

Indiana Election Commission
Minutes
June 21, 2019

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

Members Absent: Suzannah Wilson Overholt.

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

Others Attending: Karen Celestino-Horseman.

1. Call to Order:

The Chair called the June 21, 2019 meeting of the Commission to order at 1:48 p.m. EDT in State House Room 130, 200 West Washington Street, Indianapolis, Indiana.

2. Transaction of Commission Business:

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

The Commission corrects the following scrivener’s errors in this document:

Page 2, line 6, replace “Clayton” with “Claytor”.

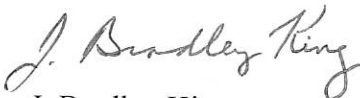
Page 7, line 5, replace “George” with “Jorge”.

Page 11, line 8, replace “pose” with “pause”.


Page 24, line 4, replace “Erin” with “Karen”.

Page 31, line 11, replace “AUDIENCE MEMBER” with “MS. K. CELESTINO-HORSEMAN”.

Respectfully submitted,

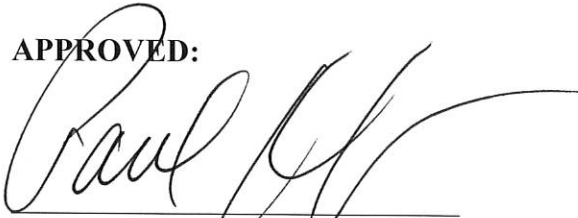


J. Bradley King
Co-Director



Angela M. Nussmeyer
Co-Director

APPROVED:



A handwritten signature in black ink, appearing to read "Paul Okeson", written over a horizontal line. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Paul Okeson, Chairman

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INDIANA ELECTION COMMISSION
PUBLIC SESSION NOTICE

State House Room 130
200 West Washington Street
Indianapolis, Indiana 46204
Friday, June 21, 2019, 1:30 P.M.

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

INDIANA ELECTION COMMISSION

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Chairman, Bryce Bennett
Vice Chairman, Anthony Long
Zachary Klutz, Commission Member
Mike Clayton, Commission Member (Proxy for Suzannah
Wilson Overholt)

INDIANA ELECTION DIVISION STAFF

J. Bradley King, Co-Director
Angela M. Nussmeyer, Co-Director
Dale Simmons, Co-Legal Counsel
Matthew Kochevar, Co-Legal Counsel
Michelle Thompson, Campaign Finance

1
2 (TIME NOTED: 1:48 PM)

3 CHAIRMAN B. BENNETT: The Election
4 Commission is called to order. The following
5 members of the commission are present, myself,
6 Bryce Bennett, Chairman; Vice Chairman Anthony
7 Long; Mike Claytor -- no -- yes, Mike Claytor,
8 proxy for Member Suzannah Wilson Overholt; and
9 Member Zachary Klutz; Indiana Election Division
10 Staff; Co-Director Brad King may join us later.
11 Co-Director Angie Nussmeyer is here; Co-General
12 Counsel Dale Simmons is here; and Co-General
13 Counsel Matt Kochevar is also here. Our court
14 reporter today is Rhonda Hobbs from Connor
15 Reporting.

16 At this time, I request that the
17 Co-Directors confirm that the commission meeting
18 has been properly noticed as required under the
19 Open Door Law.

20 MS. A. NUSSMEYER: Mr. Chairman, Members of
21 the Commission, the meeting was noticed in
22 compliance with the State's Open Door Law.

23 CHAIRMAN B. BENNETT: Thank you,
24 Miss Nussmeyer. We will now move to the
25 approval of the January 31st, 2019 Commission

1 Minutes, and I would ask for a presentation by
2 Miss Nussmeyer.

3 MS. A. NUSSMEYER: Thank you, Mr. Chairman.
4 Co-Director King and I reviewed the minutes from
5 January 31st, 2019, and a copy has been
6 distributed, I believe, to all the members ahead
7 of today's meeting.

8 We did find a few scrivener errors that
9 have been notated, and a copy of that
10 Chairman Bennett has.

11 VICE CHAIRMAN A. LONG: And I would
12 indicate I've read it all, and I caught a couple
13 of scrivener errors before I seen the errata
14 sheet. But, yes, I think they've done that.

15 CHAIRMAN B. BENNETT: Is there a motion to
16 approve the January 31st, 2019 meetings as
17 presented?

18 VICE CHAIRMAN A. LONG: As presented, I
19 make that motion.

20 CHAIRMAN B. BENNETT: Is there a second?

21 MEMBER Z. KLUTZ: Second.

22 CHAIRMAN B. BENNETT: Any discussion?

23 (No response.)

24 CHAIRMAN B. BENNETT: Hearing none, all in
25 favor, say aye?

1 (Chorus of ayes.)

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

3 (No response.)

4 CHAIRMAN B. BENNETT: Ayes have it. Motion
5 to approve the minutes is adopted. Does
6 Chairman Bennett have those minutes for
7 signature? I don't know where they might be.
8 Does anyone have the minutes?

9 MS. A. NUSSMEYER: I don't, but I can...

10 CHAIRMAN B. BENNETT: I can wait and sign
11 them later.

12 MS. A. NUSSMEYER: Okay.

13 VICE CHAIRMAN A. LONG: I don't know. He
14 may not be able to.

15 CHAIRMAN B. BENNETT: Well, that's true.

16 MS. A. NUSSMEYER: We could affix your
17 signature with a stamp.

18 CHAIRMAN B. BENNETT: Yeah. Is there any
19 objection to having my signature --

20 VICE CHAIRMAN A. LONG: No.

21 CHAIRMAN B. BENNETT: -- affixed by a
22 stamp?

23 VICE CHAIRMAN A. LONG: Move that the
24 signatures required to be affixed by a stamp.

25 CHAIRMAN B. BENNETT: Okay. Any opposition

1 to that motion?

2 (No response.)

3 CHAIRMAN B. BENNETT: I take it by
4 consensus then my signature will be affixed by a
5 stamp. Thank you. We now move to ratification
6 of settlement agreements, and I would ask for
7 presentation by Miss Taylor and Miss Thompson.

8 MS. M. THOMPSON: Mr. Chairman and Members
9 of the Commission, underneath your white tab is
10 a list of committees to ratify, that have agreed
11 to pay the settlement agreement and waive a
12 hearing.

13 CHAIRMAN B. BENNETT: We'll take a moment
14 to review them, and I'll accept a motion.

15 VICE CHAIRMAN A. LONG: I move we approve
16 the settlement agreements.

17 CHAIRMAN B. BENNETT: Is there a second?

18 MEMBER Z. KLUTZ: Second.

19 CHAIRMAN B. BENNETT: Any discussion?

20 (No response.)

21 CHAIRMAN B. BENNETT: Hearing none, all in
22 favor, say aye?

23 (Chorus of ayes.)

24 CHAIRMAN B. BENNETT: Those opposed, say
25 nay?

1 (No response.)

2 CHAIRMAN B. BENNETT: The ayes have it and
3 the motion is approved. At this time I would
4 like to recognize Dale Simmons to report on the
5 document received in this matter by George
6 Fernandez.

7 MR. D. SIMMONS: Mr. Chairman, Members of
8 the Commission, a complaint was filed by
9 Mr. Fernandez at the January 31st meeting of the
10 Commission. The Commission requested the
11 Election Division to follow up with the
12 committee in question, Dan Leonard.

13 We did that with a March 27th letter. And
14 we have received a response from that committee
15 dated April 11th and that response is contained
16 in the packet as well. That's under your blue
17 tab.

18 VICE CHAIRMAN A. LONG: I believe that
19 they've done what we asked them to do, the
20 committee. I don't see that this is an issue
21 that needs to go any further today.

22 CHAIRMAN B. BENNETT: No reason to open an
23 investigation up?

24 VICE CHAIRMAN A. LONG: I see no -- I think
25 as the minutes reflect, we discussed that day

1 and we've dealt with these and, of course, I've
2 been here so many years, we've never, to my
3 knowledge, came to a resolution on one of those
4 than anything referred to the local prosecutor.

5 Since these were de minimis violations, I
6 believe just one, and we advised him of that,
7 and I think justice has been served. And to be
8 honest, I can't even tell what party he's in. I
9 don't know if that makes a difference.

10 CHAIRMAN B. BENNETT: Okay. Anyone else?
11 Any other discussion?

12 (No response.)

13 CHAIRMAN B. BENNETT: Hearing none, we will
14 move to the Joe Weingarten matter. Mr. Simmons,
15 can you give us some background on that?

16 PROXY M. CLAYTOR: Mr. Chairman, do we need
17 to normally dismiss that or take an action or...

18 CHAIRMAN B. BENNETT: Well, we never really
19 opened a proceeding on that.

20 PROXY M. CLAYTOR: Oh, it has not been
21 opened?

22 CHAIRMAN B. BENNETT: No. It's been opened
23 and there's no investigation.

24 VICE CHAIRMAN A. LONG: I think that's how
25 we disposed of it, is we weren't going to

1 investigate it. We'd deal with writing him a
2 letter, and that's been done. I think it's
3 closed.

4 CHAIRMAN B. BENNETT: So I'll move to the
5 Joe Weingarten.

6 MR. D. SIMMONS: Mr. Chairman, Members of
7 the Commission, this involves a complaint
8 against Brian Bosma's campaign finance
9 committee. There was a request to investigate
10 expenditures made by that committee. There was
11 at the last commission meeting on January 31 a
12 motion -- a denied request to investigate.

13 However, subsequent to that, Mr. Weingarten
14 filed a motion to reconsider, and that was filed
15 on February the 11th, 2019, and these are all
16 under the orange tab, motion to reconsider.

17 CHAIRMAN B. BENNETT: And as I recall, the
18 motion to deny the request pending investigation
19 passed by a vote of 4-0.

20 VICE CHAIRMAN A. LONG: It did. Can we
21 just have some discussion before we have a
22 motion? I have some thoughts.

23 CHAIRMAN B. BENNETT: Okay.

24 VICE CHAIRMAN A. LONG: I voted to deny it
25 because I thought on the face the claim was --

1 Mr. -- or Speaker Bosma's committee spent money
2 for an investigation of an individual who was
3 making allegations against the speaker that --
4 and at a time of political candidacy that would
5 be potentially detrimental to that candidacy if
6 there were any merit to them.

7 And my gut feeling, without any legal
8 research, if that falls on its face, was a
9 legitimate expenditure in my mind. And one
10 thing that troubles me today and it troubled me
11 that day, we were in a period of inclement
12 weather.

13 And while I don't believe we have a duty to
14 notify a complainant, when there's issues that
15 come up before the Commission, I think that
16 fairness and fair play and fundamental due
17 process would allow somebody, if they were here
18 and knew about it, to come forward and afford
19 them an opportunity to try to tell us why they
20 think this campaign expense was not covered by
21 the law.

22 I think the speaker would want that
23 transparency. I think it would be in his best
24 interest. I know him somewhat but -- and we're
25 not friends, and I'm not certainly here to cause

1 any embarrassment to him because my feeling,
2 personally, without any further evidence, is
3 that the expenditures that were made that were
4 complained of, appear on their face to be
5 lawful, and in keeping with the statute. So I
6 make that observation.

7 I'm troubled that the complainant is not
8 here today. I would pose to ask is he aware of
9 the hearing? Has anybody notified this man that
10 we were taking this up today?

11 CHAIRMAN B. BENNETT: For starters, this is
12 not a hearing.

13 VICE CHAIRMAN A. LONG: This agenda item?

14 CHAIRMAN B. BENNETT: It's an agenda item,
15 yes.

16 VICE CHAIRMAN A. LONG: Does he know about
17 it? Silence is deafening to me.

18 MR. D. SIMMONS: Well, Mr. Chairman, I
19 didn't notify Mr. Weingarten. I don't know if
20 anybody else did in the Election Commission
21 so...

22 MS. A. NUSSMEYER: Beyond posting it on the
23 web site and putting the notice outside of our
24 office, I'm not aware of any other additional
25 outreach to individuals on the agenda today.

1 CHAIRMAN B. BENNETT: You're saying it was
2 posted on the web site?

3 MS. A. NUSSMEYER: The agenda was posted on
4 the web site, yes, Mr. Chairman.

5 VICE CHAIRMAN A. LONG: Does anyone from
6 Bingham Greenebaum Doll know that it was on the
7 agenda today?

8 CHAIRMAN B. BENNETT: Well, I don't know
9 because they're not here. If they saw it on the
10 web site, they would be notified. I'm going to
11 move that the request to reconsider be denied.
12 I think we talked about this ourselves with the
13 information that we had at the last meeting.
14 Didn't see anything that necessarily would be
15 different. Denied.

16 MEMBER Z. KLUTZ: Second.

17 CHAIRMAN B. BENNETT: I have a motion in
18 second, is there any further discussion?

19 PROXY M. CLAYTOR: Mr. Chairman, just as an
20 observation, as Mr. Long has indicated, perhaps
21 we should need -- to make some time for people
22 to do that. I'm certainly in agreement with
23 Vice Chairman Long that this is an
24 appropriate -- well, a legitimate and legal
25 campaign expenditure.

1 So I don't have an issue with dismissing
2 it, but perhaps just from a perception issue in
3 the future that perhaps notice to the parties
4 that something is on the agenda may be
5 warranted.

6 MEMBER Z. KLUTZ: If I could just respond
7 to that. My concern is that what we're trying
8 to do here is create a preliminary stage where
9 we as a commission, based upon what was
10 submitted on the four corners of the paper,
11 determine should we move forward with the
12 hearing, or an investigation, or whatever
13 they're asking for, which then says let's notify
14 not only the complainant but also we should
15 notify the party that's being complained about.

16 PROXY M. CLAYTOR: Sure.

17 MEMBER Z. KLUTZ: And we turn it then into
18 a hearing. And if we do that step at the --
19 when it's currently the preliminary stage, we're
20 setting ourselves up for basically quasi
21 hearings for every email and letter and call
22 that we get and it takes away our, what I
23 believe to be appropriate discretion as to what
24 should move forward and what should not.

25 And I think what needs to be explained is

1 that thank you for your letter and everything
2 you've put in there, that you probably would
3 have said here anyway, we're going to look at
4 that and make a determination based upon our
5 experience as election commissioners -- should
6 we move forward, and if we do, we're going to
7 notify you, we're going to notify the party
8 being complained of, and we're going to conduct
9 it in a hearing type scenario.

10 And this idea that's being proposed or
11 suggested that maybe it should happen creates
12 that step and I think eliminates our discretion
13 to maybe quote/unquote weed things out. So
14 that's why I'm hesitant to say I agree or I
15 endorse Commissioner Long's position, I suppose.

16 VICE CHAIRMAN A. LONG: My observation is
17 many times we get complaints from people who are
18 not as blessed as we are being lawyers, or
19 first, as the case may be, and their perception
20 of what we do here is important and our respect
21 to them equally so.

22 The -- I disagree that we're creating an
23 interim step. I would like -- it's almost like
24 would you like to supplement anything that
25 you've got here for our initial consideration,

1 not to call witnesses, but the person who filed
2 the complaint be heard in court, sort of like
3 you file a suit for somebody and the other side
4 files a response and a motion to dismiss and the
5 judge just rules on it without calling them in
6 for a hearing, that would be reversed in about
7 15 seconds from the Supreme Court under the due
8 process issues. But I mean that's a lot
9 different standing.

10 I guess my last observation is -- and I
11 agree, we should notify -- I'm not sure we ever
12 notified this guy, from what I've read, that we
13 did anything. I think he learned it from a
14 newspaper reporter. And I just don't think
15 we've treated a member of the Hoosier society
16 fairly.

17 And I say this with all seriousness, I
18 think, from what I hear, sitting here today,
19 Speaker Bosma's committee expenditure, I have no
20 problem with, unless somebody can show me that
21 there is a problem with it.

22 But I think that the transparency and the
23 responsibility we have to the citizenry would
24 require at least a complaint that we look --
25 give them an opportunity for us to look them in

1 the face and say we're denying this because, and
2 they at least leave here maybe not satisfied
3 that they got what they wanted but they had
4 their day before us.

5 That's where -- I mean this isn't a
6 catastrophic can issue. I was really hoping
7 he'd be here today and we could probably repeat
8 what we did before, but since nobody's chosen to
9 notify him, he's going to learn about it from a
10 newspaper reporter, and I think we're better
11 than that.

12 MEMBER Z. KLUTZ: Commissioner Long, if we
13 took that route, would you also suggest that the
14 party that's opposite the complaint be notified?

15 VICE CHAIRMAN A. LONG: Oh, sure.

16 MEMBER Z. KLUTZ: And also given an
17 opportunity to talk?

18 VICE CHAIRMAN A. LONG: Sure.

19 MEMBER Z. KLUTZ: And present evidence?

20 VICE CHAIRMAN A. LONG: I don't know
21 about -- maybe to be available to answer
22 questions that we might have.

23 MEMBER Z. KLUTZ: I just think we're at the
24 hearing stage of it.

25 VICE CHAIRMAN A. LONG: I don't think --

1 what do you -- how do you -- why do you think
2 this is unlawful -- give me some information,
3 and if they can't communicate that, then they
4 failed. But right now, I don't think we -- I
5 mean I grew up in a practice of laws as a
6 notice-pleading state to -- I just feel very
7 uncomfortable with this.

8 And I don't know if I got quoted on it. I
9 told the reporter that spent a half hour or more
10 on the phone with me, chewing on me for what we
11 did, that I was fully prepared and was willing
12 to let him come again and to speak his mind,
13 but -- now, that's the position I'm going to
14 take today.

15 If this motion fails, I'm going to make a
16 motion that we put it on the next agenda and
17 then we invite both sides to come in and make
18 the decision and put it to rest.

19 CHAIRMAN B. BENNETT: I was actually going
20 to suggest that myself after hearing everything
21 that's been said today. I think it would be
22 appropriate to examine these notice procedures
23 in a situation where it's not tied to any
24 particular case, but just generalities of would
25 be the appropriate way to handle these sorts of

1 things.

2 I think as we sit here today, we're bound
3 by the procedures that currently exist and what
4 we've done in the past, and for that reason, I
5 would hope to get support for the motion to deny
6 the request to reconsider. Any further
7 discussion?

8 (No response.)

9 CHAIRMAN B. BENNETT: Hearing none, all in
10 favor of denying the motion to reconsider, say
11 aye?

12 MEMBER Z. KLUTZ: Aye.

13 CHAIRMAN B. BENNETT: Aye. All opposed,
14 say nay?

15 VICE CHAIRMAN A. LONG: Nay.

16 PROXY M. CLAYTOR: Nay.

17 CHAIRMAN B. BENNETT: We have a deadlock
18 2-2 between the ayes and the nays, so the motion
19 does not pass.

20 VICE CHAIRMAN A. LONG: I would make a
21 motion that we put this on the agenda for our
22 next regularly scheduled meeting and invite both
23 the complainant and the speaker's committee,
24 respondent, whatever the right term is, to be
25 present, and not to offer evidence, but to

1 answer any question in a preliminary inquiry
2 where we're determining whether or not there's
3 sufficient -- and the statute's pretty clear.

4 In fact, I reviewed that when you made your
5 motion that whatever level of standard we have
6 to authorize an investigation, whether it's --
7 I'm not doing this to embarrass the speaker. I
8 think it's better for his position, personally.

9 I have no reason to dislike him, except he
10 didn't give enough for public education, but
11 beyond that, the -- this clears the air, and
12 it's a public proclamation that we think this
13 was a lawful expenditure, and unless there's
14 something out there -- and the response from
15 Bingham Greenebaum Doll, if there was something
16 that says this is legal, we would have been
17 cited for it, and I think their argument made
18 sense. We've got a poor guy that -- again, he's
19 not a lawyer, is he? He's your county chairman.

20 PROXY M. CLAYTOR: He's my county chairman,
21 and I don't --

22 VICE CHAIRMAN A. LONG: But they still
23 don't get from the top legally confirmed in this
24 country, and -- but that's why I make the
25 motion.

1 CHAIRMAN B. BENNETT: Is there a second for
2 that motion?

3 PROXY M. CLAYTOR: Second.

4 CHAIRMAN B. BENNETT: Let me offer this in
5 discussion. I think, as I've said before, that
6 it is appropriate to address these notice
7 procedures, but I feel like it's very important
8 to do it in an objective forward thinking
9 manner, not tied to any particular set of facts
10 or circumstances or particular parties.

11 I think that is the way to post fairly and
12 objectively look at the procedures to determine
13 what's fair and appropriate, what complies with
14 any due process obligations we might have. So
15 for that reason, I will uphold the motion. Is
16 there any further discussion?

17 (No response.)

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

20 VICE CHAIRMAN A. LONG: Aye.

21 PROXY M. CLAYTOR: Aye.

22 CHAIRMAN B. BENNETT: All opposed, say nay,
23 nay.

24 MEMBER Z. KLUTZ: Nay.

25 CHAIRMAN B. BENNETT: We have two ayes and

1 two nays. The motion does not carry.

2 VICE CHAIRMAN A. LONG: Then we don't do
3 anything with it.

4 CHAIRMAN B. BENNETT: So we move on to our
5 next agenda item, which is under the yellow tab
6 in our books, and I would ask that Mr. Simmons
7 provide us with a background.

8 MR. D. SIMMONS: The documents relevant to
9 this particular item are behind the yellow tab.
10 We have an April 12th letter from the State's
11 Democratic Party Chair, John Zody, about an
12 alleged defective report filed by Eric Holcomb
13 for Indiana Committee. There's a April 15, a
14 letter from that committee, Eric Holcomb, for
15 Indiana Committee responding to that. And then
16 a follow up, a May 3rd letter filed -- no, it's
17 an April 15th letter from the Election Division
18 to Eric Holcomb's committee advising them of the
19 complaint. There's a May 3rd letter from
20 Eric Holcomb for Indiana Committee responding to
21 the complaint. And then there's a letter -- a
22 follow-up letter dated May 8th from Chairman
23 Zody. And, finally, there's a letter responding
24 to that letter dated May 15th from Kyle Hupfer,
25 the Treasurer for Holcomb for Indiana Committee,

1 and those are the documents in the back,
2 Mr. Chairman.

3 CHAIRMAN B. BENNETT: I would ask -- Miss
4 Nussmeyer, is there anything else you'd like to
5 add to that?

6 MS. A. NUSSMEYER: I think Mr. Simmons, Mr.
7 Chairman, summarized the issue appropriately.

8 CHAIRMAN B. BENNETT: Thank you. Any
9 discussion?

10 PROXY M. CLAYTOR: Mr. Chairman, I don't
11 know if I just didn't catch this, but apparently
12 the report has been amended. I assume that's
13 the Holcomb for Governor report has been amended
14 as to certain expenditures.

15 Could I get some more detail so that I can
16 understand that? I don't know if Mr. Simmons...

17 MR. D. SIMMONS: I'm not familiar with that
18 amendment.

19 VICE CHAIRMAN A. LONG: You said in this
20 letter --

21 PROXY M. CLAYTOR: Oh, I thought that's
22 what this last item in here was.

23 VICE CHAIRMAN A. LONG: You said --

24 MR. D. SIMMONS: I'm just referring, if
25 it's referenced, what's in the packet.

1 VICE CHAIRMAN A. LONG: It's in the packet.

2 MR. D. SIMMONS: All right. I'm not
3 familiar with it. I haven't seen it.

4 VICE CHAIRMAN A. LONG: Have you seen it?

5 MS. A. NUSSMEYER: I have, Mr. Vice
6 Chairman. So, as I understand it, and
7 Mr. Kochevar can correct me if I'm wrong, I
8 believe as part of the original complaint there
9 were some questions about whether or not a
10 specific line item was specific to -- it was
11 noted as fundraising, where I believe the
12 committee switched it to operations.

13 So the first line here, if you're looking
14 at the report, it originally was noted as
15 fundraising. It was then changed or amended to
16 read operations because the concern was -- I
17 believe it was just mislabeled as fundraising
18 when instead it was a staff meal at an event.
19 It wasn't specific to a fundraiser. It was
20 specific to staff attending an event, as I
21 understand.

22 CHAIRMAN B. BENNETT: Any discussion by
23 Members of the Commission?

24 VICE CHAIRMAN A. LONG: Is anybody here --
25 I hate from either one of these entities to be

1 present for what we're considering today?

2 AUDIENCE MEMBER: Yes, Commissioner Long.

3 VICE CHAIRMAN A. LONG: Everyone knows
4 Erin. She's up here once in a while.

5 CHAIRMAN B. BENNETT: We're not in a --
6 we're not in a position to take testimony
7 because we have not opened up the investigation
8 hearing. The purpose of this meeting today is
9 to determine whether it is appropriate to open
10 an investigation at a hearing?

11 VICE CHAIRMAN A. LONG: Then I have some
12 questions that are unanswered and I ask them
13 rhetorically. First of all, I don't know who
14 the vendor is and I don't care. I read
15 somewhere, in my trying to familiarize myself
16 with this, that this vendor made this plane
17 available to the -- the Governor Association.
18 And, in fact, that was reported by the vendor as
19 an in-kind contribution and in-kind receipt. I
20 don't know that. That's certainly not
21 evidentiary in my source, but it was enough to
22 raise a concern in my mind.

23 The second thing, as I understand -- my
24 question is: Is that true? And if it is true,
25 then that vendor recognize there was a political

1 nature of that trip. If the RGA invited the
2 governor -- excuse me, I apologize -- let me
3 turn this off -- the RGA invited Governor
4 Holcomb to fly out to -- I didn't even know what
5 it was -- it was Aspen, Colorado, I'm guessing,
6 for an RGA meeting.

7 Now if the purpose of the RGA meeting was
8 philanthropic and not two events for a political
9 cause of our Republican governor, including the
10 governor of our state -- I would tell you I
11 don't know if I've ever met with him, but I'm
12 not unimpressed with some of the things he's
13 done, then I think that everything we've been
14 through at the national level would tell me that
15 it's related to a campaign.

16 And I don't know if at that event there
17 were any fundraisers for Governor Holcomb and
18 his committee. I'm not being facetious. I've
19 never been to a DGA meeting, so I don't know --
20 I get invited all the time, and it seems like
21 there's fundraising that is accomplished at the
22 meetings for the various candidates, some of
23 which are receptions -- at least that's what my
24 invitation is. The RGA hasn't invited me to any
25 so I don't know.

1 But the -- those are questions that I think
2 should be answered and investigated. Now, if we
3 have to find at this level of the hearing that
4 there is substantial evidence to warrant an
5 investigation, I have to assume -- the corollary
6 would be equally true, if there is a lack of
7 evidence that could answer that question, that
8 we should take further steps.

9 Now, whether we have an internal
10 investigation to answer the question from staff
11 for the commissioners -- I don't care how I
12 learn it. But if the Holcomb committee received
13 any reportable contributions from the RGA and
14 they're transporting him to an event, I believe
15 it is meant to be included as something of
16 benefit to him and simply, simply be resolved
17 that this is an oversight and have them report
18 it as an in-kind back to him and it's done.

19 But I'm not here to -- it's a committee
20 oversight. If it's -- if it got amended, I'd
21 say problem solved. It's over with. This is
22 not something that is malicious or malignant.
23 It's an undertaking. I could accept it as being
24 an oversight, but I think the finances --
25 particularly, what we're going through in

1 Washington now, I think nobody has any faith in
2 the system. And this is, to me, a clerical
3 error that can be fixed, simple. And to do it
4 otherwise is going to add a taint to it that is
5 not warranted.

6 And I don't want -- I don't want the
7 governor embarrassed over this. I don't think
8 he should be embarrassed because I think his
9 committee needs to take care of the problem.
10 That's where I am. I can't vote that there is
11 not evidence that would warrant a hearing in
12 this matter. I would be willing to table it and
13 ask for an internal look/see by both staffs to
14 make a report back -- the big picture. That's
15 all I've got to say.

16 CHAIRMAN B. BENNETT: Any further
17 discussion?

18 PROXY M. CLAYTOR: Mr. Chairman, if I may.
19 I've been a campaign chair a number of times and
20 I would have to say the FEC gives a lot more
21 guidance in these kind of matters than the IEC
22 does; that would be really nice if we had a
23 little more guidance, and maybe that's something
24 that the co-directors could do as a project at
25 some point in the future as to what does and

1 does not constitute an in-kind contribution.

2 If I look at this -- and, obviously, they
3 amended a report to show that there wasn't
4 something coded fundraising at whatever date
5 this was. I don't have an issue with whoever
6 the entity was that had the plane, giving an
7 in-kind to the RGA, but the RGA being such a
8 major contributor to the governor, I don't know
9 why the RGA then wouldn't report an in-kind.

10 CHAIRMAN B. BENNETT: Do we know that they
11 didn't?

12 VICE CHAIRMAN A. LONG: We don't know.

13 PROXY M. CLAYTOR: At least what this
14 alleges is the Governor's campaign didn't report
15 an in-kind from anybody related to this trip. I
16 would think if this was a shortcoming, that the
17 governor's campaign should have reported an
18 in-kind from the RGA.

19 But, again, we -- I can't say that we have
20 great guidance to our committees about what does
21 and doesn't constitute an in-kind. Somebody
22 catering fundraisers is pretty obvious, but
23 other things -- you know, opposition research
24 coming from somewhere -- obviously, under the
25 FEC, that has to be valued as an in-kind.

1 I'm not sure what Indiana's guidance is on
2 that kind of front. So I don't know if maybe,
3 as Anthony said, that maybe we need some
4 direction or some look by the co-directors at
5 whether or not there really is an issue here.

6 CHAIRMAN B. BENNETT: Any further
7 discussion from Members of the Commission?

8 MEMBER Z. KLUTZ: Well, I'll just say a
9 couple of words. You know, I think there is
10 some guidance. The Indiana Campaign Finance
11 manual is made available to candidates and I
12 think prepared by the Election Division and it's
13 very well done. It maybe could be more
14 thorough, but I think it does have provisions in
15 there as to what an in-kind contribution is, and
16 it's probably -- probably vague on purpose.

17 My recollection is it's something of value,
18 monetary or otherwise that benefits a campaign.
19 And I think a lot of the things that Chairman
20 Anthony talked about -- or Chairman Long, I'm
21 sorry -- Commissioner Long talked about were a
22 recitation of the letters we received from the
23 Democratic Party, but ignored some of the
24 responses from the Republican -- or the
25 Governor's office, and that being that this

1 flight was reported.

2 It was reported by the RGA as an in-kind
3 contribution because of the two -- the RGA, the
4 governor, the RGA felt it was the beneficiary of
5 that flight and not the governor. And why was
6 that? Well, we're told it's because there was
7 no political purpose and the RGA felt they were
8 benefiting by having the governor there and the
9 mode of transportation of getting the governor
10 there was in flight and, therefore, the RGA
11 reported it as an in-kind contribution.

12 The corollary here appears to be -- the
13 Democrats refute that because certain
14 contributions were recorded or reported on the
15 dates of travel which those dates have nothing
16 to do with -- in terms of when they were
17 received or where they were received.

18 And I think it's kind of a tenuous, perhaps
19 reckless corollary that because he was traveling
20 on these particular dates and received
21 contributions from, I think, Indianapolis donors
22 on the same dates doesn't necessarily mean -- in
23 fact, we're told were from events long ago.
24 They just happened to be deposited and deemed
25 received and therefore that's the date used in

1 the report.

2 So I don't see the necessity here for
3 reaching that threshold that, yeah, there's a
4 lot of unanswered questions. We have two
5 parties, the Governor and the RGA, that said
6 we -- of the two of us, we agree that the
7 beneficiary of this flight was the RGA and
8 therefore the RGA recorded it as a contribution,
9 an in-kind and, therefore, a contribution and
10 expenditure.

11 AUDIENCE MEMBER: Can I address the this on
12 behalf of the Party and not testify as to facts.
13 Maybe answer some of the questions that have --

14 CHAIRMAN B. BENNETT: Staff counsel is
15 here. Is there anything you'd like to say,
16 Mr. Kochevar?

17 MR. M. KOCHEVAR: I do know
18 Commissioner Klutz has mentioned that we do have
19 a paragraph in our campaign finance manual on
20 what -- the co-directors have described what
21 in-kind contribution is. I happen to have that
22 paragraph here. I'm happy to read it if the
23 commissioners would like me to, and that's just
24 the one of the things I would note. And if
25 there are any other questions, I think the

1 co-directors or co-counsels would be happy to
2 answer that for the Commission but...

3 CHAIRMAN B. BENNETT: Isn't the issue here
4 which party is claiming the in-kind contribution
5 more than anything else and we have the
6 information from the Governor's Association that
7 they reported it as an in-kind contribution?

8 VICE CHAIRMAN A. LONG: That's not the
9 issue. I think that's -- that's a good
10 articulation of where we disagree. I think one
11 act can be the in-kind from the vendor to the
12 RGA, and the RGA uses that in-kind to confer a
13 benefit on the Holcomb for Governor Committee,
14 then that would be an in-kind that way.

15 So I don't -- it's an automatic -- getting
16 it reported once -- it apparently was reported
17 once, and I want -- I want to see the governor
18 campaign finance report and I want to see if he
19 raised any money in Aspen Colorado for the RGA.

20 PROXY M. CLAYTOR: Mr. Chairman, to
21 analogize and something that's commonly an
22 accepted thing and covered by the campaign
23 finance manual, our passthrough pass and
24 passthrough contributions.

25 So, for example, there's an entity called

1 ActBlue. It is a PAC registered in every state.
2 Individuals make contributions to the PAC. That
3 PAC distributes that contribution to a person
4 designated by the individual.

5 So I make a contribution to ActBlue, to
6 Anthony Long for Dogcatcher Committee, Anthony
7 on his report reports --

8 VICE CHAIRMAN A. LONG: You're reaching
9 high today.

10 PROXY M. CLAYTOR: -- reports a
11 contribution from me, not from ActBlue because
12 it's a passthrough, and this seems to me to
13 almost be exactly analogous, that it's a
14 passthrough in-kind because the person receiving
15 the benefit is the Governor in his campaign
16 filing.

17 MEMBER Z. KLUTZ: And you're saying that
18 solely based upon in the past the RGA has
19 contributed to the governor.

20 VICE CHAIRMAN A. LONG: Not necessarily.

21 MEMBER Z. KLUTZ: There's no -- there's
22 no --

23 VICE CHAIRMAN A. LONG: What if they hand
24 him a ticket, a commercial ticket, send it to
25 here, Governor, come fly out and see us, do you

1 think he'd have to report that?

2 MEMBER Z. KLUTZ: Not if it's for official
3 business under --

4 VICE CHAIRMAN A. LONG: You don't --it's
5 the Republican Governor Association. I mean the
6 Democrat Governor didn't do that. They went out
7 there and --

8 CHAIRMAN B. BENNETT: Let's refocus on the
9 question before us. We've been asked to
10 determine whether an investigation should be
11 initiated on this issue. So I would ask if
12 there's a motion?

13 PROXY M. CLAYTOR: I would ask that an
14 investigation be open to this issue.

15 CHAIRMAN B. BENNETT: All right. Is there
16 a second?

17 VICE CHAIRMAN A. LONG: I'd like to comment
18 before I --

19 CHAIRMAN B. BENNETT: We won't have a
20 discussion unless there's a second.

21 VICE CHAIRMAN A. LONG: I'll second with
22 the option to withdraw my second. Now, if you
23 all want to push this to a formal investigation,
24 that's okay with me. I will vote for that.

25 If you want to approach it in a situation

1 where we allow both sides to submit their
2 positions with regard to the facts that we've
3 raised and questions that we have and then we
4 put this off down the road and look at it again,
5 and then from those, the new complaints
6 supplemented, the new response supplemented, the
7 old whatever is supplemented, then we make a
8 decision whether or not there is substantial
9 evidence to warrant an investigation.

10 My question today and my position is
11 substantially not known evidence that would call
12 for an investigation. My second on, so we've
13 got a motion.

14 CHAIRMAN B. BENNETT: Okay. So we have a
15 motion and a second, do you wish to withdraw
16 your second?

17 VICE CHAIRMAN A. LONG: Nope.

18 CHAIRMAN B. BENNETT: So we have a motion
19 and a second. We've had plenty of discussion.
20 All in favor of the motion, say aye?

21 VICE CHAIRMAN A. LONG: Aye.

22 PROXY M. CLAYTOR: Aye.

23 CHAIRMAN B. BENNETT: All opposed, say nay?
24 Nay.

25 MEMBER Z. KLUTZ: Nay.

1 CHAIRMAN B. BENNETT: We have two eyes and
2 two nays. We have a deadlock. Motion does not
3 pass.

4 VICE CHAIRMAN A. LONG: So I would invite
5 the parties to submit anything more that they
6 want because we haven't acted on anything.

7 CHAIRMAN B. BENNETT: Very well. At this
8 point, if you would allow me to raise the point
9 of personal privilege. I'd just like to say
10 this is my last meeting as Chair of the Indiana
11 Election Commission.

12 I'm going to end my tenure on July 1st, and
13 it has been a true privilege and honor to serve
14 since 2011 pursuant to appointments by three
15 separate governors, and I want to publicly
16 acknowledge my appreciation for the wisdom and
17 the guidance of my fellow commission members,
18 both the Democrats and the Republicans on this
19 commission, and express my thanks for the strong
20 support and critical assistance that I've
21 received from Co-Director Brad King and
22 Co-General Counsel Dale Simmons and their entire
23 staff. It's been a pleasure to work with them
24 as well as Co-Director Angie Nussmeyer and
25 Co-General Counsel, Matthew Kochevar.

1 Finally, I want to thank my family members
2 who made it here before the hearing ended, to
3 see their first Indiana Election Commission
4 hearing.

5 MS. A. NUSSMEYER: And last.

6 VICE CHAIRMAN A. LONG: And last.

7 CHAIRMAN B. BENNETT: And last. And I'd
8 like to thank all of those who have come before
9 the Commission over the years, showing respect
10 for the process. And with that, the Indiana
11 Commission has finished its business for today;
12 is there a motion?

13 VICE CHAIRMAN A. LONG: Might I have a
14 moment of personal privilege?

15 CHAIRMAN B. BENNETT: Yes.

16 VICE CHAIRMAN A. LONG: As one who has
17 served on this, I don't know, 20 years maybe, as
18 I told you earlier today, I've always believed
19 with very few exceptions and nobody in this room
20 today was a part of that, that we were able to
21 function effectively, the two political lineups.

22 I think in 20 years, I told you that I
23 consider you one of the folks that I felt
24 friendship and respect, that people can disagree
25 but not be disagreeable, and it's been a

1 pleasure to serve with you.

2 You have served your state well. You have
3 been loyal to your government. You have been
4 loyal to your party. And I think in that
5 order -- and I will think back on the years of
6 my service with you on that.

7 CHAIRMAN B. BENNETT: Thank you,
8 Commissioner Long.

9 VICE CHAIRMAN A. LONG: Thank you.

10 CHAIRMAN B. BENNETT: Much appreciated.
11 (Applause.)

12 CHAIRMAN B. BENNETT: With that, is there a
13 motion for the Indiana Election Commission to
14 adjourn?

15 PROXY M. CLAYTOR: So moved.

16 CHAIRMAN B. BENNETT: Those in favor, say
17 aye?

18 (Chorus of ayes.)

19 CHAIRMAN B. BENNETT: All of those opposed,
20 nay?

21 (No response.)

22 CHAIRMAN B. BENNETT: The ayes have it.

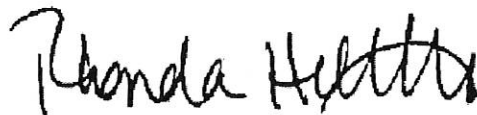
23 (The meeting adjourned at 2:33 P.M.)
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STATE OF INDIANA)
) SS:
COUNTY OF HENDRICKS)

I, Rhonda J. Hobbs, RPR, a Notary Public in and for the County of Hendricks, State of Indiana at large, do hereby certify that on the 21st day of June, 2019, I took down stenographically the foregoing proceedings, and that the transcript is a full, true and correct transcript made from my stenographic notes.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 11th day of July, 2019.



N O T A R Y P U B L I C

My Commission Expires:
August 24, 2025
County of Residence:
Hendricks

1	<p>11th 7:15 9:15 39:12</p> <p>12th 21:10</p> <p>130 1:10</p> <p>15 15:7 21:13</p> <p>15th 21:17,24</p> <p>1:30 1:12</p> <p>1:48 3:2</p> <p>1st 36:12</p>	<p>accomplished 25:21</p> <p>acknowledge 36:16</p> <p>act 32:11</p> <p>actblue 33:1,5,11</p> <p>acted 36:6</p> <p>action 8:17</p> <p>add 22:5 27:4</p> <p>additional 11:24</p> <p>address 20:6 31:11</p> <p>adjourn 38:14</p> <p>adjourned 38:23</p> <p>adopted 5:5</p> <p>advised 8:6</p> <p>advising 21:18</p> <p>affix 5:16</p> <p>affixed 5:21,24 6:4 39:11</p> <p>afford 10:18</p> <p>agenda 11:13,14 11:25 12:3,7 13:4 17:16 18:21 21:5</p> <p>ago 30:23</p> <p>agree 14:14 15:11 31:6</p> <p>agreed 6:10</p> <p>agreement 6:11 12:22</p> <p>agreements 6:6,16</p> <p>ahead 4:6</p> <p>air 19:11</p> <p>allegations 10:3</p> <p>alleged 21:12</p> <p>alleges 28:14</p> <p>allow 10:17 35:1 36:8</p> <p>amended 22:12,13 23:15 26:20 28:3</p>	<p>amendment 22:18</p> <p>analogize 32:21</p> <p>analogous 33:13</p> <p>angela 2:13</p> <p>angie 3:11 36:24</p> <p>answer 16:21 19:1 26:7,10 31:13 32:2</p> <p>answered 26:2</p> <p>anthony 2:4 3:6 29:3,20 33:6,6</p> <p>anybody 11:9,20 23:24 28:15</p> <p>anyway 14:3</p> <p>apologize 25:2</p> <p>apparently 22:11 32:16</p> <p>appear 11:4</p> <p>appears 30:12</p> <p>applause 38:11</p> <p>appointments 36:14</p> <p>appreciated 38:10</p> <p>appreciation 36:16</p> <p>approach 34:25</p> <p>appropriate 12:24 13:23 17:22,25 20:6,13 24:9</p> <p>appropriately 22:7</p> <p>approval 3:25</p> <p>approve 4:16 5:5 6:15</p> <p>approved 7:3</p> <p>april 7:15 21:10 21:13,17</p> <p>argument 19:17</p> <p>articulation 32:10</p> <p>asked 7:19 34:9</p>	<p>asking 13:13</p> <p>aspen 25:5 32:19</p> <p>assistance 36:20</p> <p>association 24:17 32:6 34:5</p> <p>assume 22:12 26:5</p> <p>attending 23:20</p> <p>audience 24:2 31:11</p> <p>august 39:19</p> <p>authorize 19:6</p> <p>automatic 32:15</p> <p>available 16:21 24:17 29:11</p> <p>aware 11:8,24</p> <p>eye 4:25 6:22 18:11,12,13 20:19 20:20,21 35:20,21 35:22 38:17</p> <p>eyes 5:1,4 6:23 7:2 18:18 20:25 36:1 38:18,22</p>
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