

Indiana Election Commission

Minutes

JUNE 26, 2003

Members Present: Dudley Cruea, Chairman of the Indiana Election Commission (the Commission); S. Anthony Long, Vice Chairman of the Commission; Butch Morgan, member of the Commission; and Claudia E. Cummings, member of the Commission.

Members Absent: None

Staff Attending: J. Bradley King, Co-Director, Indiana Election Division of the Office of the Indiana Secretary of State (Election Division); Kristi Robertson, Co-Director of the Election Division; Dale Simmons, Co-General Counsel of the Election Division, Lori Hershberger, Special Projects Coordinator, Election Division, Michelle Brzycki, Special Projects Coordinator, Election Division.

Also Attending: Douglas England, Douglas R. Brown, Brooks LaPlante, David A. Vorndran, Karl C. Yocuiti, Loyse J. Scott, Mike Gentry, Kate Williams, Jason Bagley, Julia Vaughn, Linda Pence, Samuel Smith, Jr., Mark Smith, Brad Klopfenstein and Melissa Vogt.

1. Call to Order

The Chair called the June 26, 2003 meeting of the Commission to order at 1:05 p.m. at the Indiana Government Center South, Conference Center, Conference Room B, 302 West Washington Street, Indianapolis, Indiana. He noted that proper notice of the meeting had been given, as required by state law, and that three members were currently present with a fourth due at any time. A copy of the meeting notice and agenda is 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.]* The Chair explained that the attendance of four members was needed to consider campaign finance issues so the Commission would first turn its attention to precinct boundary approvals.

2. County Precinct Boundary Orders

Jefferson County

The Chair recognized Lori Hershberger who indicated that she was presenting the precincts of Jefferson County for Commission approval. She explained that Jefferson County as proposed has 26 voting precincts and no non-voting precincts. She indicated that the proposed precincts have been reviewed by the Office of Census Data and that there were no critical errors noted in the comments submitted by the Office of Census Data. She indicated that the Republican County Chairman and the Democratic County Chairmen were notified and had no objections to the proposed precincts. She indicated that Jefferson County does

not have a Libertarian Party Chairman so she left a message with the executive director of the Libertarian Party, Brad Klopfenstein, yesterday.

The Chair asked if there were any questions. There being none, Ms. Cummings moved that the precincts proposed by Jefferson County be approved and that Order 2003-139 reflecting the approval of the precincts be adopted by the Commission. Mr. Long seconded the motion. There being no further discussion, the Chair called the question, and declared that with three members voting "aye" (Mr. Cruca, Mr. Long, and Ms. Cummings), and no Commission member voting "no," the precinct for Jefferson County were approved and Order 2003-139 was adopted. Order 2003-139 is incorporated by reference in these minutes.

The Chair recognized Mr. King who explained that, since the Commission's last meeting in April, the co-directors have met with Election Division staff to work out a plan for assignment of counties, OCD review and presentation to the Commission of the remaining counties with unapproved precincts. He indicated that the Commission may see those counties at subsequent meetings this summer.

Mr. King also directed the attention of Commission members to their binders for a copy of a letter that the co-directors sent to the Mayor of Indianapolis and the Marion County Circuit Court Clerk regarding the benefits of engaging in the precinct approval process pursuant to the Commission's request at its last meeting. He indicated that the co-directors have not received a response to that letter. This letter is incorporated by reference in these minutes.

3. Order Approving Forms

The Chair recognized Ms. Robertson who indicated that staff was presenting for review and approval a new petition form for use by major political party candidates for the office of governor or U.S. senate. She indicated that the new form contains one minor clarification to bring the form into compliance with state statute. She stated that the prior petition requires that the residence address of the candidate be placed upon the petition. She indicated, however, that the statute does not require that the residence address be placed upon the petition since the residence address is required to be placed upon the consent form that is required to be filed with the petition. She indicated that it would be sufficient for the candidate to place a mailing address on the petition and that this was why the proposed form removed the requirement that the address on the petition be the residence address of the candidate. She stated that Order 2003-140 is the order that adopts this form change and she indicated that the order clarifies that either version of the form would be acceptable to use in the 2004 election.

The Chair asked if there were any questions. There being none, Ms. Long moved that the Commission adopt Order 2003-140. Ms Cummings seconded the motion. There being no further discussion, the Chair called the question, and declared that with three members voting "aye" (Mr. Cruca, Mr. Long, and Ms. Cummings), and no Commission member voting "no," Order 2003-140 was adopted, and is incorporated by reference in these minutes.

The Chair recognized Mr. King, who asked Commission members for their consent to use each member's signature stamp on the many orders that would be submitted for Commission approval at today's meeting. The Commission members consented.

4. Report by Co-Directors

A. Voting System Certifications:

- 1. Hart InterCivic Direct Recording Electronic eSlate Electronic Voting System 2.1 and Ballot Now Absentee Paper System (system conditionally certified pending receipt of escrow documentation);**
- 2. Election Systems & Software Model 650 (Version 1.1.9.1) - demonstration pending.**

The Chair recognized Mr. King who stated that the information in the material provided to the Commission indicates that Hart InterCivic has tendered proof of the escrow of the software for its DRE eSlate electronic voting system 2.1. He indicated that the Commission approved this voting system application at the Commission's last meeting, subject to the receipt of the escrow agreement, and that the proof of escrow was received in a timely fashion.

Mr. King stated that, with respect to the Election Systems & Software Model 650, he spoke with Mr. Rob McGinnis of ES&S, who indicated that ES&S anticipates having a report back from Wyle Laboratories in time for a demonstration at the Commission's August meeting.

Mr. King indicated that he had also been contacted by Voting Technologies International, the newest of the Indiana certified voting system vendors. He stated that company representatives have indicated that they will be applying for the approval of a software upgrade for their current voting system. He added that their system is a direct record electronic system that was approved by the Commission earlier this year. He said that the company has identified some software changes that they would like to have approved but they have not yet formally submitted an application.

5. Campaign Finance Enforcement

The Chair indicated that the record should reflect that the fourth Commission member, Butch Morgan, had arrived. He stated that, since all four members were present, the Commission would next proceed immediately to campaign finance enforcement. The Chair then requested that all persons who anticipated testifying before the Commission at today's meeting stand for the administration of the oath. Mr. King administered the oath.

A. Orders concerning previous campaign finance enforcement hearings

The Chair indicated that the Commission would first consider the orders regarding the disposition of delinquent report enforcement cases that the Commission heard at its April meeting. He indicated that after the disposition of these orders the Commission would hear delinquent April 2003 campaign finance report cases, then defective and delinquent report cases, and finally, excess corporate and labor contribution cases.

The Chair recognized Ms. Thompson who indicated that staff was tendering Orders 2003-136 through 2003-138. Ms. Thompson indicated that these orders were prepared to reflect the action taken by the Commission during its April 24, 2003 meeting. She indicated that the orders are ready for adoption.

Ms. Thompson then directed Commission members to Amended Order 2002-108, which involved the Committee to Election Mary Wheeler. She explained that the fine reflected in this order was due to a delinquent pre-primary report. She advised that, after talking with Mary Wheeler and performing an investigation, staff determined that Ms. Wheeler was not on the ballot in 2002 and, therefore, was not required to file a pre-primary report in 2002. She explained that Amended Order 2002-108 vacates the fine previously imposed since that fine should not have been imposed since Ms. Wheeler was not on the 2002 primary ballot.

The Chair asked if there were any questions. There being none, Ms. Long moved that the Commission adopt Orders 2003-136, 137, and 138 and Amended Order 2002-108. Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting "no," Orders 2003-136, 137, and 138, and Amended Order 2002-108, were adopted.

B. Delinquent April 2003 campaign finance reports

The Chair indicated the Commission would next hear late committee filings for 2003 pre-primary and asked all parties involved with these cases to come forward, starting with the people in the back of the room, and state their name and the committee they are representing. He explained that staff would then provide the Commission with information about the case and then the Commission would provide each person appearing on behalf of a committee the opportunity to speak on behalf of the committee.

Mr. Brooks LaPlante introduced himself and indicated that he had several items before the Commission today. The Chair advised Mr. LaPlante that his cases were not in the category of delinquent pre-primary cases that the Commission was hearing at this time.

1. 8th District Democratic Committee, cause number 03-1782-103

Mr. Long indicated that he was appearing for the 8th District Democratic Committee and that the committee was late in filing its report, although no more than a day late, and that the fine may be imposed against the committee as proposed.

The Chair moved that, in the case of the 8th District Democratic Committee, cause number 03-1782-103, the proposed fine of Fifty Dollars (\$50.00), plus investigative costs in the sum of Two Dollars and Fifty Cents (\$2.50), for a total of Fifty Two Dollars and Fifty Cents (\$52.50) be imposed as presented by staff. Mr. Morgan seconded the motion. Mr. Long indicated that he did not believe he had to disqualify himself since he was voting for the imposition of the maximum fine. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

2. Indiana Stonewall Democrats, cause number 03-4707-122

The Chair recognized Pam Potesta who indicated that the Indiana Stonewall Democrats committee, cause number 03-4707-122, filed its report on April 23, 2003, received its notice on May 23, 2003, and has not previously appeared before the Commission for a campaign finance violation. She advised that the proposed penalty is One Hundred Dollars (\$100.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Douglas Meagher introduced himself and indicated that he was appearing before the Commission on behalf of this committee. He indicated that the committee had a change of officers in January and the papers were turned over to him and he missed the deadline.

Ms. Cummings thanked Mr. Meagher for being candid. Ms. Cummings moved that the fine imposed be reduced to 25% of the proposed fine in the amount of Twenty Five Dollars (\$25.00), plus costs in the sum of Two Dollars and Fifty Cents (\$2.50), for a total of Twenty Seven Dollars and Fifty Cents (\$27.50). Mr. Long seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

3. FOP Lodge 86 PAC, cause number 03-3979-111

An individual who identified himself as Chris Snider advised the Chair that he was appearing on behalf of FOP Lodge 86 PAC.

The Chair recognized Ms. Potesta who indicated that the FOP Lodge 86 PAC, cause number 03-3979-111, filed its report on April 28, 2003, received notice on May 23, 2003 and has been before the Commission on a campaign finance violation one other time. She advised that the proposed fine is Three Hundred and Fifty Dollars (\$350.00) plus costs in the amount of Two Dollars and Fifty Cents (\$2.50).

Mr. Snider explained that the officer responsible for filing this report was distracted because she had to make funeral arrangements. He explained that as soon as they learned that the report was delinquent they got their report on file.

The Chair asked if there were any questions. There being none, Ms. Cummings moved that the fine imposed be reduced to 50% of the proposed fine in the amount of One Hundred

and Seventy Five Dollars (\$175.00), plus costs in the sum of Two Dollars and Fifty Cents (\$2.50), for a total of One Hundred and Seventy Seven Dollars and Fifty Cents (\$177.50). Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

The Chair then asked if there were any other persons present to appear on behalf of any of the other committees with delinquent April 2003 primary reports. There being no other person coming forward, Mr. Long asked whether the Chair would like to dispose of these cases based upon the record before the Commission at his time. The Chair indicated that he would.

Mr. Long moved to impose 25% of the proposed fine, plus costs, on the following committees: Indiana Federation of Republican Women, Gary Firefighters Political Action Committee, Microsoft Corporation Political Action Committee, Republican Second District Central Committee, Indiana Democrats for Accessibility, Hoosier Taxpayers Alliance, and the Quality Through Progress Political Action Committee. Ms. Cummings seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

Ms. Cummings moved to impose 50% of the proposed fine, plus costs, on the following committees: French Lick Idea Fund, Indiana State Bar Association PAC, Jobs for Southwestern Indiana, Safeco Political Action Committee, and International Brotherhood of Electrical Workers Local 531. Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

Mr. Long moved to impose 75% of the proposed fine, plus costs, on the following committees: National Federation of Independent Business, 9th District Republican Committee, Indiana Right to Life PAC, Indiana Association of Homes and Services for the Aging PAC and Back PAC. Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

Mr. Long moved to impose 100% of the proposed fine, plus costs, on the following Committees: Indiana Fraternal Order of Police Action Plan, Indiana Black Legislative Caucus PAC, Indiana Family and Freedom Committee, Constitution Party of Indiana State Committee, Key Corp. PAC, and Hoosiers Against Crazy Taxes. Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

The Chair recognized Ms. Cummings who indicated that she wanted to explain the Commission’s action for the benefit of those attending today’s meeting. Ms. Cummings

explained that the Commission has a policy that a fine proposed against a committee may be reduced depending on the number of times the committee has previously appeared before the Commission for a campaign finance violation.

The record of the cases and fines imposed as set forth above is more fully set forth below:

4. Indiana Federation of Republican Women, cause number 03-321-101

The record showed that Indiana Federation of Republican Women, cause number 03-321-101 filed its report on April 30, 2003, received notice on May 23, 2003, and has never appeared before the Commission for a previous campaign finance violation. The record showed that the proposed penalty for this committee is Four Hundred Fifty Dollars (\$450.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Mr. Long moved that the fine be reduced to 25% of the proposed fine in the amount of One Hundred Twelve Dollars and Fifty Cents (\$112.50), plus costs in the sum of Two Dollars and Fifty Cents (\$2.50), for a total of One Hundred and Fifteen Dollars (\$115.00). Ms. Cummings seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

5. Gary Firefighters Political Action Committee, cause number 03-4261-114

The record showed that the Gary Firefighters Political Action Committee, cause number 03-4261-115, did not file a report, received notice on May 23, 2003, and has never appeared before the Commission for a previous campaign finance violation. The record showed that the proposed penalty for this committee is One Thousand Dollars (\$1000.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Mr. Long moved that the fine be reduced to 25% of the proposed fine in the amount of Two Hundred and Fifty Dollars (\$250.00), plus costs in the sum of Two Dollars and Fifty Cents (\$2.50), for a total of Two Hundred and Fifty Two Dollars and Fifty Cents (\$252.50). Ms. Cummings seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

6. Microsoft Corporation Political Action Committee, cause number 03-4664-120

The record showed that the Microsoft Corporation Political Action Committee, cause number 03-4664-120 filed its report on April 30, 2003, received notice on May 23, 2003, and has never appeared before the Commission for a previous campaign finance violation. The record showed that the proposed penalty for this committee is Four Hundred Fifty Dollars (\$450.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Mr. Long moved that the fine be reduced to 25% of the proposed fine in the amount of One Hundred Twelve Dollars and Fifty Cents (\$112.50), plus costs in the sum of Two

Dollars and Fifty Cents (\$2.50), for a total of One Hundred Fifteen Dollars (\$115.00). Ms. Cummings seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruca, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

7. Republican Second District Central Committee, cause number 03-4695-121

The record showed that the Republican Second District Central Committee, cause number 03-4695-121 filed its report on April 25, 2003, received notice on May 23, 2003, and has never appeared before the Commission for a previous campaign finance violation. The record showed that the proposed penalty for this committee is Two Hundred Fifty Dollars (\$200.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Mr. Long moved that the fine be reduced to 25% of the proposed fine in the amount of Fifty Dollars (\$50.00), plus costs Two Dollars and Fifty Cents (\$2.50), for a total of Fifty Two Dollars and Fifty Cents (\$52.50). Ms. Cummings seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruca, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

8. Indiana Democrats for Accessibility, cause number 03-4865-124

The record showed that the Indiana Democrats for Accessibility, cause number 03-4865-124 filed its report on April 23, 2003 received notice on May 23, 2003, and has never appeared before the Commission for a previous campaign finance violation. The record showed that the proposed penalty for this committee is Fifty Dollars (\$50.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Mr. Long moved that the fine be reduced to 25% of the proposed fine in the amount of Twelve Dollars and Fifty Cents (\$12.50), plus costs in the sum of Two Dollars and Fifty Cents (\$2.50), for a total of Fifteen Dollars (\$15.00). Ms. Cummings seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruca, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

9. Hoosier Taxpayers Alliance, cause number 03-4916-125

The record showed that the Hoosier Taxpayers Alliance, cause number 03-4916-125 filed its report on April 28, 2003, received notice on May 23, 2003, and has never appeared before the Commission for a previous campaign finance violation. The record showed that the proposed penalty for this committee is Three Hundred and Fifty Dollars (\$350.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Mr. Long moved that the fine be reduced to 25% of the proposed fine in the amount of Eighty Seven Dollars and Fifty Cents (\$87.50), plus costs in the sum of Two Dollars and Fifty Cents (\$2.50) for a total of Ninety Dollars (\$90.00). Ms. Cummings seconded the motion. There being no further discussion, the Chair called the question, and declared that

with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

10. Quality Through Progress Political Action Committee, cause number 03-4935-126

The record showed that the Quality Through Progress Political Action Committee, cause number 03-4935-126, has not filed its report, received notice on May 23, 2003, and has never appeared before the Commission for a previous campaign finance violation. The record showed that the proposed penalty for this committee is One Thousand Dollars (\$1000.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Mr. Long moved that the fine be reduced to 25% of the proposed fine in the amount of Two Hundred and Fifty Dollars (\$250.00), plus costs in the sum of Two Dollars and Fifty Cents (\$2.50), for a total Two Hundred and Fifty Two Dollars and Fifty Cents (\$252.00). Ms. Cummings seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

11. French Lick Idea Fund, cause number 03-3685-109

The record showed that the French Lick Idea Fund, cause number 03-3685-109, filed its report on April 21, 2003, received notice on May 23, 2003, and has appeared before the Commission for a campaign finance violation one previous time. The record showed that the proposed penalty for this committee is Fifty Dollars (\$50.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Ms. Cummings moved that the fine be reduced to 50% of the proposed fine in the amount of Twenty Five Dollars (\$25.00), plus costs in the sum of Two Dollars and Fifty Cents (\$2.50), for a total Twenty Seven Dollars and Fifty Cents (\$27.50). Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

12. Indiana State Bar Association PAC, cause number 03-3435-107

The record showed that the Indiana State Bar Association PAC, cause number 03-3435-107, filed its report on April 21, 2003, received notice on May 23, 2003, and has appeared before the Commission for a campaign finance violation one previous time. The record showed that the proposed penalty for this committee is Fifty Dollars (\$50.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Ms. Cummings moved that the fine be reduced to 50% of the proposed fine in the amount of Twenty Five Dollars (\$25.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50) for a total Twenty Seven Dollars and Fifty Cents (\$27.50). Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

13. Jobs for Southwestern Indiana, cause number 03-4128-112

The record showed that the Jobs for Southwestern Indiana, cause number 03-4128-112, filed its report on April 23, 2003, received notice on May 23, 2003, and has appeared before the Commission for a campaign finance violation one previous time. The record showed that the proposed penalty for this committee is One Hundred Dollars (\$100.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Ms. Cummings moved that the fine be reduced to 50% of the proposed fine in the amount of Fifty Dollars (\$50.00), plus costs in the sum of Two Dollars and Fifty Cents (\$2.50) for a total of Fifty Two Dollars and Fifty Cents (\$52.50). Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

14. Safeco Political Action Committee, cause number 03-4367-115

The record showed that the Safeco Political Action Committee, cause number 03-4367-115, filed its report on April 21, 2003, received notice on May 23, 2003, and has appeared before the Commission for a campaign finance violation one previous time. The record showed that the proposed penalty for this committee is Fifty Dollars (\$50.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Ms. Cummings moved that the fine be reduced to 50% of the proposed fine in the amount of Twenty Five Dollars (\$25.00), plus costs in the sum of Two Dollars and Fifty Cents (\$2.50) for a total of Twenty Seven Dollars and Fifty Cents (\$27.50). Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

15. International Brotherhood of Electrical Workers Local 531, cause number 03-4837-123

The record showed that the International Brotherhood of Electrical Workers Local 531, cause number 03-4837-124, filed its report on April 21, 2003, received notice on May 23, 2003, and has appeared before the Commission for a campaign finance violation one previous time. The record showed that the proposed penalty for this committee is Fifty Dollars (\$50.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Ms. Cummings moved that the fine be reduced to 50% of the proposed fine in the amount of Twenty Five Dollars (\$25.00), plus costs in the sum of Two Dollars and Fifty Cents (\$2.50), for a total of Twenty Seven Dollars and Fifty Cents (\$27.50). Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

16. National Federation of Independent Business, 03-1979-105

The record showed that the National Federation of Independent Business, 03-1979-105, filed its report on April 21, 2003, received notice on May 23, 2003, and has appeared before the Commission for campaign finance violations two previous times. The record showed that the proposed penalty is Fifty Dollars (\$50.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Mr. Long moved that the fine be reduced to 75% of the proposed fine in the amount of Thirty Seven Dollars and Fifty Cents (\$37.50), plus costs in the sum of Two Dollars and Fifty Cents (\$2.50), for a total of Forty Dollars (\$40.00). Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruca, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

17. 9th District Republican Committee, cause number 03-3434-106

The record showed that the 9th District Republican Committee, cause number 03-3434-106, filed its report on April 22, 2003, received notice on May 23, 2003, and has appeared before the Commission for campaign finance violations two previous times. The record showed that the proposed penalty for this committee is Fifty Dollars (\$50.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Mr. Long moved that the fine be reduced to 75% of the proposed fine in the amount of Thirty Seven Dollars and Fifty Cents (\$37.50), plus costs in the sum of Two Dollars and Fifty Cents (\$2.50), for a total of Forty Dollars (\$40.00). Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruca, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

18. Indiana Right to Life PAC, 03-3450-108

The record showed that the Indiana Right to Life PAC, 03-3450-108, filed its report on April 24, 2003, received notice on May 23, 2003, and has appeared before the Commission for campaign finance violations two previous times. The record showed that the proposed penalty for this committee is One Hundred Fifty Dollars (\$150.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Mr. Long moved that the fine be reduced to 75% of the proposed fine in the amount of One Hundred Twelve Dollars and Fifty Cents (\$112.50), plus costs in the sum of Two Dollars and Fifty Cents (\$2.50), for a total of One Hundred and Fifteen Dollars (\$115.00). Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruca, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

19. Indiana Association of Homes and Services for the Aging PAC, 03-4458-118

The record showed that the Indiana Association of Homes and Services for the Aging PAC, 03-4458-118, filed its report on May 15, 2003, received notice on May 23, 2003, and has appeared before the Commission for campaign finance violations two previous times. The record showed that the proposed penalty is One Thousand Dollars (\$1000.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Mr. Long moved that the fine be reduced to 75% of the proposed fine in the amount of Seven Hundred Fifty Dollars (\$750.00), plus costs in the sum of Two Dollars and Fifty Cents (\$2.50), for a total of Seven Hundred Fifty Two Dollars and Fifty Cents (\$752.50). Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting "no," the motion was adopted.

20. Indiana BACK PAC, cause number 03-1189-102

The record showed that the Indiana BACK PAC, cause number 03-1189-102, filed its report on April 28, 2003, received notice on May 23, 2003, and has appeared before the Commission for campaign finance violations two previous times. The record showed that the proposed penalty for this committee is Three Hundred Fifty Dollars (\$350.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Mr. Long moved that 75% of the proposed fine be imposed in the amount of Two Hundred Sixty Two Dollars and Fifty Cents (\$262.50) plus costs in the amount of Two Dollars and Fifty Cents (\$2.50) for a total of Two Hundred Sixty Five Dollars (\$265.00). Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting "no," that the motion was adopted.

21. Indiana Fraternal Order of Police Action Plan, 03-1798-104

The record showed that the Indiana Fraternal Order of Police Action Plan, 03-1798-104, filed its report on April 23, 2003, received notice on May 23, 2003, and has appeared before the Commission for campaign finance violations four previous times. The record showed that the proposed penalty is One Hundred Dollars (\$100.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Mr. Long moved that 100% of the proposed fine be imposed in the amount of One Hundred Dollars (\$100.00), plus costs in the sum of Two Dollars and Fifty Cents (\$2.50), for a total of One Hundred Two Dollars and Fifty Cents (\$102.50). Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting "no," the motion was adopted.

22. Indiana Black Legislative Caucus PAC, 03-3908-110

The record showed that the Indiana Black Legislative Caucus PAC, 03-3908-110, filed its report on April 24, 2003, received notice on May 23, 2003, and has appeared before the Commission for campaign finance violations three previous times. The record showed that the proposed penalty is One Hundred Fifty Dollars (\$150.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Mr. Long moved that 100% of the proposed fine be imposed in the amount of One Hundred Fifty Dollars (\$150.00), plus costs in the sum of Two Dollars and Fifty Cents (\$2.50), for a total of One Hundred Fifty Two Dollars and Fifty Cents (\$152.50). Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting "no," the motion was adopted.

23. Indiana Family and Freedom Committee, cause number 03-2131-113

The record showed that the Indiana Family and Freedom Committee, cause number 03-2131-113, filed its report on April 23, 2003, received notice on May 23, 2003, and has appeared before the Commission for campaign finance violations four previous times. The record showed that the proposed penalty for this committee is Fifty Dollars (\$50.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Mr. Long moved that 100% of the proposed fine be imposed in the amount of Fifty Dollars (\$50.00), plus costs in the sum of Two Dollars and Fifty Cents (\$2.50), for a total of Fifty Two Dollars Fifty Cents (\$52.50). Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting "no," the motion was adopted.

24. Constitution Party of Indiana State Committee, 03-4416-116

The record showed that the Constitution Party of Indiana State Committee, 03-4416-116, filed its report on April 28, 2003, received notice on May 23, 2003, and has appeared before the Commission for campaign finance violations three previous times. The record showed that the proposed penalty for this committee is Three Hundred Fifty Dollars (\$350.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Mr. Long moved that 100% of the proposed fine be imposed in the amount of Three Hundred Fifty Dollars (\$350.00), plus costs in the sum of Two Dollars and Fifty Cents (\$2.50), for a total of Three Hundred Fifty Two Dollars Fifty Cents (\$352.50). Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting "no," the motion was adopted.

25. Key Corp. PAC, cause number 03-4429-117

The record showed that the Key Corp. PAC, cause number 03-4429-117, filed its report on April 24, 2003, received notice on May 23, 2003, and has appeared before the Commission for campaign finance violations three previous times. The record showed that the proposed penalty for this committee is One Hundred Fifty Dollars (\$150.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Mr. Long moved that 100% of the proposed fine be imposed in the amount of One Hundred Fifty Dollars (\$150.00), plus costs in the sum of Two Dollars and Fifty Cents (\$2.50), for a total of One Hundred Fifty Two Dollars Fifty Cents (\$152.50). Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

26. Hoosiers Against Crazy Taxes, 03-4472-119

The record showed that the Hoosiers Against Crazy Taxes, 03-4472-119, did not file its report, received notice on May 23, 2003 and has appeared before the Commission for campaign finance violations three previous times. The record showed that the proposed penalty is One Thousand Dollars (\$1000.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Mr. Long moved that 100% of the proposed fine be imposed in the amount of One Thousand Dollars (\$1000.00), plus costs in the sum of Two Dollars and Fifty Cents (\$2.50), for a total of One Thousand Two Dollars Fifty Cents (\$1002.50). Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

C. Defective and Delinquent Reports

1. Committee to Elect Brooks LaPlante, cause number 03-4815-26

The Chair recognized Ms. Thompson who stated that the first case scheduled is the Committee to Elect Brooks LaPlante, cause number 03-4815-26. She advised that this case was continued from the Commission’s March meeting. She stated that the case regards a delinquent pre-election report that was filed after noon on the due date at 2:34 p.m. and that the committee has appeared before the Commission one previous time for a campaign finance violation. She stated that the proposed penalty is Fifty Dollars (\$50.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

The Chair asked whether Commission members agreed to take these cases separately. Commission members indicated their consent and Mr. Long suggested that the Commission agree to incorporate the testimony and evidence on one cause as testimony and evidence for

all the other causes. He explained that he didn't want to have to ask the same questions over and over.

Mr. LaPlante explained that he attempted to file this report with the Election Division repeatedly by fax prior to the noon deadline on the due date but was unable to get through to the Election Division's fax machine until after 2:00 p.m. on the due date. He explained further that he was able to timely file a copy of his report with circuit court clerk in the county where he resides, Vigo County. He indicated that the report filed in Vigo County was filed about one-half hour before the deadline.

The Chair recognized Mr. Long for the purpose of asking staff a question. Mr. Long asked whether the Commission cause numbers are tracked on the forms that have been provided to the Commission. Ms. Thompson indicated that the forms do not have the cause numbers on them. Mr. Long asked Ms. Thompson whether she had the forms that relate to this case in her files. Ms. Thompson indicated that copies of the front pages of the reports that were filed are included in the Commission's materials and that these documents have a file-stamp on them indicating the time each report was filed.

Mr. Long asked whether the issue in this case was that the report was 2 hours and 34 minutes late on the day the report was due. Ms. Thompson indicated that this was correct.

Ms. Cummings stated that it was her understanding that when a committee is required to file a report locally as well as with the Election Division, and they file their report locally in a timely manner, that the Commission would waive the fine. Mr. Long indicated that he had no problem applying that understanding to this particular case.

Ms. Cummings moved that the fee in cause number 03-4815-26 be waived and that the case be dismissed. Mr. Long seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting "no," that the motion was adopted.

2. Committee to Elect Brooks LaPlante, cause numbers 03-4815-127, 128 & 129

The Chair indicated that the Commission was ready to hear the case on the annual report. The Chair recognized Ms. Thompson who stated that this was cause number 03-4815-127. Ms. Thompson explained that the case involves a defective 2002 annual report. She stated that the Committee to Elect Brooks LaPlante received a notice that its report was defective on February 22, 2003 and that the committee filed its report in response to the notice on March 3, 2003. She explained that the report in response to the defective notice was due February 27, 2003 and was, therefore, delinquent. She stated that the proposed fine in this case is Thirty Dollars (\$30.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

Mr. Long asked why a notice was sent before the report was due. The Chair explained that a committee has 5 days to respond to a notice of defective report from the date the committee receives the notice. The Chair asked staff to confirm that the report was due on February 27, 2003 and was actually filed on March 3, 2003. Ms. Thompson indicated that this was correct.

The Chair then asked whether the fine for filing this late report was Fifty Dollars (\$50.00) per day. Ms. Thompson indicated that the fine was Ten Dollars (\$10.00) per day.

The Chair recognized Mr. LaPlante who indicated that he and his treasurer had never filled out campaign finance reports before. Mr. LaPlante stated he was a first time politician who has never before been involved in the process. Mr. LaPlante explained that his treasurer was in the insurance business and has a lot of clients out of town and travels a lot. He said that the notices from the Election Division have been sent to his treasurer's house and that there have been some time lapses between the time that the notices have been sent and the time that he has seen them and that this impacted some late filings. He also indicated that the information in the reports was all compiled manually and that this takes time. He indicated that, beyond that, he did not have an excuse for the late report.

The Chair asked if Commission members had any questions. Mr. Long asked that the defect in the report be identified. Staff directed Mr. Long to the notice of defect sent to the committee and he asked for time to review the notice.

Mr. LaPlante indicated that part of the problem was with respect to the lack of detail provided in the reports submitted by his committee. He stated that his committee purchased supplies, like popcorn, over many days during the reporting period. He indicated that the committee's report reflected the total activity occurring during the reporting period, however, he realizes now that the report did not contain the detail required. He stated that this accounts for a lot of the defects described in the notice.

Ms. Cummings asked staff whether the copy marked March 3 is the amended report. Ms. Thompson indicated that it was. Ms. Cummings asked how she could compare the report originally submitted with the amended report. Ms. Thompson indicated that Ms. Cummings had the reports in her materials.

Mr. Long directed Ms. Cummings to the entries in the report identifying the purchase dates of supplies as "various." Ms. Cummings indicated that she did not think she would need to see the original. The Chair indicated that the defects are described in the letter sent to the committee.

Mr. LaPlante indicated that the items reported on the pre-election report took place during a month that he was very busy. He stated that, after the election, when and his treasurer sat down and started pulling things together they realized that there were a few items identified in the receipts and records that should have been included in the pre-election report and they reported these items on their annual report. He stated that part of the instruction he received from the Election Division was to take these items back out of the annual report to put them in the pre-election report where they belonged.

The Chair then expressed concern about doing all these cases separately in that he sees that there was a 2002 annual report case and then, two columns down, he sees the 2002 annual report on the agenda again. He indicated that the Commission should go over these at the same time since we appear to be talking about different reports at the same time.

Ms. Cummings indicated that it might make sense to take all of the defective report cases together.

Mr. Long asked if the Chair was proposing to take the first four cases together. The Chair indicated that this was correct. Mr. Long responded that he did not have a problem taking the first four cases together. He added that, after these cases, it appeared the all of the remaining cases would all involve the failure to timely file CFA-11 reports. He indicated that the failure to timely file the CFA-11 reports were the violations most troublesome to him. Commission members then agreed to hear cases 03-4815-127, 03-4815-128 and 03-4815-129 together.

The Chair recognized Ms. Thompson who indicated that cause numbers 03-4815-128 and 03-4815-129 involve a defective 2002 pre-election report and another defective 2002 annual report. She stated that, for both of these reports, the notice of defect was received by the committee on April 3, 2003 so a corresponding amended report addressing the identified defects was due back on April 8, 2002. She explained that the committee filed an amended pre-election report on May 15, 2003 and that the proposed penalty is One Hundred Dollars (\$100.00) plus costs in the sum of Two Dollars and Fifty Cents (\$2.50).

The Chair asked whether the first defective 2002 annual report was because the committee reported various dates and had to amend to supply the specific dates. Ms. Thompson indicated that this was correct. The Chair asked why this report was deemed to be defective a second time. Ms. Thompson indicated that, as Mr. LaPlante explained, the 2002 annual report had some items that should have been included in his 2002 pre-election report so the committee had to amend both of these reports.

Mr. LaPlante indicated that he had two major vendors, one that did marketing services or advertising and another one that did printed materials and promotional items. He stated that he had \$26,000.00 in invoices in hand that he reported on his pre-election report and he subsequently found out that he was not required to put on these on his pre-election report because he had not yet paid the invoices. He stated that he had to amend his pre-election report to remove this item.

The Chair recognized Dan Parker, executive director of the Democratic Party, who indicated that he was appearing to represent the individual who filed the original complaint on these reports. He stated that the Mr. LaPlante is describing loan contributions that were not reported. He stated that there are three reports and all three reports are different: the October 17, November 2, and now May 15 reports. He stated that, if you look at each report, the cash on hand during each reporting period changes. He remarked that, although certain items may be shifted from one reporting period to another, the amount of money in the bank cannot change. He indicated that the only thing that changes from report to report is the amount of money reported coming from Mr. LaPlante and his business. He stated that he didn't understand how a person could sign the report at the bottom and certify that "to the best of my knowledge and belief it is true, correct and complete" and not report correctly the money that is coming out of his own pocket. He said that this goes to the issue of disclosure and what the signature on the bottom of a report really means.

Mr. LaPlante said that this is getting into the issues involved in the other cases, the filing of the CFA-11's. He stated that everything prior to that time is reported correctly. He stated that the changes in the balances in his reports were driven by the reporting of the receipts and disbursements.

Mr. Parker indicated that the only changes being made reflect the increases being disclosed each time of additional money was coming out of his own pocket. He stated that he could understand that it is difficult to do these reports. He apologized to the Chair if he was being out of order with his comments.

Mr. LaPlante indicated that there is a valid point to discuss and that he wanted to address it. He indicated that his treasurer and he wrote checks for big ticket items from time to time as they had invoices to pay. He explained that, at the same time, they were paying for incidental items with cash or a personal credit card. He indicated that he wrote a tremendous amount of personal checks from time to time to cover expenses. He indicated that he paid for these things with the understanding that this constituted a loan to his committee that would eventually get paid back to him. He stated that he didn't find out until well into the game that every time that he used a personal credit card or wrote a personal check that this constituted a contribution. He stated that he checked this with a staff attorney at the Election Division who advised him that he would have to go back and go through all of his records and report all those items he paid for with a personal credit card or check as a contribution to the committee. He stated that, knowing what he knows now, he would never do that again and, instead, would obtain a credit card for the committee. He indicated that this is what caused the shift in the dollar contributions. He stated that this is a lot of work and being a first time politician he went down this road. He stated that he would certainly never do that again. He stated that he had to go back through all his old records, credit card records and bank statements, and that is what caused the shift in the amounts showing coming from him.

The Chair recognized Mr. Morgan who asked Mr. LaPlante what he did for a living. Mr. LaPlante indicated that he has been in the (inaudible) industry for 25 years. He stated that he had worked for a couple of Fortune 500 companies but during the last 15 years he has started two businesses in Indiana.

Mr. Morgan asked what the committee's treasurer did for a living. Mr. LaPlante indicated that his treasurer was in the insurance business.

Mr. Long asked Mr. LaPlante if he ever received a campaign finance manual from the Election Division that explains how to complete a campaign finance report. Mr. LaPlante indicated that he had not received that.

Mr. LaPlante stated that, to follow up on Mr. Morgan's comment, being a businessman he reported \$26,000.00 in obligations that had not been paid on his pre-election report because that is how obligations are booked by businesses. He stated that, as a businessman, if you receive goods and services, you must indicate your obligations.

Mr. Parker stated that part of the reason that a complaint was filed in this case is because this is the only document that the voters of the district get from the two campaigns prior to the

election, other than the supplemental reports. He stated that the report is not a complete picture of what was going on with this committee. He stated that this was a blatant violation of the disclosure laws. He stated that he understood it is difficult to fill these reports out but that this is why committees are given a week after the reporting period ends to do so.

The Chair stated that the issue with respect to these reports is the failure to timely respond to a notice of defective report with an amended report. He stated that they would discuss the CFA-11's separately.

The Chair asked if Commission members had any more questions. There being none, Ms. Cummings made a motion to: 1) impose a penalty of 50% of the proposed penalty plus costs with respect to cause number 03-4815-127; 2) impose a penalty of 75% of the proposed penalty plus costs that with respect to cause number 03-4815-128, and 3) impose a penalty of 100% of the proposed penalty plus costs with respect to cause number 03-4815-129. The Chair seconded the motion. There being no further discussion, the Chair called the question and two members voted "aye" (Mr. Cruea and Ms. Cummings), and two members voted "no" (Mr. Long and Mr. Morgan).

The Chair asked if there were any questions from Commission members. Mr. Long indicated that the Chair was familiar with his propensity for getting his mouth out in front of his brain, and he wanted to show the greatest respect for the Chair since was the Chair's last meeting. Mr. Long stated, however, that he believed that Mr. LaPlante has conducted himself in the worst possible scenario for anyone showing disrespect to the election finance laws of the state of anyone he has ever seen in his years on this Commission. He stated that, with respect to the first case, he went along with waiving it because that happens with respect to making an effort to fax a report and not being able to get through. He stated that Mr. LaPlante is not entitled to relief and the motion made gives Mr. LaPlante a break beyond what the Commission normally gives in that the motion offers a 50% reduction on the second offense when he has already been before the Commission twice before this case and the Commission's standard in that case is 75% of the proposed fine. He stated that the other two cases should have been 100% of the proposed fine. He said, for those reasons, he does not plan to vote for a reduction of the fine. He stated that, as he looked at the file at home, he did not know whether we were dealing with inexperience, incompetence or arrogance. He stated that he did not believe that Mr. LaPlante was incompetent and that, as a businessman, he has the ability to do far better than this and that he has no sympathy for him.

Ms. Cummings indicated that it was her intention by her motion to levy the fines in the typical graduated fashion and it was not her intention to vary from Commission practice.

Mr. Long indicated that he had assumed that this was the case but that he was not going to vote for it either way. He indicated that he did take that when she made her motion he assumed that it was an innocent mistake. Mr. Long also indicated that it was his impression that the result of the vote is that the fines are imposed. He stated that perhaps we should turn to counsel.

The Chair recognized Mr. Simmons who indicated that this was not his understanding of result of the Commission's vote. He stated that it takes the affirmative vote of three members of the Commission to take official action. He stated that the particular section that

applies is in Indiana Code 3-9-4-16(b). He explained that this section applies to late defective reports and that the section is “may” provision of the code. He did note that some other penalty provisions in IC 3-9-4-16 are “shall” provisions. He stated that, whether the provision is may or shall, it is his understanding that it still takes an affirmative vote of at least three members of the Commission to take official action.

Mr. Long asked whether all the fines that the Commission has imposed during all these years have all been discretionary. He asked whether the Commission had to ever impose any fines.

Mr. Simmons responded that when a statute says shall that he does not understand that to be a discretionary direction in the statute. He stated that he interprets the direction as a mandatory direction. He explained that, even then, he does not interpret these provisions to override the provision requiring the affirmative vote of three members of the Commission to take official action as set forth in Indiana Code IC 3-6-4.1-7. He reminded Commission members that they were also deadlocked on the case involving the Chamber of Commerce as well and, to date, there has been no official action taken by the Commission in the case.

Mr. Long asked for a minute to review the statute. He asked whether these fines were delinquent because that is what he thought they were talking about. He asked whether the fine for this violation were imposed under subsection (c) of 3-9-4-16.

Mr. Simmons responded that the fine for a late response to a defective report notice is determined by subsection (b).

Mr. Long moved that, with respect to cause numbers 03-4815-127, 03-4815-128, and 03-4815-129, to impose the penalties that are allowed and commanded by statute, as he interprets it, as set forth by the Commission. He stated that there is not enough money involved in the case to waste everybody’s time over. He stated that we are either going to fine him or not on these three cases.

Ms. Cummings asked if the motion could be repeated. Mr. Long responded that the penalty amounts, according to his motion, would be Thirty Dollars (\$30.00), One Hundred Dollars (\$100.00), and One Hundred Dollars (\$100.00), plus the costs of mailing as set forth in the report. Mr. Morgan seconded the motion.

The Chair asked if there was any discussion. Ms. Cummings stated that she wished to point out that the circumstances regarding the time lapses involved are similar in nature to the circumstances that the Commission often hears from committees that have been delinquent. She stated that she finds nothing in this case different from any other case where the Commission graduates the fines.

The Chair stated that he would join in the comments made by Ms. Cummings. He indicated that the CFA-11’s are another issue but that these are annual reports and, from what he read, the first defective report involved the entry of “various” when specific dates were called for and the second defective report was due to the reporting of items on an annual report that should have been included in the pre-election report. He stated that for these reports the Commission should follow the Commission’s standard percentages.

The Chair recognized Mr. Morgan who stated that there have been times and circumstances where the Commission has deviated from the discretionary percentage system that the Commission has devised. He said that, while it did not happen often, it was not unheard of. There being no further discussion, the Chair called the question and two members voted “aye” (Mr. Long and Mr. Morgan), and two members voted “no” (Mr. Cruea and Ms. Cummings). Mr. Long then said “no fine.”

6. Committee to Elect Brooks LaPlante, cause numbers 03-4815-130, 131, 132, 134, 135, 136, 137, 138 and 139

The Chair recognized Ms. Thompson who stated that the Committee to Elect Brooks LaPlante, cause numbers 03-4815-130, 131, 132, 134, 135, 136, 137, 138 and 139, all involve delinquent CFA-11's. She stated that the proposed civil penalty for each case is One Thousand Dollars (\$1,000.00). She stated that the CFA-11 cases are all based on the information contained in the committees March 3, 2003 annual report and the amended annual report filed in May.

The Chair recognized Mr. LaPlante who stated that these cases all pertain to the same matter. He added that once you have an issue with one of these reports, the rest follow like dominoes. He stated that, although there are three pages listing these cases, he wondered if they could have all been written under one case. He stated that in his pre-election filing he reported that he had made significant contributions to his campaign but he considered them as a loan. He said that one thing you are told as a new candidate is that you should only loan your committee money because there is always the potential that you could pay yourself back. He stated that most of the big money that gets put into campaigns, whether from the ISTA, PACs or corporations, all comes into play in the final weeks of a campaign. He stated that it would make sense to have a form CFA-11 so that you would have the visibility of those transactions.

Mr. LaPlante also indicated that when he and his treasurer first filled out the pre-primary report they had a single \$1,000.00 contribution in the committee's checking account and (inaudible) in expenses and the pre-primary report was as easy as it gets. He stated that the committee went another six months before the committee had to do the mid-October pre-election report. He stated that, early on in his campaign, the House Republican Campaign Committee gave him copies (inaudible) that you have to do these reports: pre-primary, pre-election and annual, and if you have large contribution of \$1,000.00 or more, you have to do a formal letter. He stated that this also listed all of the federal reports that a committee had to be concerned with. He stated that he subsequently found out the law had changed and that state representative candidates did not have to file the federal reports.

Mr. LaPlante stated that, having filed the CFA-4 for the pre-primary and the pre-election reports, he noticed that the title of the report is “Report of Receipts and Expenditures of a Political Committee.” He stated that down in the body of the report it also mentions contributions and receipts and underneath that it says: “note these amounts include in-kind contributions (inaudible) as well as cash contributions.” He stated that if you go to schedule A, where a committee lists the sources of in-kind contributions and receipts, there is a column that you check the type of donation that you are getting. He stated that this column

is titled "type of contribution or other receipt." He indicated that this clearly makes a distinction between contributions and other receipts.

Mr. LaPlante further described the block on the left of the schedule that indicated that there are two types of contributions you can check, one is "direct" and the other is "in-kind." He explained that he reported the checks he received from friends and other contributors as direct contributions by checking this box. He stated that if someone gives a candidate a pig for a hog roast, for example, that the box would be checked to indicate an "in-kind" contribution. He stated that farther down the form distinguishes between contributions and other receipts again. He stated that there is also a block to indicate interest, a block to indicate a loan and a block to indicate miscellaneous. He said that, if you go to Indiana code section 3-9-5-5 regarding receipts and expenditures forms it indicates that the treasurer of each committee shall file reports of receipts and expenditures on forms prescribed by the Commission. He stated that all of these things indicate to him that the in-coming to the campaign, in whatever form, and the (inaudible) is defined as receipts. He added that the summary page makes the contributions and receipts distinction again. He stated that when you get to the (inaudible) as I have been talking about.

Mr. LaPlante stated that when he and his treasurer filled out the pre-primary and pre-election reports it was their clear interpretation of the reporting form that there was a distinction being made between a loan and a contribution. He stated that the contributions, the checks that were put into the campaign in the final few weeks before the election, were (inaudible) with the intent of being paid back.

Mr. Parker indicated that he wanted to make a note of a conflict in testimony in that earlier Mr. LaPlante indicated that he used credit cards and cash out of pocket and now Mr. LaPlante is saying that the checks were written by his campaign. He said that when you compare the checks written to the campaign, and recorded as contributions, that these contributions match the expenditures reported on those reports. He stated that the items match up perfectly, that is, if there is a contribution of \$32.79 then there is a \$32.79 expenditure out, so no checks were ever written to the committee. He stated that the checks came out of Mr. LaPlante's pocket. He pointed out that Mr. LaPlante claimed to have read the law but he did not read the campaign finance manual which states that loans are contributions. He stated that these reports were deceptive to the voters.

Mr. Long asked when these reports were filed. He asked if the CFA-11's were filed before the election. Ms. Thompson indicated that the committee has not filed any CFA-11's. Mr. Long stated that the committee filed no report anywhere within the time parameters of the statute that would have shown contributions, as shown on the list, in the amount of \$36,000.00. He stated that no one knew about these large contributions except for Mr. LaPlante. Mr. Long asked Mr. LaPlante if he had promissory notes from his committee to indicate that Mr. LaPlante made loans to his committee. He stated that the reports that have been filed show that Mr. LaPlante made \$59,000.00 in contributions, and the Rebel Enterprises, which he assumes was Mr. LaPlante's company, made \$37,000.00 in contributions, none of which have loans checked by them on the campaign finance reports even though there is a box for it.

Mr. LaPlante stated that he did not have any promissory notes.

Mr. Long asked if he had cancelled checks. Mr. LaPlante indicated that he can't recall if he has any of those but he stated that he does have cancelled checks. He stated that he wanted to add a comment about the incidental expenditures captured along the way as expenditures. He stated that the CFA-11 cases pretty much all relate to large transactions backed up by checks written from himself to the committee and deposited in the bank with the intent of being a loan.

Mr. Long asked Mr. LaPlante whether the instructions he received from the Republican State Committee confused him since Mr. LaPlante indicated that the instructions advised that if a committee got a large contribution that the committee was supposed to report it.

Mr. LaPlante stated that the form indicates to him that there are contributions and other receipts and that a loan is classified as an "other receipt" and is not classified as a contribution.

Mr. Long stated that if Mr. LaPlante genuinely made a loan then why wouldn't he check loan on his report. Mr. Long said that he was not the smartest guy in the world but when he ran for office, and put money into his campaign years ago, he checked loan.

Mr. LaPlante indicated that he did check loan in the boxes. Mr. Long stated that he is looking at the October contributions in the amount of \$2,084.31 where it was not checked and indicated as a loan. He stated that the copy of the report amended March 3, 2003 doesn't show loans checked on those contributions.

Mr. LaPlante indicated that he has copies of his original pre-election report.

The Chair stated that the question involves contributions made after the pre-election reporting period.

Mr. LaPlante indicated that he was simply making a point that when he filed his pre-election report he showed \$1,400.00 as direct contributions (inaudible). He stated that he showed \$27,990.58 as a loan on the report.

Mr. Long stated that this shows that Mr. LaPlante knew that when he made a loan, then he know how to show it as a loan on the report. He stated that when Mr. LaPlante filed this later report, the report that provides the basis for these cases for failure to file the CFA-11 reports, the loan box is not checked. He asked if Mr. LaPlante's defense was that the form somehow fooled him even though he was able to check the loan box on his pre-election report but failed to check it when he filed his reports the following March.

Mr. LaPlante indicated that there was a mix of activity. He stated that there were some small expenditures in April that he made that he considered contributions and that there were other things he considered a loan.

Mr. Long stated that \$35,000.00 is a pretty significant amount of money to pour into a campaign right before the election and that no one in the world but Mr. LaPlante knew what was going on. Mr. Long indicated that he thought that the whole purpose of this law was to

prevent someone from holding back and then dumping \$50,000 to \$100,000 into a campaign after the deadline in a manner that no one ever knew about it.

Mr. LaPlante indicated that he appreciated the comment. Mr. LaPlante indicated that when he filed his pre-election report he reported debts to two suppliers for printing and promotional items in the amount of \$26,645.00. He stated that the Election Division indicated to him that if the debts had not yet been paid then he did not have to report it.

Mr. Long asked Mr. LaPlante what that had to do with his question.

Mr. LaPlante responded that, by election day, he owed two firms over \$52,000.00. He stated that, according to the rules of campaign finance reporting, you do not require any visibility of those items. He stated that the fact that he had over \$52,000.00 in obligations prior to an election, but the reporting laws did not require him to disclose these obligations, totally offsets the argument made by Mr. Long about the purpose of the reporting laws.

Mr. Long indicated that he was concerned about following the law. He stated that if Mr. LaPlante is right, and the \$52,000.00 is not required to be reported, then that probably ought to be in the law too. He stated that if that is not in the law then the law is wrong. He stated that the law does say that if you get over \$1,000.00 during that pre-election time frame you have got to file a report. Mr. Long asked Mr. LaPlante if he knew about the obligation to file this report if he received a contribution of \$1,000.00 or more.

Mr. LaPlante said that its \$1,000.00 or more, but these were loans.

The Chair indicated that on Mr. LaPlante's annual report on contributions by individuals, Mr. LaPlante listed direct contributions in the amount of \$2,000.00 on October 18th and \$8,431.00 on October 22nd. The Chair asked staff whether these contributions, since they are identified as direct contributions, should have been filed on CFA-11's within 48 hours of the contribution. Ms. Thompson indicated "yes." The Chair asked what would have been the requirement if these transactions had been marked as loans. Ms. Thompson indicated that loans are contributions and a loan would also require that a CFA-11 be filed.

Mr. Long stated that a contribution is defined under the code as including a loan.

Mr. LaPlante stated that he has an explanation for this. He stated that, if you look at the numbers, it is apparent that to keep his campaign afloat up to election day he continued to loan money to his campaign with the hope that he would get some large contributions before the election to retire those loans. He stated that when he went to the Commission afterwards he realized that he did not get the large contributions he anticipated and he did not think his committee could repay the debt so he ended up giving all that money to the campaign.

The Chair asked if there were any other questions. There being none, the Chair closed the hearing on these cases.

Mr. Long stated that maybe he is wrong again since he is wrong a lot, but he believes the statutory direction for fining Mr. LaPlante is a "shall" provision and not a "may" provision.

He stated that, with respect to cause numbers 130, 131, 132, 133, 134, 135, 136, 137, 138 and 139, he moved that a fine be imposed in the amount of One Thousand (\$1,000.00) dollars per case plus the costs of mailing. Mr. Long asked staff what the costs of notice were. Ms. Thompson indicated that there were no costs associated with notice. Mr. Long stated that his motion would be to impose Ten Thousand Dollars (10,000.00) total. Mr. Morgan seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Ms. Cummings), and no Commission member voting “no,” the motion was adopted.

Mr. Long stated that he had one other motion regarding this case. He stated that he was requesting that copies of the Commission forms, findings and the report from staff be certified to the offices of the prosecuting attorneys in Marion County, Vigo County, Owen County, and any other County that the district encompasses, so that the prosecutors are aware of these documents. He stated that he was not suggesting anything other than that to be done to afford these offices knowledge of the circumstances. Mr. Morgan seconded the motion.

The Chair asked if Mr. Long intended that as a motion. Mr. Long replied that he did.

The Chair asked if there was any discussion. Ms. Cummings indicated that she would like to consult with counsel with regard to whether this is something that the Commission may do.

Mr. Simmons indicated that there is a provision in the county election board statute and a parallel provision in the statutes governing the Commission that, when there is a violation of election law, one of the options the Commission has is to refer the election law violation to a prosecuting attorney. He stated that this is a motion that can be made and passed.

Mr. Long indicated that he believes the Commission has made this type of motions in the past though not frequently. He indicated that the Commission has done it more than once that he is aware of. He stated that he was not suggesting that it be sent with any comments. He stated that it should be sent as something that we have discovered to do with it what you will.

Ms. Cummings stated that she had another question regarding whether there was a criminal statute that discusses matters similar to this.

Mr. Simmons indicated that there are criminal statutes that define a crime where there is a knowing and intentional failure to file a report required by the campaign finance law. He stated that there is a different standard that applies in that the standard is to show a “knowing and intentional” violation and that this involves a higher burden of proof.

Mr. Long indicated that this would not be within the Commission’s jurisdiction. Mr. Simmons responded that this was correct in that crimes in Indiana are prosecuted by county prosecuting attorneys. He stated that the Commission would have no jurisdiction to hear or impose penalties under criminal statutes.

There being no further discussion, the Chair called the question, and declared that with three members voting “aye” (Mr. Cruca, Mr. Long, and Mr. Morgan), and one member voting “no” (Ms. Cummings), the motion was adopted.

The Chair recognized Ms. Cummings who asked the Chair for the opportunity to explain her vote. Ms. Cummings stated that she does not believe that this case rises to a knowing and intentional violation and that she knows that the media is present today to report on the case and that is why she wanted to explain her vote.

The Chair stated that he would like to say that he took the motion to be that the Commission is not saying that anything illegal has been done and that the Commission is just providing information.

Mr. Long stated that the Chair was correct in his assumption in that he tried to make his motion as articulate as he could. He indicated that he feels that because there are criminal penalties in the election code that the prosecutors at least ought to have the opportunity to look this but he did not feel that it was necessary to include any comment, just “here’s our file.”

D. Excess corporate and labor organization contributions

The Chair stated that the Commission would start in the back of the room to take testimony on the excess corporate and labor organization contributions.

1. Hughes Group, Inc. Cause Numbers: 03-143 and 03-154

The Chair recognized Doug Brown who indicated he was from the Indianapolis law firm of Stewart & Irwin appearing on behalf of Hughes Group, Inc. and accompanied by Douglas England, senior executive from Hughes Group, Inc.

The Chair then recognized Ms. Potesta who stated that Hughes Group, Inc., Cause Number 03-143, contributed to the Indiana Democratic Party State Central Committee in the amount of \$6,000 on March 13, 2000, which was an excess amount of \$1,000. Ms. Potesta explained that the Indiana Democratic Party refunded the excess of \$1,000. Ms. Potesta stated that the maximum civil penalty is three times the amount of the excess contribution. Ms. Potesta also stated there was another cause number for this company, Cause Number 03-154. In this Cause, Hughes Group, Inc. contributed to the Indiana Democratic Party State Central Committee in the amount of \$6,200 on May 8, 2001, which was an excess of \$1,200. This excess was refunded by the Indiana Democratic Party. Ms. Potesta stated that the maximum civil penalty is three times the amount of the excess contribution.

The Chair recognized Mr. Brown who stated that this corporation is part on one of affiliated family-owned companies. Mr. Brown stated that the corporation did not have adequate internal controls to monitor the campaign contribution limits. Mr. Brown assured the Commission that controls have been implemented to ensure that Hughes Group, Inc. does not exceed contribution limits in the future. Mr. Brown also noted that the excess amounts of the contributions were immediately returned upon discovery of the excess.

The Chair asked Mr. Brown and Mr. England why the excess happened a second time in 2001 when the corporation was aware that they had exceeded the contribution limit in 2000. Mr. England indicated it was an error and that measures have now been put in place to catch these errors in the future before a contribution is made.

Mr. Long asked to be directed to the civil penalty section for excess corporate contributions. Mr. Simmons explained that it is in IC 3-9-4-16 and that this part of the penalty provision is a “may” provision rather than a “shall” provision, indicating that the Commission may assess a penalty equal to three times the amount of the excess contribution, but is not required to do so under the statute.

The Chair indicated that he only remembers two previous instances when the Commission has addressed excess corporate and union contributions; one instance where a corporation notified the committee that the corporation had exceeded the contribution limit and the Commission dismissed the Cause, and another instance involving several corporations which were assessed civil penalties of one and a half times the amount of the excess.

Mr. Long stated that he believed this level of penalty for a mistaken excess contribution is unduly harsh. Ms. Cummings concurred with Mr. Long’s opinion.

The Chair then stated that in the previous instance when the Commission dealt with excess corporate contributions, he remembered being a subject of an editorial in the Indianapolis Star because the Chair was lenient. The Chair then stated that he would not go lower on the civil penalty than the amount of the contribution that was refunded.

The Chair recognized Mr. Chappelle from the Indianapolis law firm Barnes & Thornburg representing Parson Brinckerhoff Quade & Douglas, Inc., Cause Number 03-155 interjected his argument since the Commission was in the process of setting a policy to apply to all the corporations before the Commission. Mr. Chappelle stated that he had reviewed the Commission minutes from previous meetings dealing with excess corporate contributions. Mr. Chappelle stated that the first time the Commission dealt with this issue was in 1997. Mr. Chappelle explained that the Commission imposed civil penalties at that time of 10% of the excess contribution. Mr. Chappelle then explained that the second time the Commission dealt with this issue was in the Meier case in 1999 when the Commission dismissed the cause and assessed no civil penalty since the corporation had sought refund of the excess contribution.

Ms. Robertson indicated in referring to the Order 1997-64, considered but not adopted by the Commission in 1997, that the Commission would begin with the penalty of one and a half times the amount of the excess and be increased or decreased based on certain factors that might exacerbate or mitigate the penalty. Mr. King stated that a motion was passed that the standards set forth in Order 1997-64 would be used in imposing future civil penalty. Mr. King also indicated that the Commission discussed administrative rulemaking, but no rules were ever adopted.

The Chair stated he would be willing to adopt a policy that a first time offense would be a civil penalty of 10% of the excess contribution, a second time offense would be the full amount of the excess contribution, a third time offense would be double the excess

contribution, and any offence after three times would be the full three times the amount of the excess contribution.

There being no other questions or comments the Chair closed the hearing on Hughes Group, Inc. Cause Numbers 03-143 and 03-154. Mr. Long moved to impose a civil penalty in Cause Number 03-143 of 10% or One Hundred Dollars (\$100.00), and a civil penalty in Cause Number 03-154 of 10% of the amount of the excess contribution or One Hundred Twenty Dollars (\$120.00). Mr. Morgan seconded the motion. There being no further discussion the Chair called the question and with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan, and Ms. Cummings), and no members voting “nay”, the motion was adopted.

The Chair then stated that anyone present representing corporations or labor organizations had a concern about the Commission policy adopted for these Causes could come forward and state their case, otherwise the Commission would follow this policy on all the remaining Causes.

2. Hok Group, Inc. Cause Number: 03-153

The Chair recognized Chip Garver from the Indianapolis law firm Baker & Daniels, representing Hok Group, Inc. Mr. Garver asked the Commission if any consideration would be given to a corporation, that like the 1999 Meier case, had sought a refund of the excess corporate contribution before it was discovered by the Election Division.

The Chair recognized Ms. Potesta who stated that Hok Group, Inc., Cause Number 03-153, contributed to the Indiana Democratic Party State Central Committee in the amount of \$6,500 on October 5, 2001, which was an excess amount of \$1,500. Ms. Potesta explained that the Indiana Democratic Party refunded the excess of \$1,500. Ms. Potesta stated that the maximum civil penalty is three times the amount of the excess contribution.

Mr. Garver indicated that there is a letter included in the Commission’s packets. The Chair stated that in reviewing the letter it seemed that the Election Division staff sent a letter to the Indiana Democratic Party notifying the Committee of the excess corporate contribution. Mr. Garver stated that it was his understanding that the corporation received a refund just a few days after the check was deposited by the Indiana Democratic Party, and that this refund was made before the Election Division sent a letter to the Democratic Party notifying it of the excess. The Chair stated that, unlike the Meier case, there was no letter from the corporation to the Democratic Party requesting a refund of the excess.

There being no other questions or comments the Chair closed the hearing on Hughes Group, Inc. Cause Number 03-153. Mr. Long moved to impose a civil penalty in Cause Number 03-153 of 10% of the amount of the excess contribution or One Hundred Fifty Dollars (\$150.00). Mr. Morgan seconded the motion. There being no further discussion the Chair called the question and with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan, and Ms. Cummings), and no members voting “nay”, the motion was adopted.

3. Parsons Brinckerhoff Quade & Douglas, Inc. Cause Number: 03-155

The Chair recognized Mr. Chapelle representing Parsons Brinckerhoff Quade & Douglas, Inc. (Parsons Brinckerhoff), Cause Number 03-155. Mr. Chapelle stated that he does take issue with the Commission's policy in this matter. Mr. Chapelle explained that he was accompanied by Katherine Cichy, from Parsons Brinckerhoff. Mr. Chapelle indicated that the corporation did catch the excess contribution and brought it to the attention of the Indiana Democratic Party before the Election Division's investigation into these matters. Mr. Chapelle explained that the contributions in question were made in 2001. Mr. Chapelle stated that an invoice for one of the events contributed to by Parsons Brinckerhoff was sent to the New York office and mistakenly paid, putting the corporation over the contribution limit. Mr. Chapelle explained that the corporation does have internal processes to usually catch this sort of problem. Mr. Chapelle indicated that this mistake was discovered in 2002 and the corporation immediately contacted the Indiana Democratic Party to request a refund of the excess, which was refunded.

Mr. Chapelle stated that the reason he takes issue with the Commission's policy is that the impact even of a small civil penalty can be significant to the corporation. Mr. Chapelle explained that a civil penalty could have negative effects on Parsons Brinckerhoff's ability to compete for government contracts both in Indiana and throughout the United States. Mr. Chapelle stated that the case involving Parsons Brinckerhoff falls squarely within the same situation as the Meier case in 1999 in that the corporation sought to bring itself into compliance with the excess contribution, and did not wait until the Election Division discovered this error.

Mr. Chapelle urged the Commission to adopt a similar policy for Parsons Brinckerhoff as it did in the Meier case because it is good public policy to not penalize a corporation that has made a mistake and has taken steps to self report and bring itself into compliance with the law. Mr. Chapelle stated that encouraging corporations to be open and honest in complying with Indiana election law should be the Commission's policy. Mr. Chapelle closed by respectfully asking the Commission to not impose a civil penalty in this case.

The Chair thanked Mr. Chapelle for his comments, but indicated that the Commission was now deciding to change its policy from the policy used in past cases. The Chair recognized Mr. Morgan who suggested that the Commission table the causes to allow the Election Division staff an opportunity to research the matters further. The Chair recognized Ms. Cummings who stated that she believed that, similar to other causes where campaign finance penalties are assessed, the Commission usually adopted a small penalty even when the violation was a mistake self-discovered.

The Chair recognized Mr. Long who stated that self-reporting by the corporation is important, but that he could not find any documentation showing Parsons Brinckerhoff's self-reporting of the contribution. Mr. Long stated that he would agree with Mr. Morgan's suggestion to table these causes in order to gather more information on verification of self-reporting of the excess contribution by the corporation.

The Chair recognized Mr. Chapelle who referred to the documentation submitted by Parsons Brinckerhoff that does indicate the contact between the corporation and Indiana Democratic Party and the refund of the contribution.

The Chair recognized Mr. Morgan who moved to table these causes for a future meeting. Mr. Long seconded the motion. Ms. Cummings suggested that anyone present on these causes who wished to resolve their cases now rather than at a future meeting be given that opportunity under the Commission's policy adopted at the meeting. Mr. Long moved to table the motion on the floor. Mr. Morgan seconded the motion to table the motion on the floor. There being no further discussion the Chair called the question and with four members voting "aye" (Mr. Cruea, Mr. Long, Mr. Morgan, and Ms. Cummings), and no members voting "nay", the motion was adopted.

4. Kroger Company Cause Number: 03-145

The Chair recognized Ms. Potesta who stated that Kroger Company, Cause Number 03-145, contributed to the O'Bannon for Indiana Committee in the amount of \$5,250 on July 7, 2000, which was an excess amount of \$250. Ms. Potesta explained that the O'Bannon for Indiana Committee refunded the excess of \$250. Ms. Potesta stated that the maximum civil penalty is three times the amount of the excess contribution.

The Chair recognized Mr. John Barnett who stated that this Cause was squarely within the Meier case in 1999. Mr. Barnett introduced documentation that indicated that on March 2000, there was a \$250 contribution made to the O'Bannon for Indiana Committee. The Chair interrupted to explain that the only cases for review at this meeting would be those cases that were comfortable with the civil penalty being assessed by the Commission according to the policy adopted at this meeting, all other cases would be tabled until a future meeting.

5. Bonar Group Cause Number: 03-150

The Chair recognized Mr. John Keeler with the Indianapolis law firm Baker & Daniels representing Bonar Group.

The Chair recognized Ms. Potesta who stated that the Bonar Group, Cause Number 03-150, contributed to the Indiana Democratic Party State Central Committee in the amount of \$6,500 on December 19, 2001, which was an excess amount of \$1,500. Ms. Potesta explained that the Indiana Democratic Party refunded the excess of \$1,500. Ms. Potesta stated that the maximum civil penalty is three times the amount of the excess contribution.

The Chair recognized Mr. Keeler who indicated Bonar Group was guilty of the violation of increased generosity to the Indiana Democratic Party. Mr. Keeler explained that the Indiana Democratic Party timely found the excess contribution and refunded it to the corporation. Mr. Keeler indicated that procedures have been instituted to safeguard against future violations.

There being no other questions or comments the Chair closed the hearing on Cause Number 03-150. Ms. Cummings moved to impose a civil penalty in Cause Number 03-150

penalty of 10% of the amount of the excess contribution or One Hundred and Fifty Dollars (\$150.00). Mr. Morgan seconded the motion. There being no further discussion the Chair called the question and with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan, and Ms. Cummings), and no members voting “nay”, the motion was adopted.

6. Ratio Architects, Inc. Cause Number: 03-147

The Chair recognized Tim Barrett representing Ratio Architects, Inc. Cause Number: 03-147.

The Chair recognized Ms. Potesta who stated that Ratio Architects, Inc., Cause Number: 03-147, contributed to the Indiana Democratic Party State Central Committee in the amount of \$5,500 on February 22, 2000, which was an excess amount of \$500. Ms. Potesta explained that the Indiana Democratic Party refunded the excess of \$500. Ms. Potesta stated that the maximum civil penalty is three times the amount of the excess contribution.

The Chair recognized Mr. Barrett who explained it was a complete oversight by the corporation and that the corporation has instituted procedures to avoid this mistake in the future.

There being no other questions or comments the Chair closed the hearing on Cause Number 03-147. Mr. Long moved to impose a civil penalty in Cause Number 03-147 of 10% of the amount of the excess contribution or Fifty Dollars (\$50.00). Mr. Morgan seconded the motion. There being no further discussion the Chair called the question and with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan, and Ms. Cummings), and no members voting “nay”, the motion was adopted.

7. Prairie Group Cause Number: 03-146

The Chair recognized Mark Smith, representing Prairie Group, Cause Number: 03-146

The Chair recognized Ms. Potesta who stated that the Prairie Group, Cause Number 03-146, contributed to the Indiana Democratic Party State Central Committee in the amount of \$5,500 on May 2, 2000, which was an excess amount of \$500. Ms. Potesta explained that the Indiana Democratic Party refunded the excess of \$500. Ms. Potesta stated that the maximum civil penalty is three times the amount of the excess contribution.

The Chair recognized Mr. Smith who stated that he had just taken over the accounting for the corporation and had instituted procedures to ensure that there would be no future excess contributions.

There being no other questions or comments the Chair closed the hearing on Cause Number 03-146. Ms. Cummings moved to impose a civil penalty in Cause Number 03-146 of 10% of the amount of the excess contribution or Fifty Dollars (\$50.00). Mr. Morgan seconded the motion. There being no further discussion the Chair called the question and with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan, and Ms. Cummings), and no members voting “nay”, the motion was adopted.

The Chair recognized Mr. Long who moved to continue the following Causes:

E.D.I.S, Inc., Cause Number 03-141, Kroger Company, Cause Number 03-145, Parsons Brinckerhoff Quade & Douglas, Inc., Cause Number 03-155, and SerVaas Incorporated, Cause Number 03-156. Mr. Cruea seconded the motion. There being no further discussion the Chair called the question and with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan, and Ms. Cummings), and no members voting “nay”, the motion was adopted.

The Chair recognized Mr. Long who moved to assess the following penalties in the following Causes:

Divinity Funeral Homes, Cause Number 03-140, civil penalty of 10% of the amount of the excess contribution or Four Hundred Dollars (\$400.00); International Union of Painters & Allied Trades, Cause Number 03-144, civil penalty of 10% of the amount of the excess contribution or Twenty Dollars and Thirty Cents (\$20.30); Reynolds Company, Cause Number 03-148, civil penalty of 10% of the amount of the excess contribution or Twenty Dollars (\$20.00); Sherman R. Smoot Company, Cause Number 03-149, civil penalty of 10% of the excess contribution or Fifty Dollars (\$50.00); Harcourt Industries, Inc., Cause Number 03-152, civil penalty of 10% of the amount of the excess contribution or One Hundred Dollars (\$100.00); The Rosk Group, Inc., Cause Number 03-157, civil penalty of 10% of the amount of the excess contribution or Fifty Dollars (\$50.00).

Mr. Morgan seconded the motion. There being no further discussion the Chair called the question and with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan, and Ms. Cummings), and no members voting “nay”, the motion was adopted.

The Chair recognized Mr. Long who moved to assess the following penalties in the following Causes:

ISM Security, Cause Number 03-158, civil penalty of 10% of the amount of the excess contribution or Ninety Dollars (\$90.00); Jacobi, Toombs & Lanz, Inc., Cause Number 03-159, civil penalty of 10% of the amount of the excess contribution or Six Dollars and Sixty-Seven Cents (\$6.67); The Rosk Group, Inc., Cause Number 03-160, civil penalty of 10% of the amount of the excess contribution or Sixty Five Dollars (\$65.00).

Mr. Morgan seconded the motion. There being no further discussion the Chair called the question and with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan, and Ms. Cummings), and no members voting “nay”, the motion was adopted.

E. Report from office of the Attorney General

The Chair recognized Ms. Thompson who indicated that Mr. Dan Miller was present from the Indiana Attorney General’s Office to explain the process for collecting overdue civil penalties assessed by the Commission.

The Chair recognized Mr. Miller who explained that once Causes for collection are forwarded to the Attorney General’s Office, the Office first sends out a demand letter to the committees. Mr. Miller stated that 27 letters had been sent out to committees in 2003, and of those 27, 10 committees still remain that have not yet paid the civil penalties. Mr. Miller stated that if the Office does not hear from a committee after the first demand letter, a second letter is sent certified. Mr. Miller indicated that if there is a good address and the

certified letter is not returned, the committee is notified that if the fine is not paid, the next step will be litigation to try to collect the outstanding civil fine.

Mr. Miller explained that the Office cannot collect from some of these committees because there is no good address for any of the officers of the committee by which to locate them. Mr. Miller stated that if a committee does not pay the fine, and the case is not resolved, the Attorney General's Office refers the cases back to the Election Division.

The Chair asked that Mr. Miller give a written report on the outstanding committee from which the Office has not yet been able to collect the penalties.

F. Co-directors report continued

1. Voter Registration File Compilation and File Format

The Chair recognized Mr. King who explained that the Commission sets for the format for the submissions of voter registration records from the 92 county voter registration offices. Mr. King stated that, after consulting with both the Democratic and Republican State Parties, the Election Division would have some future suggestions for updating this format in order to gather more accurate and helpful information from these submissions.

2. Help America Vote Act of 2002: federal funding and Vote Indiana Team

The Chair recognized Ms. Robertson who stated that Indiana did receive an additional portion of the federal funding of \$10 million allowed under the Help America Vote Act. Ms. Robertson further explained that the Vote Indiana Team did finalize Indiana's Preliminary State Plan, which was currently out for public comment. Ms. Robertson stated that this State Plan explains how Indiana intends to implement the Help America Vote Act. Ms. Robertson stated that the Vote Indiana Team intended to reconvene in July to adopt the final version of the State Plan, which would then be certified to the federal government as required by the Act.

F. Litigation and Voter Registration Investigations Update

The Chair recognized Mr. Simmons who explained in the Leaf v. Abel case, there is no decision. Mr. Simmons also stated that the Hawkins case had been dismissed. Mr. Simmons also indicated that the BMV case reported at the previous Commission meeting had been resolved with a letter from the Co-Directors stating that the Election Division found no violation of the National Voter Registration Act (NVRA) in the Division's investigation.

The Chair then stated that the Commission would take a brief recess.

J. Remarks

The Chair reconvened the meeting and recognized Secretary of State Todd Rokita. The Chair stated that he had some remarks on this his last Commission meeting. The Chair stated that it had been a pleasure to be on the Commission. He explained that he had started

when the Commission was a three-member board as a minority member. The Chair thanked Rex Early and Mike McDaniel, former Republican State Party Chairs, for the opportunity to serve on the Commission. The Chair also thanked former Co-Directors, Laurie Christie and Spencer Valentine, as well as current Co-Directors, Brad King and Kristi Robertson. The Chair thanked Mr. King for all his knowledge on election law. The Chair also recognized the Election Division staff and thanked them for all their work. The Chair stated that the staff would continue to hear from him as he intends to become a member of the Fountain County Election Board. The Chair also recognized Mr. Long, Mr. Morgan, and Mr. Perkins as wonderful to work with on the Commission along with newcomer, Ms. Cummings. The Chair wished the Commission the best of luck in the coming years.

Mr. Long stated that he believed that 100% of the time, the Commission structured in the bi-partisan manner, functioned as well as it could. Mr. Long stated that Mr. Cruca has been a superb chairman of the Commission and that it has been an honor to serve with Mr. Cruca. Mr. Long further congratulated Mr. Cruca for his wisdom and service to the State of Indiana. Mr. Long stated he considers Mr. Cruca his friend and will miss his leadership on the Commission.

Mr. Morgan stated that he echoed Mr. Long's comments. Mr. Morgan stated that Mr. Cruca has distinguished himself even in very difficult partisan situations. Mr. Morgan also agreed with Mr. Long's comments that the work of the Commission has stayed professional and has not become personal, due in large part to Mr. Cruca's leadership.

The Chair recognized Mr. Long who moved to table the cause involving Divinity Funeral Homes, Cause Number: for a future meeting rather than assess a civil penalty. Mr. Morgan seconded the motion. There being no further discussion the Chair called the question and with four members voting "aye" (Mr. Cruca, Mr. Long, Mr. Morgan, and Ms. Cummings), and no members voting "nay", the motion was adopted.

The Chair recognized Secretary Rokita who presented Mr. Cruca with an Honorary Secretary of State, the highest honor the Secretary of State can bestow. Secretary Rokita thanked Mr. Cruca for his leadership on the Commission. Secretary Rokita stated that Mr. Cruca's legacy on the Commission is furthered by his work on the Voter's Bill of Rights.

K. Other Business

L. Adjournment

The Chair asked for any other business. There being no further discussion, the Chair called the question and declared and with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan, and Ms. Cummings), and no members voting “nay”, the motion was adopted. The Commission then adjourned at 3:50 p.m.

Respectfully submitted,

J. Bradley King
Co-Director

Kristi Robertson
Co-Director

APPROVED:

Brian L. Burdick
Chairman