

1 whether to grant or deny that motion?

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

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

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

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

10 MEMBER KLUTZ: Second.

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

14 All opposed, say nay.

15 The ayes have it.

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

22 VICE CHAIR CELESTINO-HORSEMAN: That's just  
23 what we were discussing. We apparently have,  
24 like you just noted, there's a little bit of a  
25 conflict. We're going to have to resolve that.

1 MS. CRAWFORD: But the conflict directly  
2 attacks her voter registration.

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

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

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

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

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

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

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

24 CHAIRPERSON BENNETT: Do you have anything  
25 more to present?

1 MS. CRAWFORD: I'll call Rosemary, but I  
2 guess on the issue of whether I can delve into  
3 issues with her that aren't in front of the  
4 Commission. If the voter registration isn't  
5 enough, then I don't know if I can.

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

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

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

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

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

23 MS. CRAWFORD: Okay, sorry.

24 CHAIRPERSON BENNETT: So is there any  
25 evidence that she's not registered to vote

1 that's been presented?

2 VICE CHAIR CELESTINO-HORSEMAN: I think he  
3 has presented some stuff that probably needs to  
4 be addressed.

5 CHAIRPERSON BENNETT: That has to do with  
6 voter fraud, right.

7 VICE CHAIR CELESTINO-HORSEMAN: Voter  
8 registration in the county. So the question is,  
9 the voter registration in the county, if you  
10 have to be a registered voter to be a candidate  
11 in the county race.

12 MEMBER WILSON OVERHOLT: I thought she  
13 indicated that she wanted to call her client as  
14 a witness, so the council should allow that.

15 CHAIRPERSON BENNETT: We better do that and  
16 get some more facts on the record.

17 MS. CRAWFORD: On the issue of whether  
18 she's a registered voter?

19 CHAIRPERSON BENNETT: Let's go ahead and  
20 present whatever evidence you want to present  
21 with this witness.

22 MS. CRAWFORD: I just don't want to delve  
23 into an area that I'm not --

24 How much time will we have?

25 CHAIRPERSON BENNETT: Five minutes.

1 EXAMINATION,

2 QUESTIONS BY STEPHANIE CRAWFORD:

3 Q Go ahead and state your name.

4 A Rosemary Khoury, R-O-S-E-M-A-R-Y K-H-O-U-R-Y.

5 Q Ms. Khoury, you've heard evidence today about  
6 whether you live in Anderson, Indiana. Will you  
7 please state your address and tell the  
8 Commission where you live.

9 A My current address is 2105 Arrow Avenue in  
10 Anderson, Indiana.

11 Q And there's been some confusion about the house  
12 that you were granted in the divorce. Can you  
13 just explain about the Layman Avenue home?

14 A I can. So I was granted the house in the  
15 divorce. I have two children with my  
16 ex-husband. My children attend school in the  
17 Washington Township School District, and my  
18 ex-husband continues to live at the house with  
19 my children. He's unemployed. He's the primary  
20 caregiver of my children.

21 And when I made the decision to move in  
22 2016, we didn't want to uproot the children from  
23 their schools, their sporting events. And  
24 because I was the worker and my ex-husband is  
25 unemployed, it made sense for him to stay with

1 the children.

2 Q Why did you need to move to Anderson?

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

13 Q That's the Arrow Avenue address?

14 A Yes.

15 Q Where do you work?

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

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

22 A For about 10 years.

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

25 A About six months.

1 Q So you've worked in Anderson and have you still  
2 maintained ties with Anderson?

3 A Oh, that's my home.

4 Q So the house on Layman, although it's in your  
5 name, do you reside there?

6 A I do not.

7 Q Does your ex-husband maintain that?

8 A Yes, he does.

9 Q Who pays mortgage on the house?

10 A Paul does.

11 Q Who lives in that home?

12 A Paul, Uria and Amy.

13 Q Do you have a current driver's license?

14 A Yes, I do.

15 Q I'll show you what I'll mark as an exhibit. Is  
16 that a copy of your driver's license?

17 A Yes, it is.

18 Q What's the address on that driver's license?

19 A It's 2105 Arrow Avenue.

20 MS. CRAWFORD: May I approach and offer  
21 this as an exhibit?

22 CHAIRPERSON BENNETT: Yes.

23 Q Are you registered to vote?

24 A I am.

25 Q And where are you registered to vote?

1 A In Madison County.

2 Q Do you have a motor vehicle registration?

3 A I do.

4 Q Where is that?

5 A Madison County.

6 Q Do you get mail at Arrow Avenue?

7 A I do.

8 Q What kind of mail do you get at Arrow Avenue?

9 A Almost all my mail.

10 Q In advance of this hearing, did I ask to bring

11 whatever you could at your house?

12 A Yes.

13 Q Just kind of go through some of the mail that

14 you get. What is that?

15 A This is my homeowners insurance for the house

16 that I live in.

17 Q What's the address on that?

18 A 2105 Arrow Avenue.

19 Q This is another piece of mail. What is that?

20 A This is my car payment.

21 Q That's GM Financial?

22 A Yes.

23 Q What's the address on that?

24 A 2105 Arrow Avenue.

25 Q And this is from -- did you go to the McKinney



1 School of Law?

2 A I did.

3 Q IU Indianapolis when you went there?

4 A Yes, ma'am.

5 Q Is that something that you get from the law  
6 school?

7 A Yes, at Arrow Avenue.

8 Q So you updated your address with the law school.

9 And what about, more importantly, what are  
10 these two items?

11 A These are my paychecks and my tax information  
12 from my employer.

13 Q Those are the W-2s you receive?

14 A Yes.

15 Q And what address did you receive those at?

16 A Home, 2105 Arrow.

17 Q What's that?

18 A These are my health insurance claims, which came  
19 to me at 2105 Arrow.

20 CHAIRPERSON BENNETT: 30 seconds.

21 Q And magazines?

22 A Magazines.

23 Q Just again for the Commission, have you been  
24 taking care of your mother and living at Arrow  
25 Avenue?

1 A Yes, ma'am.

2 Q Did you run for election in 2016?

3 A I did.

4 Q Were you challenged where you lived?

5 A No.

6 Q Was Mr. Willis aware that you were running in

7 2016?

8 A Yes.

9 Q And you haven't done anything differently, you  
10 still maintain the same address you did in 2016?

11 A I do.

12 Q Do you still work at the same place?

13 A Yes.

14 Q You don't live at Layman Avenue?

15 A I do not.

16 CHAIRPERSON BENNETT: Thank you. That was  
17 just demonstrative evidence.

18 MS. CRAWFORD: Oh, yes.

19 CHAIRPERSON BENNETT: You don't need to  
20 introduce that in the record.

21 Any cross-examination?

22 MR. WILLIS: Yes.

23 CROSS-EXAMINATION,

24 QUESTIONS BY JAMES WILLIS:

25 Q Ms. Khoury, where is your Indiana roll address

1 listed, what's listed on your Indiana roll of  
2 attorneys?

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

6 Q Ms. Khoury, where are the tax papers for  
7 2105 Arrow Avenue sent to?

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

13 Q Ms. Khoury, where do your children live?

14 A My children live at Layman.

15 Q Are they your immediate family?

16 A I'm sorry?

17 Q Are your children your immediate family?

18 A Sure.

19 MR. WILLIS: Thank you.

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

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

24 MS. KHOURY: Eleven, and one will be  
25 thirteen in a month.

1 CHAIRPERSON BENNETT: Any further  
2 questions? Hearing none, is there a motion?

3 MEMBER WILSON OVERHOLT: Move to deny the  
4 challenge.

5 CHAIRPERSON BENNETT: Second?

6 MEMBER KLUTZ: I'll second.

7 CHAIRPERSON BENNETT: There's been a  
8 second. Any further discussion?

9 MEMBER KLUTZ: I seconded it, Mr. Chairman,  
10 because it appears the challenge before us is

11 not whether she is properly registered but  
12 whether she meets the requisites to be a  
13 candidate. And while there may be a challenge  
14 to whether she can be registered, the fact is it  
15 appears she is registered and the facts support  
16 that she is registered, so I don't see any  
17 evidence to support the challenge. That's the  
18 basis of my second.

19 CHAIRPERSON BENNETT: Any further  
20 discussion?

21 All in favor, say aye.

22 All opposed, say nay.

23 The ayes have it, the challenge is denied  
24 and the Election Commissioner is directed to  
25 include the name of this candidate in the

1 certified list of candidates on the ballot.

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

4 MS. KHOURY: Thank you all.

5 JOSEPH C. LEHMAN

6 Cause 2018-10

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

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

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

19 MR. LEHMAN: I don't know that he's here.  
20 We had some issues up north, the rain,  
21 et cetera. He wrote me an email this morning  
22 saying he may not make it. I'm Mr. Lehman,  
23 Joseph Lehman.

24 CHAIRPERSON BENNETT: So you are the one  
25 who is being challenged?

1 MR. LEHMAN: Yes, that's correct, sir.  
2 He's the chairman of the Democratic Party of  
3 Elkhart County.

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

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

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

14 CO-DIRECTOR NUSSMEYER: I don't believe so  
15 but I'm going to pull up the email now if I may.

16 If I may, I'll read the email,  
17 Mr. Chairman.

18 CHAIRPERSON BENNETT: Yes.

19 CO-DIRECTOR NUSSMEYER: "As you may have  
20 heard, Elkhart County has been hit with a large  
21 amount of rain in the last few days, and sadly  
22 it seems my basement has the lion's share of the  
23 water. Unfortunately I will not be able to  
24 attend Friday's hearing of the Indiana Election  
25 Commission as previously planned.

1 "In regards to the candidate challenge,  
2 Mr. Joseph Lehman, Cause No. 2018-10, who was a  
3 candidate for the Indiana House of  
4 Representatives, District 49, claims to be a  
5 member of the Democratic Party. I have attached  
6 his voter registration records I obtained from  
7 the Elkhart County Voter Registration office.  
8 From these records, Mr. Lehman has voted in a  
9 Republican primary in the last three primary  
10 elections. And according to the Indiana Code,  
11 Mr. Lehman is not affiliated with the Democratic  
12 Party to which the candidate claims an  
13 allegiance.

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

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

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

24 MR. LEHMAN: And I would object to being  
25 able to admit any evidence he might present.

1 VICE CHAIR CELESTINO-HORSEMAN: I would  
2 move that this matter be continued, you know,  
3 Acts of God. They happen.

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

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

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

13 VICE CHAIR CELESTINO-HORSEMAN: When is  
14 that deadline?

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

19 CHAIRPERSON BENNETT: So you would prefer  
20 to proceed?

21 MR. LEHMAN: Yes.

22 CHAIRPERSON BENNETT: I guess the question  
23 is whether we're going to accept the evidence --  
24 when was the evidence presented? Was there ever  
25 anything presented with that?



1 CO-DIRECTOR NUSSMEYER: There is  
2 documentation, Mr. Chairman, with the voter  
3 registration record, and this was filed this  
4 morning at -- not filed, but emailed this  
5 morning at 1:55 a.m.

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

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

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

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

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

18 That's what I have, yes.

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

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

24 MR. LEHMAN: Sure.

25 VICE CHAIR CELESTINO-HORSEMAN: Did you

1 vote Republican in the last primary election?

2 MR. LEHMAN: In the last primary election,  
3 yes. Can I explain why I did?

4 VICE CHAIR CELESTINO-HORSEMAN: No, the  
5 fact that you did --

6 MR. LEHMAN: Okay.

7 VICE CHAIR CELESTINO-HORSEMAN: Secondly,  
8 then, do you have the consent of the county  
9 Democratic Party chair?

10 MR. LEHMAN: No.

11 VICE CHAIR CELESTINO-HORSEMAN: Do you have  
12 anything as a matter of law that would argue in  
13 your favor as to why you should not be  
14 prohibited from being on the ballot?

15 MR. LEHMAN: My argument would be why I  
16 should be on the ballot, and that would be my  
17 affiliation. I was looking for cases briefly,  
18 punching in the word "affiliation" for our  
19 state. And I think what I've gotten is exhibits  
20 showing that I was the Democrat candidate for  
21 judge four times, the Democrat candidate for  
22 State Representative one time in the period  
23 between 1992 to 2007. My most recent run for  
24 judge was in Goshen City Court in 2007. I ran  
25 all four times as judge as a Democrat, and I

1 have the proof here.

2 I also have letters to the editor that I  
3 have written ever since we got back to Goshen in  
4 2000 showing some views I have regarding certain  
5 things, views that a Republican would probably  
6 never take.

7 So in my voting history, I have voted in  
8 Democrat primaries 13 times. And the only  
9 reason I voted in Republican primaries was  
10 because of the paucity of -- well, there were

11 just no candidates in the slots where I voted  
12 for a Republican. And there were two, at least  
13 two Republicans up for election in the primary.  
14 So I had a preference, and I wanted to vote for  
15 somebody that I thought could do a good job,  
16 assuming that no Democrat showed up.

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

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

25 MR. LEHMAN: Right, I have not done that.

1 MEMBER KLUTZ: Your testimony is that in  
2 the last primary that you voted, you voted  
3 Republican, and that you don't have a letter  
4 from the county chair, correct?

5 MR. LEHMAN: Correct. In the last primary  
6 election I voted in the Republican primary. So  
7 if that is decisive, I guess I have to abide by  
8 that.

9 CHAIRPERSON BENNETT: Thank you. Is there  
10 anything else you want to -- any questions?

11 VICE CHAIR CELESTINO-HORSEMAN: No. I wish  
12 once you vote Democrat, it would be for a  
13 lifetime.

14 MR. LEHMAN: Excuse me?

15 VICE CHAIR CELESTINO-HORSEMAN: I think  
16 both major parties would wish that once you vote  
17 for them, that's it for a lifetime, but it  
18 doesn't work that way.

19 MR. LEHMAN: And let me tell you,  
20 gentlemen, I was never informed by these  
21 friendly people at the ballot that if you vote  
22 Republican, you stand in jeopardy of not running  
23 as a Democrat candidate. But, you know, I don't  
24 really mind because with this I think we will  
25 depart the state of Indiana. We want to go to a

1 more temperate climate, where not just the  
2 weather is more temperate, but the politics,  
3 it's very vicious in Elkhart County. I'll leave  
4 it at that.

5 CHAIRPERSON BENNETT: So I'm going to close  
6 the public hearing and ask if there's a motion.

7 VICE CHAIR CELESTINO-HORSEMAN: I will make  
8 a motion that the challenge be granted.

9 MEMBER KLUTZ: Second.

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

12 Hearing none, all in favor of granting the  
13 challenge, say aye.

14 All opposed, say nay.

15 The challenge is granted. Thank you for  
16 your time.

17 MR. LEHMAN: Sure. Thanks for your time  
18 too.

19 CHAIRPERSON BENNETT: The Election Division  
20 is directed to amend the certified list of  
21 primary candidates that the name of this  
22 candidate not be printed on the ballot.

23 MAURICE OAKEL FULLER

24 Cause No. 2018011

25 CHAIRPERSON BENNETT: The next hearing is

1 consideration of Cause No. 2018-11, In the  
2 Matter of Challenge to Maurice Oakel Fuller,  
3 Candidate for Democratic Party Nomination for  
4 State Representative, District 25. The Election  
5 Division has been provided a copy of the  
6 candidate filing challenge form and a copy of  
7 notice given in this matter.

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

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

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

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

23 Our basis is that under IC 3-8-1-2,  
24 Mr. Fuller -- and I'd like to provide two  
25 documents to you -- Mr. Fuller was foreclosed on

1 the home, the residence that he has filed under  
2 on November 28th of 2017. So basically he filed  
3 under a residence that he doesn't live in. I  
4 have a summary judgment default and decree of  
5 foreclosure. It was ordered to be sold at the  
6 sheriff's auction in Cass County.

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

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

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

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

24 CHAIRPERSON BENNETT: Thank you for your  
25 presentation. Questions from the Commission?

1 IEC MEMBER HORSEMAN: Do you have any  
2 evidence he was actually evicted from the  
3 property?

4 MR. BOWMAN: I have this summary judgment  
5 that he basically was ordered November 28th of  
6 2017 that it was to be sold at the first  
7 available sheriff's sale, which it looks like  
8 this occurred on -- event details, it says  
9 sheriff's auction sale on February 14th, 2018.  
10 I don't have any further information as to -- it  
11 says the property is vacant on this foreclosure  
12 website. I contacted the Cass County Sheriff's  
13 Department and they were unable to give me any  
14 sort of information pursuant to their sheriff's  
15 sales. So at this point, without any further  
16 evidence from Mr. Fuller, we have no position to  
17 take other than we feel he's not a resident at  
18 that address.

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

22 MR. BOWMAN: Yes, sir.

23 MEMBER WILSON OVERHOLT: Do you have any  
24 information with regard to who purchased the  
25 house at the auction, an eviction order,



1 anything like that?

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

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

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

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

23 MR. BOWMAN: There are six separate  
24 entities with liens on the property. I believe  
25 they would have vested interest in this matter,

1 in this residence also.

2 VICE CHAIR CELESTINO-HORSEMAN: So the  
3 auction company prior to putting it up pending  
4 sale result, it says the property is vacant.

5 MEMBER KLUTZ: So the sheriff's sale  
6 occurred after he filed this? You said the  
7 sheriff's sale was February 14th. So this was  
8 filed prior to that date.

9 VICE CHAIR CELESTINO-HORSEMAN: Suzannah  
10 was just showing me there's a provision in the  
11 law that says that he is presumed -- a person  
12 making a statement under penalties of perjury  
13 for purposes of election related matters is  
14 presumed to live in the residence as of the date  
15 that they made the statement. In this case, he  
16 affirmed on February 6th, and the auction didn't  
17 occur until February 14th. We have nothing to  
18 show that between the date of foreclosure and  
19 the auction that he wasn't living there. I  
20 mean, the auction company says that the property  
21 is vacant, but I don't know. I suppose that's  
22 maybe a public record. It's a tough --

23 CHAIRPERSON BENNETT: I didn't see a date  
24 on there. Is there any date?

25 VICE CHAIR CELESTINO-HORSEMAN: No, there's

1 just the date of the event.

2 MEMBER WILSON OVERHOLT: The date of the  
3 auction.

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

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

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

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

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

1 candidate is legally required.

2 VICE CHAIR CELESTINO-HORSEMAN: What's the  
3 process? Do you come back to the Commission  
4 with it then?

5 CO-GENERAL COUNSEL KOICHEVAR: My  
6 understanding is that were this to happen you  
7 would file the form to withdraw from the primary  
8 election, you would file it with the office  
9 where you filed your CAN-2. In this case, a  
10 candidate for state representative, you would  
11 file it with the Election Commission.

12 VICE CHAIR CELESTINO-HORSEMAN: But suppose  
13 he doesn't do it, he moves out of district,  
14 there's no way to challenge it?

15 CO-GENERAL COUNSEL KOICHEVAR: If such a  
16 situation were to happen, after the statutory  
17 deadline is ended for a challenge hearing and  
18 after the candidate has been certified to appear  
19 on the ballot, the county chair in the election  
20 district would have the option to go to county  
21 court and ask for a judge to declare that the  
22 individual has moved out of the district, is no  
23 longer qualified to run for office, and have an  
24 order issued for him to be -- to have that  
25 candidate not appear on the ballot.

1           That is going to be found in 3-8-2-23, and  
2           I will confirm the party that would be able to  
3           do that would be the county chairman of any  
4           political party on the ballot in the election  
5           district, or a candidate for the office sought  
6           by the person described in this section.

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

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

24                 It certainly is helpful if people let us  
25         know where they are in case we have to get in

1 touch with them, and we've asked them to do that  
2 if they've advised us they've moved. There's no  
3 statutory requirement that they update it after  
4 they've moved that they file the declaration.

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

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

9 CHAIRPERSON BENNETT: Is there a second?

10 MEMBER KLUTZ: I'll second that.

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

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

17 VICE CHAIR CELESTINO-HORSEMAN: I agree.  
18 If you come up with something --

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

22 CHAIRPERSON BENNETT: Today?

23 MR. NOTORAS: Yes.

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

25 VICE CHAIR CELESTINO-HORSEMAN: Are you

1 asking for an extension? Motion was accepted,  
2 end of discussion.

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

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

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

12 MR. BOWMAN: Oh, no, no.

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

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

18 MEMBER KLUTZ: Second.

19 CHAIRPERSON BENNETT: We have a motion and  
20 second. Any further discussion on that motion?

21 Hearing none, all in favor, say aye.

22 All opposed, nay.

23 The challenge is denied.

24 The Election Division is directed to  
25 include the name of this candidate on the

1 certified list of candidates to be included on  
2 the ballot. Thank you.

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

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

9 CAMPAIGN FINANCE MATTERS

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

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

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

22 MEMBER KLUTZ: So moved.

23 CHAIRPERSON BENNETT: Is there a second?

24 MEMBER WILSON OVERHOLT: Second.

25 CHAIRPERSON BENNETT: There's been second.



1 Is there any discussion?

2 Hearing none, all in favor, say aye.

3 All opposed, say nay.

4 The ayes have it, and the motion to ratify  
5 the agreements is adopted.

6 Before proceeding with campaign finance  
7 enforcement actions, we want to give any  
8 committee present its final opportunity to pay a  
9 reduced civil penalty by waiving their right to  
10 present evidence and arguments to the

11 Commission. Any committee is welcome to present  
12 evidence and arguments for the proposed penalty  
13 to be waived, but this is an opportunity for  
14 those who want to waive that presentation and  
15 accept a reduced penalty without making any  
16 argument or presentations.

17 I move the adoption of the following  
18 arrangements. If this is the committee's first  
19 violation, the arrangement is for the committee  
20 to agree to pay 25 percent of the proposed fine,  
21 plus mail-in costs. If this is the committee's  
22 second violation, the arrangement is for the  
23 committee to agree to pay 50 percent of the  
24 proposed fine, plus mailing costs. If this is  
25 the committee's third violation, the committee

1 would agree to pay 75 percent of the proposed  
2 violation, plus mailing costs.

3 Is there a second to my motion?

4 VICE CHAIR CELESTINO-HORSEMAN: Second.

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

7 Hearing none, all those in favor, say aye.

8 Opposed, say nay.

9 The ayes have it, the motion is adopted.

10 Are there any committees who want to accept

11 this arrangement? If so, come forward, state  
12 your name, the committee's name and the cause  
13 number, which is found on your hearing notice,  
14 indicate that you are willing to accept the  
15 applicable penalty without further discussions.

16 If you want to present evidence to the  
17 Commission or ask for a waiver of the proposed  
18 penalty, please do not come forward at this  
19 time; instead, wait until the other committees  
20 who are willing to enter into this arrangement  
21 have been heard. Committees, please come  
22 forward to accept the percentage arrangements.

23 No one has come forward, so the remaining  
24 committees will be called to present evidence in  
25 these matters. Before doing so, I want to note

1 that in the past, the Commission has followed  
2 certain procedures for conducting campaign  
3 finance hearings, and I move the Commission use  
4 the following procedures today:

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

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

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

1 presentation, but the time spent answering these  
2 questions will not be counted against  
3 presenter's time.

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

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

1           The Commission generally begins at the  
2 front of the room and asks those persons present  
3 to come forward to have their matter heard.  
4 It's very helpful if you can speak up and say  
5 the cause number on your hearing material so  
6 that the Commission and staff can quickly look  
7 it up on the spreadsheet. Remember to identify  
8 yourself when you start speaking.

9           Is there a second to this motion?

10          MEMBER KLUTZ: Second.

11          CHAIRPERSON BENNETT: Are there any  
12 questions or objections from Commission members  
13 or any of the committees for these procedures?

14           If there's no further discussion, the  
15 question is on the adoption of the motion. All  
16 in favor, say aye.

17           Opposed, say nay.

18           The ayes have it and the motion is  
19 approved.

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

25           So, the first person sitting in the front

1 may come forward. Will you have a seat and  
2 identify yourself, please.

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

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

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

10 CHAIRPERSON BENNETT: Very good.

11 You may make your presentation, Mr. Mahern.

12 MR. MAHERN: I was the chairman of the  
13 Indiana Seventh District Democratic Committee.  
14 I was appointed sometime, probably about 2007,  
15 2008, something like that. About two years  
16 later, maybe 2009, 2010, the Marion County  
17 Democratic chairman asked me to write a check  
18 for the total amount that was in the committee.  
19 I did so at that time. And then from about 2010  
20 until 2015, I regularly filed all the filings  
21 that were required of me, and all the filings  
22 included nothing but zeroes because there was no  
23 money in the committee.

24 In 2015, I neglected -- just forgetfulness  
25 on my part -- I neglected to file the proper

1 filing, which again would have been all zeroes.  
2 I was informed by the Election Commission that I  
3 had missed the filing date, whereupon I then  
4 filed it late.

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

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

24 CHAIRPERSON BENNETT: So the committee has  
25 been dissolved?

1 MR. MAHERN: The committee was dissolved in  
2 2016, shortly after the meeting, yes.

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

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

9 MS. THOMPSON: Yes.

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

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

15 CHAIRPERSON BENNETT: Is there a motion?

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

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

24 MEMBER WILSON OVERHOLT: Sorry. I would  
25 move to dismiss the enforcement action.



1 MEMBER KLUTZ: Second.

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

4 Hearing none, all in favor, say aye.

5 All opposed, say nay.

6 The ayes have it, the enforcement action is  
7 dismissed.

8 MR. MAHERN: Thank you, Mr. Chairman.

9 The next one. Yes, sir.

10 Craig Taylor.

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

14 CHAIRPERSON BENNETT: Okay. Your  
15 presentation, sir.

16 MR. TAYLOR: Yes, thank you, Mr. Chairman,  
17 Commissioners. This was a follow-up for a  
18 hearing that I came to in 2016 where I failed to  
19 file a supplemental report on two checks on the  
20 same report. The fine was going to be I think a  
21 thousand dollars for each one. And the  
22 Commission asked that we file a supplemental  
23 report prior to the next hearing date, which is  
24 today. As far as I know, that's been done, the  
25 supplemental reports have been filed.

1           So I guess I've asked you for consideration  
2 of whatever the fine is. The issue was the two  
3 checks on the same report, so it would have been  
4 two \$1,000 fines on the same filing. So since  
5 that time, the supplemental report has been  
6 filed. And this is a -- I'm sorry, Mr.  
7 Chairman.

8           CHAIRPERSON BENNETT: You may finish.

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

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

15          MS. THOMPSON: Mr. Chairman, we had this to  
16 continue. He had 30 days to file his  
17 supplemental reports. He filed them on  
18 10/24/2017.

19          MEMBER WILSON OVERHOLT: Was that within  
20 the 30 days?

21          MS. THOMPSON: The hearing was August 18th,  
22 2017.

23          CHAIRPERSON BENNETT: So it was not?

24          MS. THOMPSON: So it was not, it was  
25 outside of the 30 days.

1 MEMBER KLUTZ: Is there any note as to why  
2 we continued the matter?

3 MS. THOMPSON: You continued it to give him  
4 a chance to file the reports because they had  
5 not been filed at that time. So you just wanted  
6 to ask the committee to file the reports within  
7 30 days and then revisit.

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

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

12 MR. KLUTZ: Is the committee still open?

13 MS. THOMPSON: Yes.

14 MR. TAYLOR: Was there a 30 day notice?  
15 Would that have been at the hearing that it was  
16 30 days?

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

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

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

24 VICE CHAIR CELESTINO-HORSEMAN: So if it's  
25 found that he did not comply by filing within

1 the 30 days, the proposed fine is a thousand  
2 dollars for each one of them?

3 MS. THOMPSON: Correct.

4 CHAIRPERSON BENNETT: Correct.

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

8 MS. THOMPSON: Yes.

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

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

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

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

24 CHAIRPERSON BENNETT: If that motion is  
25 made and passed. I'm curious why you didn't

1 take the deal today.

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

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

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

22 MEMBER WILSON OVERHOLT: I'm sorry, in  
23 terms of our -- I should know our rules, I  
24 didn't jot them down. So what deal could he  
25 have taken?

1 CHAIRPERSON BENNETT: He could have  
2 taken -- well, I would say at least 75 percent  
3 of the deal.

4 Is there a motion?

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

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

14 MEMBER WILSON OVERHOLT: Right.

15 CHAIRPERSON BENNETT: Is there a second?

16 VICE CHAIR CELESTINO-HORSEMAN: I'll  
17 second.

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

20 Hearing none, all in favor, say aye.

21 Opposed, say nay.

22 The ayes have it, the fine is reduced to  
23 50 percent or a thousand dollars.

24 MR. TAYLOR: Thank you. Thank you.

25 Just as a point of clarification, any

1 proposals you sent to me to clarify some of this  
2 stuff I heard earlier, I would be willing to  
3 take to somebody if you get a change in the law.  
4 You have a difficult job.

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

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

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

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

24 CHAIRPERSON BENNETT: Anything else? Very  
25 well, your presentation.

1 MR. ASHTON: Thank you very much.

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

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

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

23 So as soon as we realized this error, this  
24 administrative error, we immediately contacted  
25 the Commission, contacted the members involved.



1 And while these checks were in fact cashed, the  
2 members involved immediately returned refunds to  
3 the client, to the committee. And the client  
4 has since implemented a process whereby they  
5 ensure that contributions made in the future are  
6 double-checked by a government affairs  
7 professional at corporate headquarters. This  
8 error occurred because the check was  
9 inadvertently cut directly from accounting as  
10 opposed to going through that screen.

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

14 CHAIRPERSON BENNETT: Anything more from  
15 the Division?

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

18 CHAIRPERSON BENNETT: I would think so.  
19 Why didn't you take the deal today?

20 MR. ASHTON: Given, frankly, the  
21 unintentional nature of the violation, given the  
22 fact that this was AstraZeneca's first violation  
23 in this case and the efforts we made to  
24 self-report this matter and to remediate it  
25 immediately, we hoped this could be a matter

1 that would be considered for waiving the fine.

2 MEMBER KLUTZ: One reason probably not  
3 taking the deal is if they had attended prior  
4 hearings, they would have I think probably  
5 noticed that this violation and how they handled  
6 it falls squarely within how we've handled prior  
7 waivers, in that first-time violation,  
8 self-reported actually within 15 days, and  
9 there's testimony that they've put new processes  
10 in place to eliminate this administrative error  
11 in the future. I know in past practice we've

12 waived the fine and dismissed the action. So  
13 perhaps being before the Commission and knowing  
14 precedent, that may be why. For that reason,  
15 I'd make a motion that we dismiss the action  
16 without a fine.

17 CHAIRPERSON BENNETT: Is there a second to  
18 the motion?

19 MEMBER WILSON OVERHOLT: Second.

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

22 All in favor, say aye.

23 All opposed, say nay.

24 The motion carried. Fine waived.

25 MR. ASHTON: Thank you very much, we

1 appreciate your time.

2 IEC CHAIRPERSON BENNETT: Who is next?

3 State your name, please.

4 KAREN BIERNACKI

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

6 MR. FRIEDMAN: Yes, good afternoon. Shaw

7 Friedman of Friedman & Associates, LaPorte,

8 Indiana. I entered an appearance in this cause

9 before the Commission back in July of 2017.

10 With me is 2016 House Speaker 20 candidate

11 for nominee Karen Biernacki.

12 We believe the evidence will demonstrate --

13 CHAIRPERSON BENNETT: Let me start with the

14 Commission's --

15 MS. THOMPSON: Mr. Chairman, there are

16 three of these, one is on page 8, one on 9, and

17 one on 10.

18 This is the Karen Biernacki 2016 Committee,

19 Cause No. 2017-6709-133, 136 and 141. These

20 were for large contributions. And this

21 committee is now closed, by the way. Two of the

22 supplementals we have not received and one we

23 did receive.

24 CHAIRPERSON BENNETT: I'm sorry, what did

25 you receive?

1 MS. THOMPSON: The one we did receive was  
2 Cause No. 2017-6709-136.

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

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

10 CHAIRPERSON BENNETT: Anything else from  
11 the Division staff?

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

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

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

20 MS. TAYLOR: Correct.

21 MEMBER KLUTZ: Is the committee closed?

22 MS. TAYLOR: Yes.

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

25 MS. TAYLOR: If they filed a zero balance,

1 District 20?

2 A Yes.

3 Q Have you ever run for elected office before?

4 A No.

5 Q What is your occupation?

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

8 Q And what is Family Advocates?

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

11 Q And how long have you done that?

12 A 27 years now.

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

17 A Correct.

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

21 A No.

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

25 A Yes.

1           yes.

2                   CHAIRPERSON BENNETT: Your presentation.

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

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

19                   CHAIRPERSON BENNETT: Very well. Proceed.

20          EXAMINATION,

21          QUESTIONS BY SHAW FRIEDMAN:

22          Q        Would you state your name and address, please.

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

24          Q        Were you a candidate for the Indiana legislature  
25          in 2016 elections, specifically for House

- 1 Q I take it you had to count on a number of  
2 volunteers and others to assist your campaign?  
3 A Yes.  
4 Q Who served as your campaign treasurer?  
5 A Laura Konieczny, she's a Realtor.  
6 Q And had she ever served in a political campaign  
7 before?  
8 A No.  
9 Q Did she fill out and complete your campaign  
10 finance forms?  
11 A Yes, she did.  
12 Q To your knowledge, did she attempt to do them as  
13 completely and accurately as possible?  
14 A Yes.  
15 Q What's the total amount you show as receipts for  
16 your entire campaign? Was it a sum in excess of  
17 \$100,000?  
18 A Yes.  
19 Q So there was a fair amount of money raised in  
20 this candidate campaign; is that correct?  
21 A Yes.  
22 Q Were you aware of the requirement that thousand  
23 dollar donations were to be promptly reported on  
24 separate forms?  
25 A Yes.

1 Q And did you do that for most of the over  
2 thousand dollar donations that came in?

3 A Yes, we did.

4 Q And is there a reason that these three donations  
5 that are the subject of the proceedings were not  
6 promptly reported on the appropriate form?

7 A I believe that the treasurer just was -- checks  
8 were coming in those last weeks, I think she  
9 just overlooked it unfortunately.

10 Q I take it there were several other thousand  
11 dollar donations plus that were promptly  
12 reported during the same period?

13 A Yes, there were.

14 Q Was there any attempt on your part or your  
15 treasurer's part to intentionally delay or  
16 conceal receipt of these three donations?

17 A No, there was not.

18 Q In fact, were all of those reported on your end  
19 of campaign reports that were filed in January  
20 of 2018?

21 A Yes.

22 Q Are you asking for some relief from the proposed  
23 fines of \$3,000 because these were unintentional  
24 and inadvertent errors?

25 A Yes, I am.



1 Q This was, as you said, 27 years of reporting to  
2 federal and state agencies grants and a huge  
3 amount of money, have you ever had a citation by  
4 any agency in any form or fashion?

5 A No, I have not.

6 MR. FRIEDMAN: Nothing further.

7 CHAIRPERSON BENNETT: Any questions from  
8 the commissioners?

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

11 MS. TAYLOR: 3,000.

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

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

16 VICE CHAIR CELESTINO-HORSEMAN: All right.

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

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

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

24 MS. BIERNACKI: No, we did not know it  
25 until we were contacted.

1 MEMBER KLUTZ: What about the two that  
2 remain outstanding, were those --

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

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

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

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

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

25 CHAIRPERSON BENNETT: Did you talk to your

1 treasurer about it and ask her to do that?

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

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

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

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

1 fines?

2 MR. FRIEDMAN: Right. First violation.  
3 Again, we're talking 27 years history in  
4 connection with the agencies that she's  
5 reporting to, hundreds of thousands of dollars  
6 to federal and state agencies without a  
7 citation. This is a woman who takes very  
8 seriously her obligations to comply. So no,  
9 there wouldn't be a desire necessarily to take a  
10 plea. We wanted to come in, make our arguments

11 and hope that there might be some consideration  
12 for the Commission for something less than the  
13 250 per.

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

18 MR. FRIEDMAN: Well, it's an argument. I  
19 presume the Commission takes into  
20 consideration -- if there's any effort to  
21 conceal or anything else. I assume that's the  
22 whole point behind that thousand dollar prompt  
23 reporting is so campaign contributors, the  
24 public, the media is well informed, so we  
25 believe that's why that's there. And if there's

1 an intent to conceal, which I know this  
2 Commission has dealt with before, certainly we  
3 understand significant penalties being there.

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

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

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

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

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

20 MS. THOMPSON: Right.

21 CHAIRPERSON BENNETT: Anything else before  
22 I close the hearing?

23 The hearing is closed. Do we have a  
24 motion?

25 MEMBER WILSON OVERHOLT: I would move to

1 reduce the proposed fine to \$250 for each of the  
2 three violations for a total of \$750, plus  
3 mailing costs.

4 CHAIRPERSON BENNETT: Is there a second for  
5 that motion?

6 MEMBER KLUTZ: I'll second.

7 CHAIRPERSON BENNETT: I have a motion and a  
8 second.

9 All in favor, say aye.

10 All opposed, say nay.

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

13 MR. FRIEDMAN: Thank you.

14 CHAIRPERSON BENNETT: Thank you.

15 BRADFORD W. MOULTON

16 2017-6557-45 and 135

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

20 CHAIRPERSON BENNETT: Your name is?

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