## Indiana Election Commission Minutes December 5, 2019

**Members Present:** Paul Okeson, Chairman of the Indiana Election Commission ("Commission"); Karen Celestino-Horseman, Proxy for S. Anthony Long, Vice Chairman of the Commission; Michael Claytor, Proxy for Suzannah Wilson Overholt, member; Zachary E. Klutz, member.

**Members Absent:** S. Anthony Long, Vice Chairman of the Commission; Suzannah Wilson Overholt, member.

**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 director; Michelle Thompson, Election Division campaign finance director.

Others Attending: Mr. Jordan Jarnargin; Mr. Mani Kilaru.

#### 1. Call to Order:

The Chair called the December 5, 2019 meeting of the Commission to order at 1:30 p.m. EST in the Indiana Election Division offices at 302 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 Sally Secander of Stewart Richardson Deposition Services, which is incorporated by reference into these minutes.

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

Page 2, replace lines 3 through 5 with the following:

"Mr. Paul Okeson, Chairman.

Ms. Karen Celestino-Horseman, Proxy for S. Anthony Long, Vice-Chairman.

Mr. Michael Claytor, Proxy for Suzannah Wilson Overholt, Member

Mr. Zachary E. Klutz, Member".

Page 2, line 15, replace "Kilary" with "Kilaru".

Page 3, line 5, replace "Celestina" with "Celestino".

Page 3, line 21, replace "Simmons" with "Simmons's".

Page 3, line 25, replace "CELESTINA" with "CELESTINO".

Page 4, line 13, replace "CELESTINA" with "CELESTINO".

Page 4, line 18, replace "CELESTINA" with "CELESTINO".

Page 5, line 2, replace "CELESTINA" with "CELESTINO".

Page 8, line 2, replace "CELESTINA" with "CELESTINO".

Page 8, line 4, replace "CELESTINA" with "CELESTINO".

Page 8, line 8, replace "CELESTINA" with "CELESTINO".

Page 8, line 13, replace "CELESTINA" with "CELESTINO".

Page 8, line 15, replace "CELESTINA" with "CELESTINO".

Page 9, line 14, replace "CELESTINA" with "CELESTINO".

Page 9, line 18, replace "CELESTINA" with "CELESTINO".

Page 11, line 10, replace "KILARY" with "KILARU".

Page 11, line 10, replace "Kilary" with "Kilaru".

Page 11, line 11, replace "K-I-L-A-R-Y" with "K-I-L-A-R-U".

Page 12, line 14, replace "the minimist" with "de minimus".

Page 13, line 10, replace "the minimist" with "de minimus".

Page 13, line 25, replace "KILARY" with "KILARU".

Page 14, line 3, replace "CELESTINA" with "CELESTINO".

Page 14, line 8, replace "KILARY" with "KILARU".

Page 14, line 14, replace "CELESTINA" with "CELESTINO".

Page 14, line 20, replace "KILARY" with "KILARU".

Page 15, line 21, replace "KILARY" with "KILARU".

Page 16, line 21, replace "CELESTINA" with "CELESTINO".

Page 18, line 21, replace "CELESTINA" with "CELESTINO".

The Commission adjourned its meeting at 1:51 p.m. EST.

Respectfully submitted,

J. Bradley King

APPROVED:

Co-Director

Angela M. Nussmeyer

Co-Director

Paul Okeson, Chairman

## In the Matter Of:

## INDIANA ELECTION COMMISSION PUBLIC SESSION AGENDA

# **Committee Meeting**

December 05, 2019

1	INDIANA ELECTION COMMISSION
2	PUBLIC SESSION AGENDA
3	
4	
5	Conducted on: December 5, 2019
6	
7	
8	
9	Conducted at: INDIANA GOVERNMENT CENTER SOUTH
10	302 West Washington Street Room E-204
11	Indianapolis, IN 46204
12	
13	
14	
15	TAKEN BEFORE SALLY CEKANDER, NOTARY PUBLIC IN AND FOR THE COUNTY OF MARION
16	STATE OF INDIANA
17	
18	
19	
20	
21	STEWART RICHARDSON & ASSOCIATES
22	Registered Professional Reporters One Indiana Square
23	Suite 2425 Indianapolis, IN 46204
24	(317) 237-3773
25	

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1	APPEARANCES						
2	INDIANA ELECTION COMMISSION:						
3	Mr. Paul Okeson - Chairman S. Anthony Long - Proxy for Karen Celestina-Horseman						
4	Mr. Zachary E. Klutz - Commission Member Suzannah Wilson Overholt, Proxy fro Mike Clayton						
5	and the start of t						
6							
7	INDIANA ELECTION DIVISION STAFF:						
8	J. Bradley King- Co-Director of the Indiana Election Division of the Office of the Secretary of State (Election Division)						
10	Angela M. Nussmeyer - Co-Director of the Election Division						
11	Dale Simmons - Co-Counsel of the Election Division Matthew Kochever - Co-Counsel of the Election Division						
12	Michelle Thompson - Election Division Campaign Finance Director						
13	Abbey Taylor - Election Division Campaign Finance Director						
14	ALSO PRESENT: Jordan Jarnagin, Election Systems Certification Specialist						
15	Mani Kilary						
16							
L7							
L8							
L9							
20							
21							
22							
23							
24							
25							

1 CHAIRMAN OKESON: All right. I'm going to 2 call this meeting of the Indiana Election 3 Commission to order. The following members of the Commission are present: Chairman Karen 4 Celestina-Horseman, proxy for Vice Chairman Anthony 5 Long; Michael Claytor, proxy for Member Suzannah 6 Wilson Overholt; Member Zachary Klutz; myself. 7 Indiana Election Division staff: Co-director 8 9 Brad King and Co-director Angle Nussmeyer; 10 Co-general counsels Matthew Kochevar and Dale 11 Simmons. And court reporter is Sally Cekander from 12 Stewart Richardson Reporting. 13 So before we continue the meeting, I want to remind everyone on behalf of the court reporter to 14 identify yourself when beginning to speak. 15 your name. Say your name, spell your name, first 16 17 and last, speak clearly, and do not speak while 18 others are speaking at the same time. 19 Before we move on, could I take a personal 20 point of privilege? I understand that this is Dale Simmons' last meeting with the Indiana Election 21 Commission and the Division. 22 23 MS. NUSSMEYER: Allegedly. 2.4 CHAIRMAN OKESON: Reported by others. 25 MS. CELESTINA-HORSEMAN: Nobody ever walks

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1
     away and lives. You know that.
 2.
          CHAIRMAN OKESON:
                            It's kind of like the Hotel
 3
     California; right? You can check out but you can
 4
     never check in.
 5
          How many years have you been?
 6
          MR. SIMMONS:
                        Twenty.
 7
          CHAIRMAN OKESON:
                            Twenty?
 8
          MR. SIMMONS:
                        Yeah.
 9
          CHAIRMAN OKESON: Pretty amazing. Real quick,
10
     do you have any retirement plans?
11
          MR. SIMMONS:
                        No, not really. Retirement.
12
          CHAIRMAN OKESON: It sounds well thought out.
13
          MS. CELESTINA-HORSEMAN: You weren't summoned
14
     to Washington to help defend the impeachment going
15
     on?
16
          MR. SIMMONS:
                        No, no.
17
          CHAIRMAN OKESON:
                            He let that go to voicemail.
18
          MS. CELESTINA-HORSEMAN:
                                   Smart man.
19
          MR. KLUTZ: I find the timing very peculiar.
2.0
          MR. SIMMONS: It makes sense, if you think
21
     about it.
          MR. KLUTZ: We have a very uneventful election
22
     coming up in 2020, and we're going to really miss
23
2.4
     your guidance and legal advice. So best wishes.
25
          CHAIRMAN OKESON: He's had enough of the
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1
     three-ring binders.
2
          MS. CELESTINA-HORSEMAN: So is there a
3
     replacement?
4
          MR. KING: No, not selected yet.
          CHAIRMAN OKESON: We'll let him get out the
 5
     door first.
 6
7
          Moving on -- and, Dale, thank you for your
     service to the people of Indiana. We appreciate it
 8
 9
     very much.
10
          Moving on.
                      Sorry. Documentation of
11
     Compliance with the Open Door Law. I request the
     Co-directors confirm the Commission meeting has
12
13
     properly noticed as required under the Open Door
14
     Law.
15
          MR. KING: Mr. Chairman, Members of the
16
     Commission, on behalf of Co-director Nussmeyer and
17
     myself, I can certify that the notice of this
18
     meeting was given in compliance with the Open Door
19
     Law.
20
          CHAIRMAN OKESON: Okay. Thank you. Moving
21
     on, approval of the October 29, 2019 minutes.
22
          MR. KING: Mr. Chairman, on behalf of
     Co-director Nussmeyer and myself, we've provided
23
     copies of the October 29, 2019 regular session
24
25
     minutes and recommend them for your approval.
```

```
1
          CHAIRMAN OKESON: Is there a motion to
2.
     approve?
3
          MR. CLAYTOR:
                        So moved.
4
          CHAIRMAN OKESON:
                            Second?
5
          MR. KLUTZ:
                      Second.
6
          CHAIRMAN OKESON: Is there any discussion
     about the minutes?
8
          Hearing none, all those in favor of approval
9
     say "aye."
10
          THE COMMISSION:
                           Aye.
11
          CHAIRMAN OKESON: Hearing no opposed, the ayes
12
     have it.
              Minutes are approved.
13
          And are we doing Campaign Finance?
14
     ratification of Campaign Finance settlements, I
15
     recognize the Campaign Finance staff to present
16
     Campaign Finance enforcement settlement agreements
17
     to the Commission for ratification.
18
          MS. THOMPSON: Michelle Thompson. Underneath
19
     the Campaign Finance tab is a list of the entities
20
     that have agreed to pay the Settlement Agreement
2.1
     and waive a hearing.
22
          CHAIRMAN OKESON:
                            I don't have that tab, do I?
          MR. CLAYTOR: Mr. Chairman, I move approval of
23
     the settlement agreements listed.
24
25
          CHAIRMAN OKESON:
                            Okay. Is there a second?
```

```
1
          MR. KLUTZ:
                      Second.
2.
          CHAIRMAN OKESON: Any discussion? Hearing
3
     none, all those in favor -- these are settlements,
4
     right, agreed to? All those in favor of the agreed
 5
     to settlements signify by saying "aye."
 6
          THE COMMISSION:
                           Aye.
          CHAIRMAN OKESON:
                            Those opposed?
 8
          (No response.)
9
          CHAIRMAN OKESON: Hearing none, the "ayes"
10
     have it. The motion carries.
11
          So we're on to adoption of Campaign Finance.
12
     I recognize the Co-director to present Campaign
13
     Finance enforcement orders prepared for the
14
     adoption of the Commission.
15
          MR. KING:
                    Mr. Chairman, we'll defer to
16
     Campaign Finance staff for those.
17
          MS. THOMPSON:
                        Mr. Chairman, Members of the
18
     Commission, Orders 2019-173 and 2019-209 have been
19
     prepared from the actions taken at the October 29th
20
     meeting. And these orders are ready for adoption.
21
     They're not in the binder.
2.2
          CHAIRMAN OKESON:
                            Just the two?
23
          MS. THOMPSON: Just the two.
24
          CHAIRMAN OKESON:
                            Is there a motion to adopt
25
     the Orders 2019-173 and 2019-208 (sic)?
```

```
1
         MR. KLUTZ: So moved.
         MS. CELESTINA-HORSEMAN: Question.
2
3
         MS. NUSSMEYER:
                          209.
4
         MS. CELESTINA-HORSEMAN: What are they?
5
         MS. THOMPSON: The two committees that you
    heard at the last meeting, the Miami County and the
6
7
    folder.
             Those two.
8
          MS. CELESTINA-HORSEMAN:
                                  Okay.
9
          CHAIRMAN OKESON: Yeah, I don't think she was
10
    here the last time.
11
          MR. CLAYTOR: I was not here.
12
          MS. THOMPSON: They were held here.
13
          MS. CELESTINA-HORSEMAN: In this room?
14
          MS. THOMPSON: Yeah.
15
          MS. CELESTINA-HORSEMAN: Then, no, I wasn't
    here for that one.
16
17
          CHAIRMAN OKESON: It was the young lady from
18
     the state party.
19
          MS. THOMPSON: Suzannah.
20
          CHAIRMAN OKESON: Okay. Is there a second?
21
          MR. CLAYTOR:
                        Second.
22
          CHAIRMAN OKESON: Is there any discussion?
23
          (No response.)
2.4
          CHAIRMAN OKESON: Hearing none. All those in
25
     favor say "aye."
```

```
1
          THE COMMISSION:
                           Aye.
2
          CHAIRMAN OKESON:
                            Those opposed say "nay."
3
          (No response.)
4
          CHAIRMAN OKESON:
                            The ayes have it. Motion
5
     approved.
6
          Will you do the administration of oath for
7
     these?
          MR. KING:
                   Mr. Chairman, if I may?
 9
          CHAIRMAN OKESON: Yes, absolutely.
10
          MR. KING: If we can have the Commission's
11
     authorization to put your signature stamps on
    these, we'll do so and not trouble you with that.
12
13
          CHAIRMAN OKESON: Oh, did we not do that?
14
          MS. CELESTINA-HORSEMAN: Do you need a motion
15
     for that?
16
          CHAIRMAN OKESON: We do. Is there a motion to
17
     let them use the signatures?
18
          MS. CELESTINA-HORSEMAN: I move that we let
19
     them use the signature stamp.
20
          CHAIRMAN OKESON:
                            Second?
21
          MR. CLAYTOR: Second.
22
                            Any discussion?
          CHAIRMAN OKESON:
2.3
          (No response.)
          CHAIRMAN OKESON: All those if favor say
24
     "aye."
25
```

1 THE COMMISSION: Aye. 2 CHAIRMAN OKESON: All those opposed? 3 (No response.) 4 CHAIRMAN OKESON: Hearing none, so approved. 5 MR. KING: Okay. 6 The administration of the CHAIRMAN OKESON: 7 oath. Everyone who will be testifying will take 8 the oath. I recognize Mr. Simmons to administer 9 what might be his last oath-giving. 10 MR. SIMMONS: Raise your right hand. Say "I 11 do" after the administration of the oath. Do you solemnly swear or affirm under the penalties of 12 13 perjury the testimony you are about to give is the 14 truth, the whole truth, and nothing but the truth? 15 Say "I do." (Consent by all.) 16 17 MR. SIMMONS: Thank you. 18 CHAIRMAN OKESON: Thank you, sir. Voting 19 System Technical Oversight Program report. 20 Commission has received a report from VSTOP, the Voting System Technical Oversight program, filed 21 22 November 25, 2019. Those recommendations regarding 23 proposed engineering Change Orders 121 and 122 with a MicroVote EMS version 4.3 voting system. 24 25 report is included in your binder behind the

appropriate tab, beginning with the summary recommendation of VSTOP.

2.2

I now recognize representatives of Ball State University which administers the VSTOP program for a presentation concerning its recommendation regarding these changes.

MR. JARNAGIN: Gentlemen. Dr. Byers and Dr. Bagga weren't able to be here today. I am Jordan Jarnagin, J-O-R-D-A-N, J-A-R-N-A-G-I-N.

MR. KILARY: Mani Kilary. It's M-A-N-I, K-I-L-A-R-Y.

CHAIRMAN OKESON: Go ahead.

MR. JARNAGIN: MicroVote has formally requested two ECOs, 121 and 122, to the EMS V4.3, VVPAT enclosure that's certified in Indiana. The ECOs were submitted on November 15, 2019. 121 is to modify the VVPAT steel enclosure to remove two mounting tabs, increase the mounting hole size for electrical connector, move the bottom of the RJ45 security bracket for better clearance with the connector, remove excess metal around the upper hinge for more finger clearance, add optional custom O-ring adaptors for mounting a 1-inch core on top take-up spindle to improve mounting paper rolls.

1 And ECO 122 is to modify the case and the 2 power panel to allow the internal pigtail 3 connection -- or removing the internal pigtail connection and connector. So essentially the power 5 cable is going to be permanently attached to the 6 mechanism. There were some issues with people getting it all the way pressed in. It was kind of a hard connection. So by just fixing it, then they 8 9 don't have to worry about poll workers having to 10 constantly try to, hey, is it plugged in all the 11 way? 12 But VSTOP has reviewed the ECOs, and it is our 13 recommendation that we approve them as they are -or that you approve them as it's the minimist. 14 15 CHAIRMAN OKESON: Are there any questions from the Commission or staff? I have just one. 16 17 MR. JARNAGIN: Yeah. 18 CHAIRMAN OKESON: When you say you quys reviewed the ECOs, did you go back and then sort of 19 20 validate and verify and test the equipment 21 yourselves after they made these modifications? 22 MR. JARNAGIN: No. They have not made the 23 modifications yet. 24 CHAIRMAN OKESON: So these are a request to

25

proceed on them?

1 MR. JARNAGIN: Yes. 2 CHAIRMAN OKESON: I got you. 3 MR. JARNAGIN: So they did send some of the 4 schematics that we were looking at, some pictures. 5 I believe it's attachments 5 through 7. It kind of has some details. You can see the images of the 6 connectors they were taking off. But now it's just 8 going to be a cord that goes through with a grommet. So there's no more connection. But they 9 10 do look the minimist based on our talks with 11 MicroVote, plus the images they provided, the 12 engineering diagrams. 13 CHAIRMAN OKESON: And to your knowledge -- I 14 mean, so after they implement those changes and we 15 grant them the ability to proceed with the change order, then what happens? 16 17 MR. JARNAGIN: So they'll start their 18 manufacturing process with the new standards. 19 then I believe they will go through and modify all 20 of the existing cases that have already been 21 produced. 2.2 CHAIRMAN OKESON: So is there any testing 23 that's done after the change order has been 24 executed to see that it works properly? 25 MR. KILARY: I show that the prototype has

```
1
     been tested at the VSTOP lab.
 2
          CHAIRMAN OKESON:
                            Okay.
3
          MS. CELESTINA-HORSEMAN: Okay.
                                          So the
     machines that get modified, those are ones that,
4
 5
     like, are currently being used in elections?
 6
          MR. JARNAGIN: They just used them for this
 7
     election cycle.
 8
          MR. KILARY: They did work in four counties
 9
     and they are about to deliver to those
10
     (unintelligible).
          MR. JARNAGIN: So, I believe, the 2000
11
12
     equipment they're going to donate will be after
13
     they're modified.
14
          MS. CELESTINA-HORSEMAN: So do we get charged
15
     for this? Does the State get charged?
16
          MR. JARNAGIN: No, not for the modification.
     That's just internal modifications they're going to
17
18
     make in their manufacturing process, so whatever
19
     costs associated with buying the 2000.
20
          MR. KILARY: Two thousand units.
21
          MR. JARNAGIN:
                         Yeah. Those units will be just
2.2
     modified.
23
          MS. NUSSMEYER:
                         Mr. Chairman, if I might?
                                                      So
24
     this is the voter verifiable paper audit trail
25
     component that's attached to the unit; right?
```

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1
     so they had a pilot session this last November
2
     election, and they noticed that these two things
     that Jordan raised about the connection and then
3
     the other part of the puzzle. I'm sorry. I don't
4
5
     recall it specifically.
6
          MR. JARNAGIN: Just the case modification.
          MS. NUSSMEYER: The case modification.
7
8
     Something that when it was field tested in the real
9
     world, they realized we could make these minor
10
    modifications to the actual container of it.
11
     it's not going in and reprogramming a voting system
     or making a colossal change. It is truly just
12
     about remanufacturing the outer box to the VPPAT
13
14
     component.
15
          MR. JARNAGIN: It's just the metal box.
     don't know if you've seen one.
16
17
          CHAIRMAN OKESON:
                            Yeah, I have. I was more
18
     concerned really with 122, just when removing a
19
     power panel, doing some electronic wiring. I mean,
20
     I presume there is some sort of testing process.
2.1
          MR. KILARY: Yes. That was tested in VS's
     labs in Colorado.
22
23
          MS. CELESTINA-HORSEMAN: I have another
24
     question. And I don't know whether it's my
25
     ignorance. I'm sorry. After the election, do you
```

all go back or is it this group that goes back and takes a look at all the snafus that occurred with voting machines in the various counties so that we know what's going on out there?

MR. KING: If I can respond, Mr. Chairman? CHAIRMAN OKESON: Yes.

MR. KING: That depends upon the nature and extent of the problem. There are many ordinary ones that are predictable and recurrent. But if there's a serious malfunction that affects, you know, either large numbers of voters or large numbers of counties, then part of VSTOP's contract with the State is to conduct investigations and issue reports on their findings.

MS. CELESTINA-HORSEMAN: So how large does it have to be for them to look at it?

MR. KING: Well, I think that's a judgment call with regard to the nature of the problem, the extent of it. For example, it's common for a voting system of this type to have problems with what's called calibration where the candidate names are not lined up correctly. And that's an easily fixable problem at the county level without any sort of special technical intervention. It does cause, you know, confusion for voters and concern

for the counties.

When it rises to the level of, say, the

Dearborn County episode where all of the batteries
in all of the county's voting systems went dead on
election day because they got a bad set of
batteries from the manufacturer, VSTOP was called
in to determine what the nature of that battery
problem was.

MS. NUSSMEYER: And if I might add, some of this is also self-reported through certification that's filed with the State through the CEB9. If they have issues or malfunctions with their voting system or E poll book, they would report it there which would raise flags for us to determine whether or not more investigatory work might be needed. But also with electronic poll books, any sort of anomaly that comes through, the vendor has an obligation under state law to report it and report it to VSTOP so that we can deal with that issue in real time.

CHAIRMAN OKESON: And I was presumptuous earlier. I didn't ask if there was anyone from MicroVote here. There is not; correct?

(No response.)

CHAIRMAN OKESON: For the record, no one from

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MicroVote was here. Any other questions or
 1
 2
     discussion?
 3
          (No response.)
          CHAIRMAN OKESON: Hearing none, is there a
 4
 5
     motion to adopt VSTOP's recommendation for approval
 6
     of the engineering Change Orders 121 and 122 as
 7
     described in the report?
 8
          MR. CLAYTOR: So moved.
 9
          CHAIRMAN OKESON:
                            Second?
10
        MR. KLUTZ: Second.
11
          CHAIRMAN OKESON: Any further discussion?
12
          (No response.)
13
          CHAIRMAN OKESON: Hearing none, all of those
     in favor say "aye."
14
15
          THE COMMISSION: Aye.
16
          CHAIRMAN OKESON:
                            Those opposed?
17
          (No response.)
          CHAIRMAN OKESON: Hearing none, the motion
18
               I believe that concludes our business.
19
     carries.
20
     So motion to adjourn?
2.1
          MS. CELESTINA-HORSEMAN: So moved.
2.2
          CHAIRMAN OKESON: Second?
          MR. KLUTZ: Second.
23
          (The meeting concluded at 1:51 p.m.)
24
25
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1	STATE OF INDIANA
2	COUNTY OF MARION
3	I, Sally Cekander, a Notary Public in and for
4	said county and state, do hereby certify that the
5	foregoing meeting was taken at the time and place
6	heretofore mentioned between 1:35 p.m. and 1:57 p.m.;
7	That said meeting was taken down in stenograph
8	notes and afterwards reduced to typewriting under my
9	direction; and that the typewritten transcript is a
10	true record of the testimony given;
11	I do further certify that I am a disinterested
12	person in this cause of action; that I am not a
13	relative of the attorneys for any of the parties.
14	IN WITNESS WHEREOF, I have hereunto set my
15	hand and affixed my notarial seal this 9th day of
16	December, 2019.
17	Salan Ce Hander
18	Sally Coxander  Sally B. Cekander
19	NOTARY PUBLIC SEAL  STATE OF INDIANA  Commission No. NP055370P
20	My Commission Expires July 16, 2022
21	My Commission expires: July 16, 2022
22	July 10, 2022
23	Job No. 147932
24	
25	

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