter. Following presentation by a candidate,  
22 the challenger may present a rebuttal of no more  
23 than two minutes;

24 H) The Commission may dismiss the cause of any  
25 challenger who has failed to appear or testify

1 before the commission. Is there a second to my  
2 motion for the commission to adopt these procedures  
3 for today's candidate challenge?

4 COMMISSION MEMBER Z. KLUTZ: Second.

5 CHAIRMAN B. BENNETT: We have a second.  
6 Any discussion on these procedures?

7 (No response.)

8 CHAIRMAN B. BENNETT: Hearing none, all in  
9 favor say aye?

10 THE COMMISSION: Aye.

11 CHAIRMAN B. BENNETT: All opposed, the same  
12 sign?

13 (No response.)

14 CHAIRMAN B. BENNETT: Motion carried.  
15 These procedures are adopted. Everyone who's  
16 present here today and plans to testify before  
17 the Election Commission, including any voting  
18 system matters, please stand for the  
19 administration of the oath. I recognize Dale  
20 Simmons to administer the oath.

21 D. SIMMONS: Please stand and raise your  
22 right hand and say I do after the administration  
23 of the oath.

24 (Participants complied.)

25 D. SIMMONS: Do you solemnly swear or



1 affirm under the penalties of perjury that the  
2 testimony you're about to give the Indiana  
3 Election Commission is the truth, the whole  
4 truth, and nothing but the truth, say I do?

5 THE PARTICIPANTS: I do.

6 CHAIRMAN B. BENNETT: We'll now begin  
7 consideration of candidate challenges, and I  
8 remind everyone to identify yourself when you  
9 begin speaking. We will start with the Ashley  
10 A. Keith Qualkenbush challenge.

11 COMMISSION MEMBER Z. KLUTZ: Mr. Chairman,  
12 if I can make a preliminary statement and  
13 motion. It appears a brief review of two  
14 candidate challenges filed, one August 19th, and  
15 one August 21st, substantially similar in terms  
16 of both the candidate being challenged, the  
17 office the candidate is seeking, as well as both  
18 challenges seem to present the same basis or  
19 statement of facts or theory for why the  
20 challenge is being made. I make a motion or  
21 open discussion for a consolidation of the two  
22 challenges.

23 CHAIRMAN B. BENNETT: We have a motion. Is  
24 there a second to that motion for purposes of  
25 discussion?

1           A. DICKEY: I don't think there's any  
2 reason why it would complicate things, so yeah,  
3 I'll second the motion.

4           CHAIRMAN B. BENNETT: We have a motion and  
5 a second, is there any discussion?

6           COMMISSION MEMBER S. OVERHOLT: The  
7 question that I would have is that the -- I  
8 mean, they are filed by two separate candidates.  
9 If both of those candidates are indeed here  
10 today, then I guess I don't have a problem with  
11 consolidation, but if one of the candidates  
12 isn't here, who filed the challenge, then I  
13 would not want them consolidated, because if the  
14 candidate filing the challenge hasn't appeared  
15 then that challenge is dismissed.

16           CHAIRMAN B. BENNETT: State your name,  
17 please.

18           S. RUNYAN: My name is Steve Runyan. I  
19 represent Mr. Williamson and Mr. Brand who filed  
20 two challenges. They're both here present. We  
21 would consent to consolidating them into one, if  
22 that helps.

23           CHAIRMAN B. BENNETT: So we have two  
24 challenges for one candidate?

25           S. RUNYAN: Two challenges for one

1 candidate, exactly right.

2 COMMISSION MEMBER S. OVERHOLT: That  
3 answers my question.

4 S. RUNYAN: I try to help in any way I can.

5 A. DICKEY: Since we asked the challengers,  
6 is there objection from the candidate?

7 A. QUALKENBUSH: My name is Ashley  
8 Qualkenbush and no I have no objection.

9 CHAIRMAN B. BENNETT: Any further  
10 discussion?

11 (No response.)

12 CHAIRMAN B. BENNETT: Hearing none, all in  
13 favor of consolidating the two challenges to the  
14 one candidate, Ashley A. Keith Qualkenbush, say  
15 aye?

16 THE COMMISSION: Aye.

17 CHAIRMAN B. BENNETT: All opposed, the same  
18 sign?

19 (No response.)

20 CHAIRMAN B. BENNETT: Hearing no objection,  
21 we will consolidate both challenges and proceed  
22 accordingly. With that, I would recognize -- we  
23 have to figure out which challenger to  
24 recognize. Perhaps we'll go with the first  
25 file. I don't know whether they both filed

1 simultaneously or...

2 D. SIMMONS: Mr. Chairman, Members of the  
3 Commission, the Bradford Williamson was filed on  
4 the 19th and the challenge filed by William  
5 Brand was filed on the 21st, so Mr. Williamson  
6 was the first filed.

7 CHAIRMAN B. BENNETT: All right. Let's  
8 begin with Mr. Williamson's presentation.

9 S. RUNYAN: Thank you, Mr. Chairman. My  
10 name is Steve Runyan, and I represent Mr.  
11 Williamson, and he's directly to my left here.  
12 He did file a challenge to Ms. Qualkenbush. You  
13 have the challenge forms, I understand -- the  
14 Commission all has those -- do we need to enter  
15 those into evidence or are those already  
16 considered part of that record?

17 CHAIRMAN B. BENNETT: Pursuant to our  
18 procedures, unless there is an objection, the  
19 documents that have been provided to the  
20 Commission will be entered into the record  
21 without further...

22 S. RUNYAN: I ask that they be admitted  
23 into evidence. Do you have any objection?

24 A. QUALKENBUSH: I have no objection.

25

1 QUESTIONS BY MR. STEVE RUNYAN:

2 Q Mr. Williamson, can you identify yourself to the  
3 Commission, please.

4 A Yes. I'm Bradford D. Williamson from Oden,  
5 Indiana.

6 Q And did you file the challenge?

7 A I certainly did, yes.

8 Q And how did you come about -- how did you come  
9 about filing the challenge?

10 A Well, I am political buff, and so when I saw  
11 that Ms. Qualkenbush had filed, I wanted to do  
12 some research. I was familiar with the other  
13 Democratic candidate. And so I went on the  
14 Indiana State website and was just curiously  
15 doing some research and was quite surprised a  
16 third party would file, and then when I was  
17 looking at addresses and backgrounds, I thought  
18 well, wait a minute, something doesn't add up  
19 right here.

20 And so when I did some checking, did a little  
21 bit of research, a little more research, found that  
22 she -- I didn't think that she was eligible to run  
23 in the district that she filed.

24 Q What district are you a member of?

25 A I'm a member of the 62nd District.

1 Q And Ms. Qualkenbush had filed for the 62nd?

2 A She had, yes. And according to my research with  
3 the addresses given at the time of her filing,  
4 it qualified her to run in the 65th District.

5 Q And did you go onto the Secretary of State's  
6 website?

7 A Yes, I did, the Indiana Secretary of State.

8 Q I hand you a document -- that's not the one that  
9 you pulled up; is that substantially similar to  
10 what you have in front of you?

11 A Very -- yes, very similar.

12 Q Is that identified as member of the 65th?

13 A Yes, it does.

14 S. RUNYAN: There's a few copies there.  
15 That's all we have from Mr. Williamson, Mr.  
16 Chairman.

17 CHAIRMAN B. BENNETT: Is there any  
18 particular portion of this document that you  
19 handed us that you would like us to note?

20 S. RUNYAN: Yes, please. Under districts,  
21 the last bold item, it identifies the districts  
22 for each of the various precincts under the  
23 Statehouse 65th District.

24 CHAIRMAN B. BENNETT: I believe the  
25 appropriate procedure at this point would be to

1 ask to hear from Challenger William Brand, and  
2 ask if there is anything else that he would like  
3 to add.

4 S. RUNYAN: Thank you, Mr. Chairman.  
5 Mr. Brand is to my far left. We will let the  
6 Commission that Mr. Brand has some difficulty  
7 hearing. So if you have questions for him,  
8 please speak loudly.

9

10 QUESTIONS BY MR. STEVEN RUNYAN:

11 Q Mr. Brand, can you identify yourself to the  
12 Commission, please.

13 A It's William L. Brand, and I have a hearing  
14 disability. You did very well.

15 L. BARNES: Thank you.

16 W. BRAND: You had a good line. I miss a  
17 lot. I heard everything in the oath. I did.

18 Q Mr. Brand, did you file a candidate challenge?

19 A Yes, I did.

20 Q And how did you come about filing that  
21 challenge?

22 A Well, I had heard that -- what drew my attention  
23 is that Ashley Qualkenbush had filed and didn't  
24 think that she actually qualified to run in  
25 District 62, and I did look into her address

1 that she filed, which is in District 62, but her  
2 voting address registration is on Zikes Road  
3 which is in Clear Creek, not in District 62.

4 She's not registered to vote in District 62.  
5 According to the documents I actually got from the  
6 Monroe County Election supervisors, she was in --  
7 at the -- registered at the Zikes Road address as  
8 late as 7/9/2014.

9 Q Mr. Brand, is the document that you got  
10 from them?

11 A This is the document I got from the Monroe  
12 County Election Board. It shows when she was  
13 initially registered, and it was back in 2008,  
14 and up through 7/9/2104.

15 S. RUNYAN: Mr. Chairman, I'd ask that that  
16 be entered into evidence as well.

17 CHAIRMAN B. BENNETT: Any objection?

18 (No response.)

19 CHAIRMAN B. BENNETT: Hearing none, the  
20 document will be admitted. Anything in  
21 particular on this document that you would like  
22 to direct the Commission's attention to?

23 S. RUNYAN: Just showing the address on  
24 Zikes Road.

25 Q Is there anything you want to point out other



1 than the address?

2 A 7345 South Zikes Road. This address is in Clear  
3 Creek. It's not no Perry Township. It's not in  
4 District 52.

5 Q And how did you what precinct it's in or what  
6 township it's in?

7 A A plat map.

8 Q A plat map you have?

9 A Yeah. Also how to get from her house to mine.  
10 The line demarkation is between Clear Creek and  
11 Perry Township. Perry Township is in District  
12 62, Clear Creek is not, and the address where  
13 she's registered is in Clear District.

14 CHAIRMAN B. BENNETT: Thank you.

15 Cross-examination by the candidate.

16 A. QUALKENBUSH: I have no questions at  
17 this time.

18 CHAIRMAN B. BENNETT: Okay. Any questions  
19 by the Commission?

20 (No response.)

21 CHAIRMAN B. BENNETT: Hearing none, we will  
22 hear from the candidate.

23 A. QUALKENBUSH: My name is Ashley  
24 Qualkenbush. Basically, I went ahead and came  
25 today. I got a voter registration card to

1 update my address, two of them. They were  
2 forwarded from my previous address from the last  
3 time I voted to my new address. I filled them  
4 out, put them in the mail.

5 I as a voter assumed at that point that I had  
6 done what I was supposed to, and it fell into the  
7 hands of the clerk's office. I filled out the  
8 form. I don't know why it's not updated, but  
9 unfortunately, with it being a system of you get  
10 the card in the mail, it gets forwarded to your  
11 correct address, and you send it back in.

12 You really have no verification or way of  
13 tracking that. I sent that in three days before I  
14 filed my paperwork to run -- to be a candidate.

15 A. DICKEY: Do you know what date that was,  
16 just for...

17 A. QUALKENBUSH: June 14th, 2014.

18 CHAIRMAN B. BENNETT: Anything else you  
19 would like to say or present?

20 A. QUALKENBUSH: No, sir.

21 CHAIRMAN B. BENNETT: Is there any  
22 cross-examination by the challengers?

23 S. RUNYAN: Just one question, I believe.

24

25

1

2 QUESTIONS BY MR. STEVEN RUNYAN:

3 Q Did you ever check the voter registration  
4 website before filing your paperwork to see if  
5 it had been updated?

6 A No, because it had only been three days. I  
7 didn't assume that it would happen that quickly  
8 with it being a mail process.

9 Q You didn't expect it would be updated in time  
10 before you filed your paperwork?

11 A I didn't expect that they would have it updated  
12 in three days, but I filed the appropriate paper  
13 so I had taken the precautions I needed to at  
14 that point.

15 S. RUNYAN: No further questions.

16 CHAIRMAN B. BENNETT: Any questions of the  
17 candidate by the Commission?

18 COMMISSION MEMBER Z. KLUTZ: Have you since  
19 followed up with the clerk?

20 A. QUALKENBUSH: I have not. When I got  
21 this challenge, I received notice that it was  
22 not updated, and that was an error on my part  
23 for not following up with it more closely.

24 COMMISSION MEMBER S. OVERHOLT: So you --  
25 if I understand your testimony you completed the

1 voter registration update card or whatever it  
2 was and put it in the mail June 14th?

3 A. QUALKENBUSH: Yes, ma'am.

4 A. DICKEY: And just to be more clear, this  
5 is the same card that went out with regards to  
6 the cleanup of the voter file throughout  
7 Indiana; correct?

8 L. BARNES: It sounds like it. If she can  
9 describe it.

10 A. QUALKENBUSH: I received two post cards  
11 and it said if your -- this is the address we  
12 have on file for you. If it's correct, mark  
13 this, sign it, and send it back. If not, there  
14 was a space on it to update your address, sign  
15 it and send it back, and I received two of them.

16 A. DICKEY: Do you remember the address  
17 that it was going to?

18 A. QUALKENBUSH: It was going to the Zikes  
19 Road address but then it forwarded by the post  
20 office.

21 A. DICKEY: Well, the address, though, that  
22 you were mailing it from before returning the  
23 card.

24 A. QUALKENBUSH: It already had the address  
25 on it. I don't remember. It was a postcard

1 pre-addressed.

2 COMMISSION MEMBER S. OVERHOLT: And you  
3 said you put the card in the United States mail?

4 A. QUALKENBUSH: Yes.

5 COMMISSION MEMBER Z. KLUTZ: Do you have  
6 any reason to believe that this printout  
7 dated -- it appears to be August 22nd, which  
8 shows your voter registration within Statehouse  
9 65, do you have any reason to believe this is  
10 inaccurate?

11 A. QUALKENBUSH: Yes, I believe this is  
12 completely inaccurate. That's not my address  
13 and that's not my address that I'm registered at  
14 or should have been registered at.

15 COMMISSION MEMBER Z. KLUTZ: Do you have  
16 anything to present that shows a different voter  
17 registration address?

18 A. QUALKENBUSH: No. I simply filled out  
19 the postcard and mailed it back. There is not a  
20 real reliable system of...

21 CHAIRMAN B. BENNETT: I would ask legal  
22 counsel what law governs this situation?

23 D. SIMMONS: I'll be glad to start.

24 L. BARNES: Sure.

25 D. SIMMONS: Mr. Chairman and Members of

1 the Commission, this challenge is based on  
2 3-8-1-1. It's actually -- if you want to  
3 consult it in the books we have brought, it's on  
4 page 226 and 227, but just to kind of  
5 paraphrase, a requirement of the statute, it  
6 requires a candidate to -- or office including  
7 legislative -- state legislative office to be  
8 registered in their election district by the  
9 deadline for filing their candidate document, in  
10 this case, certification.

11 As part of your materials that was included,  
12 it's the CAN-23, and the deadline for the  
13 Libertarian Party to certify the candidates in that  
14 fashion would have been noon, July 3rd. So, in  
15 essence, the statute requires candidates for  
16 legislative office to be registered in their  
17 election district by noon, July 3rd.

18 That's how the statutes all work together and  
19 certainly defer to Ms. Barnes on any elaboration on  
20 that particular requirement.

21 L. BARNES: I would concur with Mr.  
22 Simmons, Mr. Chairman and Members of the  
23 Commission, that those two statutes are in play.  
24 There's also several statutes in Title 3-7 that  
25 required the state to conduct a statewide

1 outreach program which consisted of two  
2 postcards and it was meant to identify voters  
3 would had moved and it also allowed the voters  
4 to update their address if they had moved within  
5 the same county.

6 I'd be happy to point out that statute. It is  
7 not in the code book yet. It was a brand new  
8 statute this year and I brought a copy of that new  
9 legislation as well.

10 CHAIRMAN B. BENNETT: Thank you. And I  
11 guess I would ask the candidate, Ms.  
12 Qualkenbush, do you have any evidence indicating  
13 that you were registered in the election  
14 district by the deadline for candidate filings  
15 at noon on July 3rd?

16 A. QUALKENBUSH: No. Again, I mailed in  
17 the card in June. The candidate filings weren't  
18 due officially until July 3rd.

19 CHAIRMAN B. BENNETT: Any other questions?

20 COMMISSION MEMBER S. OVERHOLT: You were --  
21 your question was legal counsel so can I do  
22 that, or can I continue questioning the  
23 candidate?

24 CHAIRMAN B. BENNETT: I'm sorry, you have a  
25 legal question?

1 COMMISSION MEMBER S. OVERHOLT: You had  
2 asked questions of legal counsel. I have some  
3 questions I'd like to ask of legal counsel but I  
4 can wait until we're done with the candidate, if  
5 that's how we want to proceed.

6 CHAIRMAN B. BENNETT: Well, it's possible  
7 that your questions of legal counsel may give  
8 rise to additional questions from the  
9 candidates, so I would have no objection if you  
10 want to ask questions of legal counsel at this  
11 point in time.

12 COMMISSION MEMBER S. OVERHOLT: Sure. So  
13 the cards that were sent out through the process  
14 you described, were those considered to be --  
15 when folks returned those with their new  
16 addresses, was returning that card, is that  
17 supposed to be sufficient to allow voters to  
18 reregister, or I mean, to officially changed  
19 their address for voter registration purposes?

20 L. BARNES: Commissioner Overholt, Members  
21 of the Commission, Mr. Chairman. Yes, legally,  
22 in certain instances, if a voter had moved  
23 within the same county and the same  
24 congressional, returning a postcard with their  
25 new address on it was legally sufficient to



1 update their voter registration record.

2 COMMISSION MEMBER S. OVERHOLT: And so with  
3 respect to Ms. Qualkenbush, was she within -- we  
4 know she was within the same county, or I  
5 guess -- yes, she was within the same county,  
6 was she within the same congressional district.

7 L. BARNES: Yes, Commissioner Overholt, she  
8 was and is in the 9th Congressional District.

9 COMMISSION MEMBER S. OVERHOLT: Okay. And  
10 are there presumptions that apply with respect  
11 to these voter registration cards so that -- I  
12 guess I'm used to the rules of civil procedure  
13 for court filings and things, the submissions  
14 are deemed filed upon mailing, or deemed served  
15 upon mailing, or there are rules that assume,  
16 you know, that it only takes three days for  
17 things to be delivered through the mail, are  
18 there any similar presumptions that -- or rules  
19 that apply with respect to these statutory  
20 provisions?

21 L. BARNES: Commissioner Overholt and Mr.  
22 Chairman and Members of the Commission, there  
23 are not statutes that apply to the date it was  
24 mailed, however, there is a statute in 3-7 that  
25 says if the postcard is post marked by a certain

1 date, prior to the 30th day before the election,  
2 they will be registered in time for the  
3 election.

4 Does not necessarily apply to what date they  
5 would be registered, but it does entitle them to  
6 vote in an election if they return it. The problem  
7 is our post cards do not have post mark dates on  
8 them. We just discovered that.

9 COMMISSION MEMBER S. OVERHOLT: Because  
10 they're presorted, stamped or whatever?

11 L. BARNES: Yes.

12 COMMISSION MEMBER S. OVERHOLT: That might  
13 be something we need to do in the future.

14 CHAIRMAN B. BENNETT: Any other information  
15 about the law as a result of that?

16 D. SIMMONS: I just have a couple of  
17 comments to make. As I recall our program, it  
18 did not require that a registrant move within  
19 the same county, same congressional district, or  
20 I think it was the same county, wasn't it, and  
21 then yeah, it was designed for folks who move  
22 within the same county to transfer the  
23 registration within the county if they -- if  
24 they return the card -- of course, we would need  
25 a card in order to process that particular card.

1 COMMISSION MEMBER Z. KLUTZ: I have some  
2 questions for legal counsel. Just  
3 clarifications. The declaration of candidacy is  
4 in a form of a state convention nominee; is that  
5 correct? Is that how this is being presented?

6 D. SIMMONS: I believe this was designated  
7 a vacancy candidate. This gets to a particular  
8 issue. We just have one form, the CAN 23. At  
9 the top of it you'll see crossed out at the  
10 state convention and put to fill vacancy.

11 There's a particular provision in 3-13-1-20  
12 that allows the Libertarian Party to fill ballot  
13 vacancies that exist after they've conducted their  
14 convention, so this is how they note that it's a  
15 vacancy candidate, and they certify those by noon,  
16 July 3rd, and this is the file marked, I believe,  
17 on the 2nd.

18 CHAIRMAN B. BENNETT: I have a question for  
19 the candidate. Ms. Qualkenbush, are you now  
20 registered in the election district for which  
21 you are seeking candidacy?

22 A. QUALKENBUSH: No, apparently, not. If  
23 this is actually accurate, then no.

24 COMMISSION MEMBER S. OVERHOLT: My  
25 understanding is that -- well, I guess I would

1 ask counsel, if we have -- because this -- we've  
2 got an outdated -- one of the pieces of evidence  
3 is an outdated record from July 9, and then my  
4 understanding, this document from the statewide  
5 system is not -- well, it's on the system, it's  
6 not actually an official record, so I'm  
7 wondering if we have available to us what might  
8 be a more up-to-date official record of Ms.  
9 Qualkenbush's voter registration?

10 L. BARNES: Mr. Chairman, I have a printout  
11 from our statewide voter registration system  
12 that was dated today. It's not something the  
13 public has access to, but it is -- it is more  
14 up-to-date than this record that was printed  
15 out. I don't know if you would -- I have copies  
16 for everybody.

17 CHAIRMAN B. BENNETT: I guess I would ask  
18 if the Commission is expected to take any kind  
19 of notice of records which are not introduced as  
20 evidence in a proceeding of this nature or  
21 whether it's up to the challengers and the  
22 candidates to present the evidence to us?

23 D. SIMMONS: Mr. Chairman, Members of the  
24 Commission, yeah, I think the -- in my own view  
25 of these things, I view them as -- the

1 Administrative Orders and Procedures Act, view  
2 them as -- certainly, the -- the challenger  
3 bears the burden of proof in a case like this,  
4 but in the past, the Commission has asked staff  
5 certainly for records that we have on file as  
6 far as candidate records.

7 I don't know that we've ever been asked to  
8 provide -- well, and my memory might not serve me.  
9 I don't know if we've ever been asked to provide  
10 voter registration records, have we?

11 L. BARNES: We have on other candidate  
12 challenges involving dates of registration. I  
13 think under AOPA, you can take judicial of  
14 something, this record is available to the  
15 public upon request -- available to the voter  
16 upon request but not available to the general  
17 public and it's not on a website. I don't know  
18 if you would like to...

19 CHAIRMAN B. BENNETT: Does the document  
20 indicate when the registration became effective?

21 L. BARNES: It is actually not the  
22 registration, but the inactivation of an old  
23 registration, and yes, it does show the date.

24 CHAIRMAN B. BENNETT: Would the Commission  
25 like to see that document?

1 D. SIMMONS: It might help the Commission  
2 to know what inactive --

3 L. BARNES: Means.

4 D. SIMMONS: -- might mean.

5 COMMISSION MEMBER S. OVERHOLT: It might be  
6 helpful. It seems -- yeah. I mean, it seems  
7 like it's a record that's somewhat under our  
8 control and we ought to be able to consider it.

9 CHAIRMAN B. BENNETT: Is there a consensus  
10 on the part of the Commission and discussion or  
11 motion on that.

12 COMMISSION MEMBER S. OVERHOLT: Okay. I'll  
13 make a motion. If we can get a motion, I'll  
14 move that we review this document that Leslie  
15 has referenced which I can't -- I don't know  
16 what it ought to be called.

17 L. BARNES: Statewide Voter Registration  
18 System.

19 COMMISSION MEMBER S. OVERHOLT: Statewide  
20 Voter Registration System dated August 22nd of  
21 2014.

22 CHAIRMAN B. BENNETT: Second to that  
23 motion?

24 A. DICKEY: Second.

25 CHAIRMAN B. BENNETT: Motion seconded. All

1 in favor, say aye?

2 THE COMMISSION: Aye.

3 COMMISSION MEMBER Z. KLUTZ: All opposed,  
4 the same sign?

5 (No response.)

6 CHAIRMAN B. BENNETT: Hearing no  
7 opposition, let's take a look.

8 L. BARNES: Okay.

9 COMMISSION MEMBER S. OVERHOLT: I know the  
10 formality is just killing us.

11 L. BARNES: And I have some for the  
12 challenger and challenge. It's two pages.

13 CHAIRMAN B. BENNETT: So it's two pages?

14 L. BARNES: There's two pages, so please  
15 take two pages. Is there need for one more? If  
16 you see in the right-hand corner, you can see  
17 the date it was run, and in the left-hand cover,  
18 you can see who --

19 A. DICKEY: It's a little small.

20 L. BARNES: It is.

21 CHAIRMAN B. BENNETT: Do you have it?

22 S. RUNYAN: We.

23 CHAIRMAN B. BENNETT: Do you have it?

24 A. QUALKENBUSH: Yes.

25 CHAIRMAN B. BENNETT: Are there any

1 questions from the candidate or the challenger  
2 with regard to the document that's been  
3 presented here today from the Election  
4 Commission?

5 S. RUNYAN: I have one. What does it mean?  
6 I mean, it appears it was inactive on the Zikes  
7 Road on July 30th; is that -- am I reading that  
8 right?

9 L. BARNES: Yes, you are, Mr. Runyan.  
10 Mr. Chairman, inactive is a status halfway in  
11 between active and canceled. It is on the way  
12 to being canceled. And there's a multistep  
13 process governed by both federal and state law,  
14 the National Voter Registration Act in Indiana  
15 state law that says if a statewide mailing is  
16 conducted, and the first mailing comes back as  
17 undeliverable due to unknown or sufficient  
18 address, a second postcard is sent out, which is  
19 sent out by forwardable mail.

20 So if the voter has listed their address with  
21 the post office, their new address, the second  
22 postcard will be forwarded, and then under federal  
23 law, the applicant is asked to reply within 30  
24 days. And if the county does not hear -- does not  
25 receive the postcard back either as undeliverable



1 or hear from the voter, then the federal law  
2 directs the county to place this voter in this  
3 inactive status, and then if the voter does not  
4 appear and vote at that address within two federal  
5 general elections, their record is canceled and  
6 so...

7 S. RUNYAN: What that sounds like to me is  
8 that nothing was returned to the state. It  
9 doesn't mean that a postcard of a change of  
10 address was sent in. Inactive seems to mean  
11 postcards were both sent out and nothing came  
12 back. Do I misunderstand that?

13 L. BARNES: Well, postcards are still  
14 coming back in and the program is still under  
15 way.

16 S. RUNYAN: Understand. But if a postcard  
17 came in now, it would be way too late to declare  
18 a candidacy for election. I mean, if I'm  
19 misunderstanding, please correct me. But it  
20 sounds to me like what this shows is that post  
21 cards went out but nothing ever came back from  
22 Ms. Qualkenbush. That's why she's inactive.

23 L. BARNES: At this point the county does  
24 not show a record of having received that  
25 postcard.

1 S. RUNYAN: Okay.

2 L. BARNES: We are receiving daily  
3 postcards.

4 S. RUNYAN: Okay. So the inactive of Zikes  
5 does not mean she sent change of address for her  
6 registration, it means no postcard came back?

7 L. BARNES: That is what it indicates at  
8 this point.

9 S. RUNYAN: Okay.

10 COMMISSION MEMBER S. OVERHOLT: Or that it  
11 hasn't been processed.

12 A. DICKEY: But it would confirm the  
13 account that she's given that she did  
14 receive -- she should have received two  
15 postcards if she's now been labeled inactive, so  
16 it at least affirms much of her account.

17 S. RUNYAN: No, it doesn't, Mr.  
18 Commissioner. It doesn't confirm that she  
19 received them. It confirms that they went out  
20 and didn't come back.

21 D. SIMMONS: Maybe we can clarify that a  
22 little bit. There's two postcards sent out.  
23 There's an initial postcard that's sent out,  
24 that if it comes back undeliverable, we send a  
25 second postcard out.

1           The second postcard is a postcard that they  
2           can enter address change information on and return  
3           because it has the attachable postage paid return  
4           card on it. So what this certainly shows is that  
5           her registration is still at the -- what is it?

6           S. RUNYAN: Zikes.

7           D. SIMMONS: The Zikes Road address, but it  
8           is designated inactive because the first mailer  
9           came back undeliverable, and at least, we don't  
10          have any other direction to change the status.  
11          So while it's active, it's still potentially  
12          valid.

13          I mean, a person can still vote at that  
14          address, but we start running the clock, and we can  
15          cancel them if they fail to vote at this address in  
16          the next two federal elections. So there is two  
17          post cards.

18          S. RUNYAN: I understand. I want to make  
19          sure. I thought when I first read this, this  
20          indicated she had affirmatively canceled her  
21          registration. That's not at all what this is  
22          saying.

23          D. SIMMONS: No.

24          S. RUNYAN: This is saying the state  
25          doesn't know what the situation is. They

1 haven't received anything from her as of the  
2 last updates?

3 CHAIRMAN B. BENNETT: Let's get back to our  
4 procedure here.

5 S. RUNYAN: Sorry.

6 CHAIRMAN B. BENNETT: Is there any -- well,  
7 we've gotten all the evidence and testimony, I  
8 think, that we're going to get at this point.  
9 The only question is whether either party wants  
10 to make a very very brief closing statement  
11 before we close the public hearing of this  
12 matter; does either the candidate or the  
13 challenger wish to make any further statement?

14 S. RUNYAN: Your Honor, I would just point  
15 to the statute, that she has permission to vote  
16 by the time she files her candidacy. That  
17 didn't happen. The document that we produced  
18 that was dated today -- the statewide still  
19 shows her at the old address, and the document  
20 that was just provided by the commission doesn't  
21 show any change either, any affirmative change  
22 by the candidate. I would think the statute is  
23 pretty clear.

24 CHAIRMAN B. BENNETT: Thank you. Any  
25 statement by the candidate?

1           A. QUALKENBUSH: I just want to make a  
2 statement, that this kind of shows that there is  
3 a flaw in our voter registration process. We  
4 can't have people to vote if they can't  
5 effectively register to vote, which was my  
6 bigger point in being here today, was if my  
7 voter registration didn't get updated, I -- I  
8 took the steps that I was supposed to to get  
9 there, and if that didn't happen, then it shows  
10 a flaw in our system that needs to be corrected  
11 so our voters can vote.

12           CHAIRMAN B. BENNETT: Okay. Thank you. At  
13 this time the public hearing on Cause No.  
14 2014-128 and 2014-129 is closed. It's time for  
15 a discussion by commission members on the vote.  
16 Is there any discussion the commission would  
17 like to make before we vote?

18           A. DICKEY: Could I ask a few process  
19 questions with regards to the cleanup real quick  
20 that might clarify a few things for me? Exactly  
21 when did the post cards, the first or the  
22 second, for that matter go out? What's the  
23 regimented scheduled for that?

24           D. SIMMONS: I think we sent the first  
25 postcard like the second week in May or the end

1 of the second week of May, and then our deadline  
2 for mailing out the second postcard was June the  
3 24th, because we wanted to give 30 days response  
4 time of July 24th. So that's when we would have  
5 mailed those out.

6 I don't know what specific date, because we  
7 didn't mail them all out. We were sort of mailing  
8 the second ones as the first ones came in on a  
9 rolling basis, so I can't tell you exactly when we  
10 sent the second card out to any particular group of  
11 people, but it was before June 24th.

12 A. DICKEY: And again, a clarification of  
13 my point. Do those all came back to the state  
14 or did they go to individual county clerk's  
15 offices?

16 D. SIMMONS: The cards came back to our  
17 vendor, the firm we hired, Election Systems &  
18 Software for automated processing. And  
19 actually, the cards were then -- at this point  
20 the cards have been delivered to the county, but  
21 the county, instead of processing cards, were  
22 sent records, like update records or inactive  
23 records via the SVRS electronically to process.

24 So if the cards came back, they ere tabulated  
25 automatically, electronic records were created,

1 those were transmitted from our vendor to our --  
2 from our mailing vendor to our SVRS vendor -- Quest  
3 is the company that does our SVRS, and then they  
4 were delivered county electronically via hoppers.

5 But the postcard wasn't sent in those records.  
6 However, there was a lookup kind of process set up  
7 so that if they had a question about a particular  
8 record, they can go look at a copy of the actual  
9 card if they wanted to.

10 A. DICKEY: So in essence, there's three  
11 hands on these cards, from the time that a  
12 person mails them back, to the time that they  
13 come in?

14 D. SIMMONS: Well, you'd have the post  
15 office, obviously, delivered to the vendor, and  
16 then the vendor processes and sends them to the  
17 county, ultimately.

18 COMMISSION MEMBER Z. KLUTZ: Mr. Chairman,  
19 if I may. I find the discussion interesting. I  
20 think the process should probably be looked  
21 into. I just don't see it as relevant for this  
22 candidate challenge.

23 CHAIRMAN B. BENNETT: Are you prepared to  
24 make a motion?

25 COMMISSION MEMBER Z. KLUTZ: Yeah. For

1 those reasons, I believe there's been  
2 substantial evidence that's been presented that  
3 the candidate has not complied with the  
4 applicable candidacy requirements set forth in  
5 Title III of Indiana code, specifically does not  
6 appear, based on the evidence I've seen or  
7 heard, that the candidate was registered to vote  
8 in the district in which the candidate filing  
9 was due.

10 So for that reason, I make a motion to deny  
11 the Candidate CAN 23 filing and sustain the  
12 consolidated candidate filing challenges.

13 CHAIRMAN B. BENNETT: So we have a motion  
14 to sustain the challenge. Is there a second?

15 (No response.)

16 CHAIRMAN B. BENNETT: I will second the  
17 motion. The motion is seconded. Any  
18 discussion?

19 COMMISSION MEMBER S. OVERHOLT: Yeah, I  
20 would say -- I'm sorry.

21 A. DICKEY: Go ahead.

22 COMMISSION MEMBER S. OVERHOLT: I think the  
23 evidence is that the candidate took the steps to  
24 change her registration with respect to the card  
25 being mailed out. There is no evidence that she



1 failed to return the card. There is no evidence  
2 that the county or the multiple vendors did not  
3 receive the card, so to me, there's -- I mean, I  
4 think it's reasonable to believe that she took  
5 the steps to update her registration, and that,  
6 as we all know, has happened with so many  
7 voters, that the system does not accurately  
8 reflect what has occurred. So I think the  
9 challenge should be denied.

10 CHAIRMAN B. BENNETT: Are you saying,  
11 Commissioner Overholt, that the burden of proof  
12 should be shifted to the Commission to prove?

13 COMMISSION MEMBER S. OVERHOLT: The  
14 Commission? I believe it was on the challenger.

15 CHAIRMAN B. BENNETT: The proof, do you  
16 think that -- well...

17 COMMISSION MEMBER Z. KLUTZ: Commissioner,  
18 if I could ask -- Mr. Chairman, if I could ask a  
19 question. Your position is the evidence  
20 presented by the candidate, that verbal  
21 testimony outweighs the printouts that have been  
22 presented to us by the challengers?

23 COMMISSION MEMBER S. OVERHOLT: I would say  
24 that if we want to have an argument amongst  
25 ourselves, that's fine. I would say -- so we

1 have an outdated printout; right? We have an  
2 outdated record, official record. We have a  
3 document that is not an official record. We  
4 have the document of August 22nd that the only  
5 thing this shows to me is that the county is  
6 saying that as of July 30th, when it got around  
7 to processing this information, that it has put  
8 her in an inactive status.

9 To me, this does not say anything about  
10 whether she mailed the card as she had said. It  
11 doesn't say anything about when the county actually  
12 received or didn't receive anything. All it says  
13 is that after going through all those vendors, that  
14 as of July 30th, this is the information that one  
15 of those vendors, and I'm still not clear to me who  
16 it was, thought they had or didn't have, but to me,  
17 that does not indicate to me anything about what  
18 the candidate actually -- it does nothing to  
19 question what the candidate actually did.

20 COMMISSION MEMBER Z. KLUTZ: Except for the  
21 candidate's statement that she does not believe  
22 she's registered to vote at the address.

23 COMMISSION MEMBER S. OVERHOLT: Well, what  
24 she said was according to this. She said  
25 according to this document...

1 CHAIRMAN B. BENNETT: All right. We have a  
2 motion and a second, we'll call into question,  
3 all in favor of the motion to sustain the  
4 challenge, say aye?

5 COMMISSION MEMBER Z. KLUTZ: Aye.

6 CHAIRMAN B. BENNETT: Aye. All opposed?

7 A. DICKEY: No.

8 COMMISSION MEMBER S. OVERHOLT: No.

9 CHAIRMAN B. BENNETT: The motion fails  
10 since it has not received three votes required  
11 for official action by the Commission. I would  
12 now ask if there's motion to overrule the  
13 challenge?

14 COMMISSION MEMBER S. OVERHOLT: So moved.

15 A. DICKEY: Second.

16 CHAIRMAN B. BENNETT: I have a motion and a  
17 second to overrule the challenge. Any  
18 discussion?

19 A. DICKEY: I would just kind of reiterate  
20 what Suzannah said. I think that we have a very  
21 flawed system, and the unfortunate reality is I  
22 don't know that anyone knows what happened. And  
23 personally, I would rather that instead of it  
24 being us four, and I'm not sure if any of us are  
25 really in that district, but I would rather it

1 be the voters who decide whether or not she  
2 should be in the office as opposed to us making  
3 a decision here today on a flawed system.

4 CHAIRMAN B. BENNETT: We have a motion and  
5 a second -- well, any further discussion?

6 (No response.)

7 CHAIRMAN B. BENNETT: Motion and a second,  
8 all in favor of the motion to overrule the  
9 challenge, say aye?

10 COMMISSION MEMBER S. OVERHOLT: Aye.

11 A. DICKEY: Aye.

12 CHAIRMAN B. BENNETT: All those opposed,  
13 say the same sign?

14 COMMISSION MEMBER Z. KLUTZ: Aye.

15 CHAIRMAN B. BENNETT: Aye. 2-2, the motion  
16 fails so...

17 D. SIMMONS: Would you like an explanation  
18 on what is going on?

19 CHAIRMAN B. BENNETT: Sure.

20 D. SIMMONS: Mr. Chairman and Members of  
21 the Commission, of course, it takes three  
22 affirmative votes of the Commission to take  
23 official action, and without that, we are in a  
24 position where the Commission hasn't taken  
25 official action on the challenge, and the way

1 that works in this case is the special statute  
2 applies to legislative challenge is 3-8-8. In  
3 Subsection 3-8-8-5, it says that if the  
4 commission fails to make a decision within one  
5 day after having its meeting on the challenge,  
6 that the challenge is deemed dismissed.

7 So that means the status quo would stay the  
8 same. Now, what is the status quo -- the election  
9 division was already certified the candidate as a  
10 candidate, so the status quo in this case would be  
11 preserve the candidate, would remain a candidate in  
12 this instance, absent any further appellate review  
13 or decision.

14 CHAIRMAN B. BENNETT: Any questions on the  
15 explanation or any elaboration?

16 L. BARNES: Mr. Chair, I would concur with  
17 Dale's analysis and citation of the statutes.

18 CHAIRMAN B. BENNETT: Okay. With that, the  
19 Election Commission has finished its business  
20 for the day. Is there a motion that the  
21 Election Commission adjourn?

22 COMMISSION MEMBER Z. KLUTZ: So moved.

23 CHAIRMAN B. BENNETT: I've got a motion.  
24 Is there a second?

25 COMMISSION MEMBER S. OVERHOLT: Second.

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51

1 CHAIRMAN B. BENNETT: All in favor, say  
2 aye?

3 THE COMMISSION: Aye.

4 CHAIRMAN B. BENNETT: All opposed, same  
5 sign?

6 (No response.)

7 CHAIRMAN B. BENNETT: The ayes have it.  
8 The Indiana Election Commission meeting is  
9 adjourned. Thank you all.

10 (Time noted: 3:30 p.m.)

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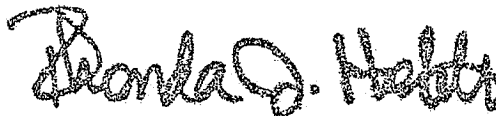
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1 STATE OF INDIANA )  
2 ) SS:  
3 COUNTY OF MARION )

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 22nd day of August, 2014, I  
8 took down in stenograph notes the foregoing  
9 proceedings;

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

12 IN WITNESS WHEREOF, I have hereunto set  
13 my hand and affixed my notarial seal this \_\_\_\_\_  
14 day of September, 2014.

15  
16 

17 NOTARY PUBLIC  
18

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

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