

Original

BEFORE THE
INDIANA RECOUNT COMMISSION

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IN RE: ELECTION CONTEST)
)
INDIANA DEMOCRATIC PARTY,)
by its Chairperson, DANIEL J. PARKER)
)
Petitioner,)
)
v.)
)
CHARLIE WHITE,)
)
Respondent.)

Conducted On: Tuesday, June 21, 2011

Location: Indiana Government Center South
Conference Center, Room B
402 West Washington Street
Indianapolis, Indiana 46204

A STENOGRAPHIC RECORD BY:
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Notary Public
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A P P E A R A N C E S

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INDIANA RECOUNT COMMISSION:

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Mr. Thomas Wheeler - Chairman

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Mr. Bernard L. Pylitt - Commission Member

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Mr. Gordon Durnil - Commission Member

7

Mr. Mark Palmer - Recount Director

8

9

INDIANA ELECTION DIVISION STAFF:

10

11

Ms. Linda Vitone - Co-Legal Counsel

12

Mr. Bradley King - Co-Director

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Mr. Trent Deckard - Co-Director

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A P P E A R A N C E S

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FOR THE PETITIONER, DEMOCRATIC PARTY:

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Mr. William R. Groth
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FOR THE RESPONDENT, CHARLIE WHITE:

Mr. James Bopp, Jr.
Ms. Anita Y. Woudenberg
BOPP, COLESON & BOSTROM
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Terre Haute, Indiana 47807-3510

ALSO PRESENT: Mr. Daniel J. Parker
Mr. Charles P. White

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1 **CHAIRMAN T. WHEELER:** I'm going to call
2 this meeting of the Indiana Recount Commission
3 to order. We are meeting in Conference Room B
4 of the Indiana Government Center South for the
5 purpose of hearing the verified petition for
6 election contest filed by the Indiana Democratic
7 Party. We have the chairperson, Daniel J.
8 Parker, against the Respondent, Charlie White.

9 A couple of preliminary procedural matters.
10 One, this is being video streamed live, as well
11 as -- the media is here as well. Please be aware
12 of that as we move through the course of
13 this -- these proceedings.

14 There have been some concerns expressed
15 related to privacy issues. We may at some point
16 need to take a break or recess or halt video
17 streaming to resolve certain issues related to
18 privacy, as indicated at the last commission
19 meeting.

20 At this point in time, I would note that there
21 is a separation of witnesses in order. If anyone
22 anticipates themselves to be a witness in this
23 matter, they need to remove -- remove themselves
24 from these proceedings, and we have a conference
25 room, I believe...

1 **MR. B. KING:** Twenty-eight.

2 **CHAIRMAN T. WHEELER:** Conference Room 28
3 set up for the witnesses in this proceeding, if
4 they wish -- they do not have to use that, but
5 that would be convenient for us to come and get
6 you when it's your turn to testify.

7 Now the two exceptions to the separation of
8 witnesses are, of course, the two parties. I see
9 Mr. Parker is here. Mr. White is not yet here.
10 They are exempted from the separation of witnesses'
11 order.

12 Now we do have a bit of new business we need
13 to take up prior to the beginning of this
14 proceeding, and that involves Leslie Barnes,
15 counsel on the Democratic side. Leslie Barnes'
16 father died suddenly this weekend, and as a
17 consequence, she's not able to attend this hearing.
18 She has -- she and her family have our best wishes
19 from the commission.

20 As a consequence of that, we need to appoint a
21 counsel for the Democratic side, and I will defer
22 for a motion on appointment of counsel for the
23 Democratic side?

24 **COMMISSION MEMBER B. PYLITT:** Mr. Chairman,
25 I brought with me Linda Vitone of my office, who

1 I had asked to look into some of the issues, and
2 I would move that she be appointed as temporary
3 counsel to me under the terms and conditions
4 that Mr. Palmer was appointed and subject to the
5 funds being available to pay her.

6 **COMMISSION MEMBER G. DURNIL:** Second.

7 **CHAIRMAN T. WHEELER:** Motion's made and
8 seconded. Any further discussion?

9 *(No response.)*

10 **CHAIRMAN T. WHEELER:** I would simply thank
11 Linda for her willingness to step in at very
12 short notice in this situation and provide
13 assistance and look forward to working with you
14 today. All in favor of the motion, signify by
15 saying aye?

16 **THE COMMISSION:** Aye.

17 **CHAIRMAN T. WHEELER:** Those opposed, same
18 sign?

19 *(No response.)*

20 **CHAIRMAN T. WHEELER:** Motion carries.

21 Linda, welcome to the team. All right, we are
22 here today on the verified petition for election
23 contest filed by, again, the Indiana Democratic
24 Party, through it's Chairman, Dan Parker.

25 I'm going to read -- with respect to an

1 election contest, I'm going to read from the
2 Indiana Supreme Court's decision of *Burke versus*
3 *Bennett* which was issued in 2009, outlining -- kind
4 of framing the proceeding.

5 In *Burke versus Bennett*, the Indiana Supreme
6 Court said pursuant to Indiana Code 3-12-8-1, an
7 Indiana election contest action permits a
8 post-election challenge to the winning candidate.
9 The post-election remedy is available if the
10 winning candidate "was ineligible," citing I.C.
11 3-12-8-2(1).

12 In discussing how a commission like this shall
13 address this proceedings, the Indiana Supreme Court
14 said, and I said quote, this application of the
15 Indiana disqualification statute is consistent with
16 the longstanding respect for the right of the
17 people to free and equal elections, Indiana
18 Constitution, Article 2, Section 1, and the
19 reluctance of this Court to remove from office a
20 person duly elected by the voters.

21 Quoting *Pabey versus Patrick -- Pastrick*,
22 quote, this Court has long held that statutes
23 providing for contesting elections should be
24 liberally construed in order that the will of the
25 people in the choice of public officers may not be

1 defeated by any merely formal or technical
2 objections.

3 Quoting *Oviatt versus Behme*, properly
4 qualified voters may not be disfranchised except by
5 their own willful or deliberate act to the extent
6 that one who did not receive the highest vote cast
7 may still be declared elected.

8 Indiana Supreme Court in the *Burke* case, past
9 cases have refused to remove an elected officer on
10 claims of ineligibility unless the electorate had
11 notice or knowledge of the ineligibility or
12 disqualification.

13 Quoting *Fields versus Nicholson*, in the
14 absence of proof that the voters willfully threw
15 away their ballots on a candidate they knew could
16 not lawfully be elected, the mere fact that the one
17 who received the largest vote was ineligible to be
18 elected, is not enough to give the candidate who
19 received a less number the right to the office.

20 Those -- that's the framework in which this
21 commission is operating, as indicated by the
22 Indiana Supreme Court in the *Burke* case, and in
23 addition, for those of you who read Judge
24 Rosenberg's decision, Judge Rosenberg cites the
25 *Burke* case and those cases in his decision framing

1 this particular case and sending this case back to
2 this election commission. So this commission
3 operates within those constraints.

4 We have determined No. 1, that we will allow
5 each party 10 minutes for opening statement. Each
6 party then has four hours to call their witnesses
7 and present their evidence. Individual witnesses
8 will not be subject to recall. If the parties have
9 questions for a witness that has been called by the
10 other party; for example, the Petitioner, they
11 shall conduct that examination at that time through
12 direct examination, then cross, then redirect, then
13 recross, until they conclude the examination of
14 that witness.

15 At that point in time the witness will be
16 released from the subpoena and will not be subject
17 to recall. So the parties are reminded that they
18 need to make sure that they get their questions in
19 and their concerns in because that individual will
20 not be subject to recall at that time.

21 Now it's my understanding first that there are
22 a set of factual stipulations entered into between
23 the parties, which have previously been filed with
24 the Indiana Recount Commission, entitled, "Joint
25 Stipulated Facts" numbering 1 through 32; is that

1 correct?

2 **MR. J. BOPP:** Yes, with one amendment.

3 **CHAIRMAN T. WHEELER:** Okay. And the
4 amendment is to?

5 **MR. J. BOPP:** On No. 5, we have re-examined
6 that, and the voter registration application
7 filed in January of 2007 indicated a move from
8 the Broad Leaf residence to Pintail, which was
9 after his divorce, where he -- Charlie White got
10 an apartment at Pintail.

11 Pintail is in Delaware Township, Precinct 14,
12 not 12, so I'd move to -- I would suggest with the
13 agreement of Democrats that that be amended to
14 Pre -- to State Precinct 14.

15 In this regard, Stipulation No. 10 also
16 addresses this same issue, and it says White
17 changed his voter registration from the Broad Leaf
18 house to the Pintail apartment in January of 2007
19 so...

20 **CHAIRMAN T. WHEELER:** So 5 and 10 are the
21 same, it's the same change?

22 **MR. J. BOPP:** Yeah, 5 and 10 are
23 substantively the change. The only correction
24 is that Pintail apartment is at Precinct 14.

25 **CHAIRMAN T. WHEELER:** Any objection?

1 **MR. W. GROTH:** Mr. Chairman, you -- you had
2 raised this issue with us before we came into
3 the room today, and I had an opportunity to
4 consult with an Hamilton County election
5 official, and she assures me that the
6 stipulation, as it was originally entered into,
7 is correct, and that the Broad Leaf residence
8 is, in fact, located in Delaware Township,
9 Precinct 12. The Pintail residence is in
10 Precinct 14, but we believe that the information
11 contained in that stipulation is accurate.

12 **MR. J. BOPP:** Well, we withdraw our consent
13 to No. 5, if it's -- if it's not going to be
14 amended.

15 **CHAIRMAN T. WHEELER:** All right. We will
16 drop No. 5 as a stipulation and let the parties
17 sort that out with -- with the witnesses. Any
18 further amendments to the joint stipulation --
19 stipulated facts that were previously submitted?

20 *(No response.)*

21 **CHAIRMAN T. WHEELER:** Hearing none, I'll
22 accept a motion to admit the joint stipulated
23 facts?

24 **COMMISSION MEMBER G. DURNIL:** So moved.

25 **CHAIRMAN T. WHEELER:** Do I have a second?

1 **COMMISSION MEMBER B. PYLITT:** Second.

2 **CHAIRMAN T. WHEELER:** Motion's made and
3 seconded, any discussion from the Commission?

4 *(No response.)*

5 **CHAIRMAN T. WHEELER:** Hearing none, all in
6 favor of accepting the joint stipulated facts as
7 amended by the withdrawal of No. 5, signify by
8 saying aye?

9 **THE COMMISSION:** Aye.

10 **CHAIRMAN T. WHEELER:** Those opposed, same
11 sign?

12 *(No response.)*

13 **CHAIRMAN T. WHEELER:** Motion carries. It
14 is also my understanding that the parties at the
15 direction of the commission have prepared joint
16 exhibit binders. Does somebody have those --
17 all right, each of the commissioners has been
18 given a joint exhibit binder with an index of
19 exhibits, Exhibits 1 through 66; is there any
20 objection from the parties to the joint exhibit
21 binder?

22 **MR. J. BOPP:** Certainly, no objection, and
23 we join with the Democrats --

24 **CHAIRMAN T. WHEELER:** In moving the
25 admission?

1 **MR. J. BOPP:** -- in moving the admission of
2 the joint -- joint exhibits, and I would like to
3 take this opportunity to thank Karen and her
4 office for their cooperation, and they carried
5 the main load in putting that all together
6 and -- with the work that Anita did from my
7 office, and I'd like to thank them for that work
8 and their cooperation.

9 **MS. K. CELESTINO-HORSEMAN:** We did the best
10 we could.

11 **CHAIRMAN T. WHEELER:** And I notice that
12 these have been Bates stamped?

13 **MS. K. CELESTINO-HORSEMAN:** Right.

14 **CHAIRMAN T. WHEELER:** All right. Did you
15 Bates stamp all your exhibits, and then these
16 are the ones that you were able to agree to?

17 **MS. K. CELESTINO-HORSEMAN:** Yes. Now that,
18 or the exhibits -- they did -- their exhibits
19 were not Bates stamped. They used a different
20 page numbering system.

21 **CHAIRMAN T. WHEELER:** Right. Okay.

22 **MS. K. CELESTINO-HORSEMAN:** So those are in
23 the back, and they say something like 7 to 10,
24 or -- but you're still able to reference them.

25 **CHAIRMAN T. WHEELER:** Got it. Okay. I'll

1 accept a motion to admit the joint exhibit
2 binder, joint list of exhibits and joint exhibit
3 binder?

4 **COMMISSION MEMBER B. PYLITT:** So moved.

5 **COMMISSION MEMBER G. DURNIL:** Second.

6 **CHAIRMAN T. WHEELER:** The motion's made and
7 seconded, all in favor, signify by saying aye?

8 **THE COMMISSION:** Aye.

9 **CHAIRMAN T. WHEELER:** Those opposed, same
10 sign?

11 *(No response.)*

12 **CHAIRMAN T. WHEELER:** Motion carries. The
13 joint exhibit binder is admitted into evidence.
14 Now it is also my understanding that the parties
15 have been unable to stipulate to certain
16 exhibits by either party during our brief
17 pretrial -- prehearing conference. We discussed
18 these briefly. What I'd like to do is have the
19 Petitioner's side briefly summarize the exhibits
20 that they wish to introduce that were not
21 stipulated or agreed to.

22 **MS. K. CELESTINO-HORSEMAN:** The first is
23 Petitioner's Exhibit 1, which is the official
24 certified copy of the Loan Assumption and
25 Assignment.

1 **CHAIRMAN T. WHEELER:** Let me ask you this,
2 how many -- how many exhibits are there?

3 **MS. K. CELESTINO-HORSEMAN:** There are four,
4 plus there's going to be additional ones.

5 **CHAIRMAN T. WHEELER:** Okay, if you want to
6 go through each one, just briefly.

7 **MS. K. CELESTINO-HORSEMAN:** And that's a
8 certified copy. Petitioner's Exhibit No. 2 are
9 the Affidavit for Certification of Records from
10 GVC which was the mortgage lender. It contains
11 various documents signed by Mr. White,
12 containing his address and all of that.

13 **CHAIRMAN T. WHEELER:** Right.

14 **MS. K. CELESTINO-HORSEMAN:** Petitioner's
15 Exhibit No. 3 are his employment records from
16 Krieg DeVault. All of these look thick because
17 we -- in the interest of completeness, we put
18 everything in there.

19 **CHAIRMAN T. WHEELER:** Sure.

20 **MS. K. CELESTINO-HORSEMAN:** Exhibit No. 4
21 is -- are the certified cam -- financial records
22 for CORPAC, which is a Political Action
23 Committee. We're not interested in the numbers
24 or anything. It's the addresses that were used
25 on the completion of those, and I guess we do

1 have a -- well, no, I guess that's it, and then
2 we have the records from Krieg DeVault, did I
3 mention those?

4 **CHAIRMAN T. WHEELER:** You did, yes.

5 **MS. K. CELESTINO-HORSEMAN:** Okay. And then
6 we have -- we have a video of an interview with
7 Mr. White, did raw footage, that was transcribed
8 and recorded by a notary, a court reporting
9 firm, and they have agreed to the disk, but not
10 the transcript, and in the interest of time,
11 since we just want to refer to a couple of
12 times, we'd like to put in both the disk and the
13 transcript.

14 **CHAIRMAN T. WHEELER:** All right. Any
15 objection on the exhibits?

16 **MR. J. BOPP:** Based on the discussion that
17 we had, no.

18 **CHAIRMAN T. WHEELER:** All right. In that
19 case, I'll accept a motion to admit
20 Petitioner's, is that 7, including that -- the
21 video?

22 **MS. K. CELESTINO-HORSEMAN:** The video would
23 be the same exhibit.

24 **CHAIRMAN T. WHEELER:** Okay. It's -- and
25 they're using numbers, Mr. Palmer?

1 **MR. M. PALMER:** They're using numbers,
2 correct.

3 **CHAIRMAN T. WHEELER:** So that's -- what
4 numbers are those, 1 through...

5 **MS. K. CELESTINO-HORSEMAN:** One through 4.

6 **MR. W. GROTH:** Five.

7 **CHAIRMAN T. WHEELER:** I thought it was
8 five.

9 **MS. K. CELESTINO-HORSEMAN:** Five, fine.

10 **CHAIRMAN T. WHEELER:** Okay. I'll accept a
11 motion to admit Petitioner's 1 through 5?

12 **COMMISSION MEMBER B. PYLITT:** So moved.

13 **COMMISSION MEMBER G. DURNIL:** Second.

14 **CHAIRMAN T. WHEELER:** Motion is made and
15 seconded, any further discussion?

16 *(No response.)*

17 **CHAIRMAN T. WHEELER:** Hearing none, all in
18 favor of admitting Petitioner's Exhibits 1
19 through 5, signify by saying aye?

20 **THE COMMISSION:** Aye.

21 **CHAIRMAN T. WHEELER:** Those opposed, same
22 sign?

23 *(No response.)*

24 **CHAIRMAN T. WHEELER:** Motion carries. Does
25 the court reporter have a copy of the joint

1 exhibit binder?

2 **MS. K. CELESTINO-HORSEMAN:** She -- we made
3 one for her and we put it on the witness table
4 so that they can refer to it.

5 **CHAIRMAN T. WHEELER:** All right. So that
6 will would be -- that's our official copy. Will
7 you please circulate those copies now, one for
8 each commissioner, as well as -- Mr. Bopp, do
9 you already have copies of the Petitioner's,
10 these exhibits or not?

11 **MR. J. BOPP:** Yes, we do.

12 **CHAIRMAN T. WHEELER:** And just so that
13 we're clear, the exhibits have been -- the
14 exhibits have been redacted; correct?

15 **MR. J. BOPP:** Yes.

16 **CHAIRMAN T. WHEELER:** You're satisfied with
17 that?

18 **MR. J. BOPP:** Yes.

19 **CHAIRMAN T. WHEELER:** Social Security
20 numbers and personal information, and that's by
21 agreement of the parties?

22 **MR. J. BOPP:** Yes, we are satisfied.

23 **CHAIRMAN T. WHEELER:** Do you have copies of
24 No. 5?

25 **MS. K. CELESTINO-HORSEMAN:** Oh, that's the

1 transcript and...

2 **CHAIRMAN T. WHEELER:** Do you have copies of
3 the transcript?

4 **MS. K. CELESTINO-HORSEMAN:** It's in the
5 binder.

6 **CHAIRMAN T. WHEELER:** Oh, it's in the
7 binder.

8 **MS. K. CELESTINO-HORSEMAN:** It was just
9 agreed to, yeah.

10 **CHAIRMAN T. WHEELER:** Okay. So the only
11 thing that was -- we actually admitted the
12 video?

13 **MS. K. CELESTINO-HORSEMAN:** You admitted
14 the actual pages of the transcript. They're in
15 here.

16 **CHAIRMAN T. WHEELER:** All right. Where
17 are -- where are those?

18 **MR. W. GROTH:** Exhibit 12.

19 **CHAIRMAN T. WHEELER:** Got it, transcript of
20 Charlie White.

21 **MS. K. CELESTINO-HORSEMAN:** Right.

22 **CHAIRMAN T. WHEELER:** So the actual -- the
23 exhibit we just admitted as Exhibit 5,
24 Petitioner's Exhibit 5 is actually the video?

25 **MS. K. CELESTINO-HORSEMAN:** They had wanted

1 the video.

2 **CHAIRMAN T. WHEELER:** I'm sorry, Exhibit 7.

3 **MS. K. CELESTINO-HORSEMAN:** And we had
4 obtained the transcript pages.

5 **CHAIRMAN T. WHEELER:** We had already -- all
6 right, just to keep things straight. The
7 transcript is going to be part of the joint
8 exhibit binder?

9 **MS. K. CELESTINO-HORSEMAN:** Right.

10 **CHAIRMAN T. WHEELER:** And the video is
11 Exhibit, Petitioner's Exhibit 5?

12 **MS. K. CELESTINO-HORSEMAN:** Yes.

13 **CHAIRMAN T. WHEELER:** All right. Is that
14 it for the exhibits on the Petitioner's side?

15 **MS. K. CELESTINO-HORSEMAN:** Yes.

16 **CHAIRMAN T. WHEELER:** All right. From the
17 Respondent's side, it's my understanding there
18 are a series of exhibits that the Respondent
19 wishes to admit that were not stipulated to by
20 the parties?

21 **MR. J. BOPP:** Yes. Exhibits B, C, and D
22 are letters -- are envelopes from various
23 vendors, which show the change of address.
24 After Charlie's divorce, he lived at Pintail,
25 the apartment in the summer of 2009. He

1 terminated that lease and moved back to Nicole's
2 residence at Broad Leaf, and these are three
3 envelopes that would show that change of address
4 and location.

5 **CHAIRMAN T. WHEELER:** All right. So that's
6 B, C, and D?

7 **MR. J. BOPP:** B, C and D.

8 **CHAIRMAN T. WHEELER:** All right. And then
9 what else?

10 **MR. J. BOPP:** Exhibit E is -- let me just
11 make sure, E and F is, again, mail from vendors
12 and governmental officials arriving at the Broad
13 Leaf residence of Nicole, which Charlie had
14 moved to in July of 2009. Next is --

15 **CHAIRMAN T. WHEELER:** -- G.

16 **MR. J. BOPP:** Is G, which is the driver's
17 license of Charlie White showing his address as
18 the Broad Leaf house.

19 **CHAIRMAN T. WHEELER:** Now has that been
20 redacted, his driver's license number and
21 personal information?

22 **MR. J. BOPP:** Yes, it has. It has December
23 of 2009.

24 **CHAIRMAN T. WHEELER:** H?

25 **MR. J. BOPP:** There may or may not be H

1 next because I put these in order of
2 presentation so...

3 **CHAIRMAN T. WHEELER:** I understand.

4 **MR. J. BOPP:** Actually, they're not in
5 alphabetical order. SS is a document from
6 Anthem which was the insurance company for Krieg
7 DeVault where he went to work in February of
8 2010.

9 **CHAIRMAN T. WHEELER:** Let me ask this, how
10 many of these do you have?

11 **MR. J. BOPP:** Probably 25.

12 **CHAIRMAN T. WHEELER:** Would it be fair to
13 say that these are a series of documents from
14 various individuals, vendors, either to or from
15 Mr. White relating to where his address was at
16 various times?

17 **MR. J. BOPP:** That would be precisely what
18 these documents are.

19 **CHAIRMAN T. WHEELER:** Rather than go
20 through each individual one, unless the
21 commissioners have an objection, I'll accept a
22 motion on this?

23 **MS. K. CELESTINO-HORSEMAN:** May I?

24 **MR. J. BOPP:** You want me to indicate the
25 numbers because there's four that were

1 not -- that we have numbered, but we're not
2 going to use, so maybe for the record, I should
3 indicate the exhibit numbers.

4 **CHAIRMAN T. WHEELER:** Which ones are you
5 not going to use?

6 **MS. A. WOUDEBERG:** A, VV, UU and H.

7 **CHAIRMAN T. WHEELER:** And they run -- right
8 now, they run from A through what?

9 **MS. A. WOUDEBERG:** A through YY.

10 **CHAIRMAN T. WHEELER:** A through YY, all
11 right. Petitioner?

12 **MS. K. CELESTINO-HORSEMAN:** Mr. Chairman, I
13 don't know how they've organized theirs because
14 what we have is we received them by exhibit
15 numbers, so I'm not sure what documents they're
16 putting in. If they can direct me to that in
17 here, that would be helpful.

18 Also, we object to Mr. White not taking the
19 stand to authenticate these. He is propounding the
20 documents. If he takes the stand and he
21 authenticates them, then he is essentially stating
22 that there's nothing incriminating in the documents
23 and he is opened up to be questioned about the
24 documents and the questions relating to those
25 documents. So we would object on that basis to

1 these documents coming in without his
2 authentication of them.

3 **MR. J. BOPP:** These are from probably 25 to
4 30 different governmental agencies or companies,
5 and of course, we could have gotten the business
6 record person at each one of these to
7 authenticate the documents without Charlie White
8 taking the stand, and furthermore, I think they
9 are self -- they are self-authenticating because
10 they his name, his address -- it has identifying
11 information in each case for the company or
12 governmental agency involved, and for them to
13 try to leverage, once again, forcing him into a
14 trick bag over whether or not he is going to
15 waive his Constitutional rights that are in the
16 Bill of Rights from the foundation of our
17 country, you cannot be forced to
18 self-incriminate yourself or to compromise the
19 right of the voters to choose a -- an elected
20 official, which now they want to substitute
21 somebody who's been overwhelmingly defeated, you
22 know, it -- I think you should reject that
23 effort.

24 **CHAIRMAN T. WHEELER:** I'll accept a motion
25 on the proposed Exhibits A through YY, with the

1 exceptions of A, H, VV, and UU?

2 **COMMISSION MEMBER B. PYLITT:** Mr. Chair, I
3 would move that the Respondent be required to
4 make effort to authenticate each of those as
5 they're offered.

6 **CHAIRMAN T. WHEELER:** Do I have a second?

7 **COMMISSION MEMBER G. DURNIL:** I'm not sure.

8 **CHAIRMAN T. WHEELER:** Do I have a second
9 for purposes of discussion?

10 **COMMISSION MEMBER G. DURNIL:** Second for
11 purposes of discussion.

12 **CHAIRMAN T. WHEELER:** Motion's made and
13 seconded. Where I am on this, is the parties
14 had an opportunity to go out and get documents
15 authenticated, call custodian of records, bring
16 them in. I have a concern with just throwing a
17 bunch of documents out there without an
18 authentication.

19 You know, obviously, the Commission has the
20 ability as a -- as a fact-finding body to give
21 those due weight, and I'm certainly not inclined to
22 give them a whole heck of a lot of weight
23 unauthenticated in any fashion.

24 My inclination is that those documents need to
25 come in one at a time and described as to what they

1 are and how they are, that's kind of where I'm --
2 so I'm in support of the motion by Mr. Pylitt.

3 Hearing no further discussion, all in favor of
4 the motion to require the individual admission of
5 Exhibits A through YY, signify by saying aye?

6 **COMMISSION MEMBER B. PYLITT:** Aye.

7 **CHAIRMAN T. WHEELER:** Aye. Those opposed,
8 same sign?

9 **COMMISSION MEMBER G. DURNIL:** Aye.

10 **CHAIRMAN T. WHEELER:** Motion carries 2-1.
11 Anything further from the parties on exhibits?

12 **MR. W. GROTH:** Mr. Chair, there are two
13 other documents that we were just able to get
14 access to yesterday, which was from the poll
15 list for the November 2009 and May 2010 Primary.
16 The State Police impounded those documents. Mr.
17 Palmer issued a subpoena yesterday. I was able
18 to go over and make copies of the relevant pages
19 from those documents -- they're just two pages,
20 and I would...

21 **CHAIRMAN T. WHEELER:** Are they on the
22 exhibit list?

23 **MR. W. GROTH:** Those are not among the
24 stipulated exhibits.

25 **CHAIRMAN T. WHEELER:** Were they on the

1 original exhibit list, your exhibit list?

2 **MR. W. GROTH:** I'm sure they were.

3 **CHAIRMAN T. WHEELER:** Is there any
4 objection to these documents?

5 **MR. J. BOPP:** We haven't even seen them. I
6 mean, if they have documents that they have had
7 in their hands for hours, they haven't even
8 shown them to us.

9 **MR. W. GROTH:** Yeah. There was an
10 opportunity given to both sides yesterday by
11 State Police to come over and inspect and copy
12 those documents.

13 **CHAIRMAN T. WHEELER:** These are the
14 impounded documents?

15 **MR. W. GROTH:** These are the impounded
16 documents. I -- I can call the State Police
17 officer and have him authenticate them, but I'm
18 just trying to save some time.

19 **CHAIRMAN T. WHEELER:** No, I'm just -- are
20 they on the exhibit list?

21 **MS. K. CELESTINO-HORSEMAN:** Yes. We put
22 all -- the representative and have them as
23 exhibits.

24 **MR. J. BOPP:** All the -- all of those --

25 **CHAIRMAN T. WHEELER:** All of the records.

1 These are in the exhibit list?

2 **MR. J. BOPP:** -- are in the exhibit list.
3 All I'm asking is that they hand me a copy of
4 these two pages.

5 **CHAIRMAN T. WHEELER:** All right. Why don't
6 you give him a copy and see if he has an
7 objection?

8 **MR. W. GROTH:** Certainly.

9 **MR. J. BOPP:** Unless they're really too
10 secret for me to look at, but I have no
11 objection to either one of these.

12 **CHAIRMAN T. WHEELER:** All right. Thank
13 you. Do you have copies?

14 **MR. W. GROTH:** I'm going to have copies
15 made right now.

16 **CHAIRMAN T. WHEELER:** All right. And those
17 will be exhibit -- since there's no objection,
18 we'll make those Exhibit 6, Petitioner's Exhibit
19 6 -- yes?

20 **MR. W. GROTH:** Fine.

21 **CHAIRMAN T. WHEELER:** And then you'll make
22 copies for everybody. All right, anything
23 further from any of the parties before we begin
24 opening statements?

25 **MR. J. BOPP:** We should note for the record

1 that, Respondent, Charlie White is present.

2 **CHAIRMAN T. WHEELER:** Welcome, Mr. White?

3 **MR. C. WHITE:** Oh, thank you.

4 **CHAIRMAN T. WHEELER:** Now --

5 **MR. C. WHITE:** Thanks for having me.

6 **CHAIRMAN T. WHEELER:** -- with respect to
7 opening statements, each party has ten minutes.
8 I would ask the parties to silence their cell
9 phones, if anybody's got them. Mr. Palmer,
10 again, has got his fine timepiece out and ready
11 to go so he is the sole arbiter of time, both
12 the ten minutes a side, and then the four-hour
13 total time, and he will do allocations between
14 the parties. With that, it is the Petitioner's
15 case. Petitioner has ten minutes for opening
16 statement.

17 **MS. K. CELESTINO-HORSEMAN:** Thank you, Your
18 Honor. We believe the evidence today is going
19 to show that Mr. White changed his address like
20 some people change their shirts. It depended
21 upon the occasion. He -- for purposes of
22 securing a mortgage for a \$264,000 condominium,
23 for purposes of his employment at Krieg DeVault,
24 he lived at 13086 Overview Drive. For purposes
25 of retaining his town council district seat in

1 District 2, he lived at Broad Leaf.

2 There have been newspaper stories, the most
3 recent one today, with various claims, going back
4 to September of 2009, where he stated that he had
5 actually moved into the Overview Drive condominium
6 in September -- I mean, in March of 2010.

7 There's been no objection, no statements made
8 anywhere, no -- nothing shows in the documents that
9 contradicts that at the very least, prior to
10 July 15th, 2010, he was living at Overview and was
11 registered at Broad Leaf, and July 15th being the
12 operative date by which he had to -- to
13 register -- I mean, for purposes of being a
14 candidate for Secretary of State.

15 There are a lot of documents here today. I
16 think it's -- it's been a difficult case, kind of
17 like building a house on sand, because we don't
18 know whether we're going to have testimony or a
19 Fifth Amendment or whatever so I apologize for the
20 abundance of documents. Hopefully, maybe we won't
21 need to go through them. Thank you.

22 **CHAIRMAN T. WHEELER:** I really appreciate
23 that. Mr. Bopp, and I appreciate the brevity as
24 well.

25 **MR. J. BOPP:** Thank you. First, I want to

1 set forth the law that will be -- that guides
2 the decision about the qualifications of a
3 statewide official. Of course, the petition is
4 filed by the Democrats, is required to set forth
5 the specific Constitutional and statutory
6 requirement that the candidate fail to meet as
7 far as his qualifications for office.

8 The petition claims a violation of 3-8-1-1.
9 3-8-1-1 applies to people running for state office,
10 as Charlie White was running for Secretary of
11 State, and it requires -- its requirement to be
12 qualified to run for that office is that he
13 cannot -- he is not qualified -- it's put in the
14 negative, he is not qualified to run for Secretary
15 of State. Unless the person is registered to vote
16 in the election district, the person seeks to
17 represent not later than the deadline for filing
18 the declaration or petition of candidacy or
19 certificate of nomination.

20 With respect to each of those elements, here
21 because he was nominated by the Republican
22 convention, he had a certificate of nomination. He
23 was required to file and the Party filed on his
24 behalf a certificate of nomination which he
25 received from the Republican convention. The

1 deadline for filing that certificate of nomination
2 was July 15th. Now what that means is that the
3 person must be registered to vote in the election
4 district.

5 Well, prior to July 15th, he was -- he had
6 three different voter registration locations --
7 well, actually, four. The first was when he was
8 married to Nicole at Broad Leaf. Secondly, when he
9 divorced from her and purchased or rented an
10 apartment, that was at Pintail. The third was when
11 that lease at Pintail was up, he made his primary
12 residence back at Nicole's house at Broad Leaf, and
13 then once he was married, he made his primary
14 residence -- and he was married on May 28th of
15 2010, he made his primary residence at Overview
16 apartment -- Overview condominium, which he had
17 purchased and which Michelle had been living in
18 prior to their marriage, and that occurred right
19 after their honeymoon in June of 2010, and that
20 continued to be and continues to this day to be his
21 place of voter -- where he is registered to vote.

22 All of these locations are within the election
23 district of the Secretary of State, that is they're
24 all within the State of Indiana, and furthermore,
25 they are all within Hamilton County. Now there is

1 a rebuttable assumption that Indiana law creates
2 for purposes of determining the residency of a
3 person in a precinct. The relevant two sections
4 are 3-5-5-10, which is a change in precinct of
5 residence, which provides that if a person moves
6 into another precinct in Indiana with the intent of
7 making that precinct a person's residence, the
8 person loses residence in the precinct that the
9 person left. And of course, the two -- there were
10 two relevant changes of precinct location, one was
11 from Pintail to Broad Leaf in the summer of 2009,
12 and the -- and the second was from the Broad Leaf
13 house to the Overview condominium in June of 2010.

14 Now to determine whether such an event
15 occurred, that is the changing of the voter
16 registration location, you look at 3-5-5-11.
17 3-5-5-11, again, making presumptions of where a
18 person resides for purposes for voter registration,
19 the place where a person's immediate family resides
20 is the person's residence. So the presumption is
21 if your immediate family is in a certain location,
22 then that is where, for voter registration
23 purposes, your residence is.

24 Well, of course, in the Broad Leaf house,
25 Nicole's, where he made -- which he made his

1 primary residence in the summer of 2009, is his
2 immediate family, that is his son, William, who
3 resides at that residence. In June of 2010, when
4 he left Broad Leaf to take up residence at the
5 Overview condominium, his immediate family resided
6 at Overview, because on May 28th, he had married
7 Michelle. So in both instances he took up
8 residence and established his voter registration at
9 the locations in which his immediate family
10 resided.

11 The -- so what you have is both intent, which
12 is intent governing -- governs a -- where a person
13 resides, it's where the person intends to reside;
14 and secondly, where your immediate family is
15 located. Now the only thing that I guess some
16 people misunderstand, and particularly, the
17 Petitioners, when they filed this, is that when a
18 person changes residency within a county, they're
19 not required to run down to the voter registration
20 office and immediately file a change of address.

21 In fact, Indiana law is not, you know, some
22 series of gotchas, where we're going to make
23 criminals of ordinary citizens -- literally,
24 thousands, if not hundreds of thousands, change
25 their residence, many within the same county, make

1 them immediately criminals or throw them out of
2 office because they didn't run down to voter
3 registration. In fact, there is months in which
4 the change of address can be filed and --

5 **CHAIRMAN T. WHEELER:** Mr. Bopp, can I ask
6 you a quick question?

7 **MR. J. BOPP:** Uh-huh.

8 **CHAIRMAN T. WHEELER:** The statute actually
9 contemplates that because the statute talks
10 about an abandonment of a residence and it
11 contemplates situations in which people are
12 maybe temporarily out of the state, for
13 example -- the statute talks about the -- it
14 talks about very specific circumstances where a
15 person doesn't have to change their voter
16 registration --

17 **MR. J. BOPP:** Yeah.

18 **CHAIRMAN T. WHEELER:** -- because they have
19 to actually have abandoned the residence and
20 have the intent to move to a new residence; is
21 that a fair statement?

22 **MR. J. BOPP:** That would be a fair
23 statement.

24 **CHAIRMAN T. WHEELER:** And would it also --
25 also be a fair statement that this entire

1 residency determination statute is based upon
2 the Evan Bayh case; correct?

3 **MR. J. BOPP:** Yes.

4 **CHAIRMAN T. WHEELER:** This is essentially a
5 codification of what the Supreme Court said in
6 the Evan Bayh case, and in Evan Bayh's case, he
7 was out of state for what, a year and a half
8 working -- well, working in Washington D.C. at
9 the Hogan & Hartson's firm for a year and a
10 half, yet, the Indiana Supreme Court said for
11 purposes of Indiana law, he still resided in
12 Indiana because he had the intent to remain;
13 correct?

14 **MR. J. BOPP:** Yes.

15 **CHAIRMAN T. WHEELER:** And so that's where
16 this whole -- this whole intent -- as I
17 understand the focus of your case, it's about
18 intent and abandonment; correct?

19 **MR. J. BOPP:** It's about intent -- for his
20 intent to establish his residency at various
21 locations, which will be corroborated by the --
22 the evidence, and also -- also the presumption
23 that -- that you are where your immediate family
24 is, which also corresponds in each instance to
25 where his immediate family was.

1 Now with respect to changing your voter
2 registration address, the Indiana statute 3-7-39-1
3 establishes the duty of a voter to transfer
4 registration. A voter who transfers residence
5 shall transfer the voter's registration to the
6 address where the voter currently resides by
7 sending a transfer of registration on a prescribed
8 form for the circuit court of the board of
9 registration.

10 When you change your address within the same
11 county, 3-7-39-2 applies, and that provides that a
12 voter may change the residence address on the voter
13 registration to an address within the same county
14 at any time, any time, at any time during the
15 registration period prescribed in this article --
16 now they only said "any time" once, but I said it
17 several times, I guess, for -- for inferences.

18 Now you then can consult what is the
19 registration period during the applicable period of
20 time? Well, certainly, the last move --

21 **CHAIRMAN T. WHEELER:** This is your yellow
22 light.

23 **MR. J. BOPP:** Thank you. Certainly, the
24 last move was in -- in June of 2010. This is
25 now not the pre-primary period, which the

1 primary had already occurred in May, this is the
2 pre-general election period, and 3-7-13-10(c)
3 provides that the registration period resumes 14
4 days after the primary election day and
5 continues through the 29th day before the date
6 of the general election -- I mean, that is
7 months, and Charlie changed his residence from
8 Broad Leaf to Overview in June and then filed
9 his change of registration in September, both of
10 which were within the general election
11 registration period. So his change of
12 address --

13 **CHAIRMAN T. WHEELER:** It's fair to say he
14 changed his registration the day after the press
15 conference by Mr. Purvis; is that a fair
16 statement?

17 **MR. J. BOPP:** I'm not sure if that's a fair
18 statement. Maybe we'll -- maybe we'll find that
19 out when we question Mr. Purvis about when --
20 what he did and when he knew -- knew it?

21 **CHAIRMAN T. WHEELER:** Well, I just asked
22 you about the press conference, I'm talking
23 about. All right, that's the end of your time.

24 **MR. J. BOPP:** All right. Now you indicated
25 that we could go a little bit longer but it

1 would take it out of our four minutes so...

2 **CHAIRMAN T. WHEELER:** I wasn't going to let
3 you go four hours.

4 **MR. J. BOPP:** No. No, I only have -- I
5 only have three more hours left.

6 **CHAIRMAN T. WHEELER:** You're probably out.

7 **MR. J. BOPP:** At this point, and normally
8 what I would do would be review the facts beyond
9 what I've explained and the documents show are
10 the facts in this case, but unfortunately, we're
11 in a situation where Charlie has been put in a
12 trick bag, and that is that the Democrats have
13 objected to any use immunity. Every Democrat
14 we've dealt with on the use immunity question
15 has refused to agree --

16 **CHAIRMAN T. WHEELER:** Let me give you 30
17 seconds now.

18 **MR. J. BOPP:** -- or overrule, whatever,
19 because they don't want him to testify. They
20 want him to be placed in a position where --
21 where he has to -- he feels he has to defend his
22 own Constitutionally-protected rights, which he
23 should never be placed in that petition --
24 position.

25 And so I can't -- beyond the documents, I

1 can't represent what Charlie White will testify to,
2 nor can I represent what Michelle will testify to
3 because we will see if they testify.

4 **CHAIRMAN T. WHEELER:** You time is up. I
5 would note that your client certainly has shown
6 no reticence to talk to the AP or anybody else
7 other than this commission.

8 **COMMISSION MEMBER B. PYLITT:** And we did
9 point out last Tuesday that Title 35 is the only
10 mechanism for use immunity. The prosecutor has
11 to ask the court who has jurisdiction over that.

12 **CHAIRMAN T. WHEELER:** Right. And my
13 understanding is that took place Monday morning
14 and that was denied. So we will operate within
15 the framework that the courts have given us.
16 With that, it's my understanding that we do have
17 Petitioner's Exhibit 6 coming around right now.
18 All right, the court reporter needs one,
19 whichever your official copy is.

20 **MR. W. GROTH:** We're short one.

21 **CHAIRMAN T. WHEELER:** Mr. Pylitt and I will
22 share.

23 **MR. W. GROTH:** That's fine. Thank you.

24 **CHAIRMAN T. WHEELER:** All right.
25 Petitioner, you're on the clock.

1 **MS. K. CELESTINO-HORSEMAN:** Thank you, Mr.
2 Chairman. We would call Charlie White to the
3 stand.

4
5 **CHARLES PATRICK WHITE,** a witness called on
6 behalf of the Petitioner, having been first duly
7 sworn by the Recount Director, took the stand and
8 testified as follows:

9
10 **DIRECT EXAMINATION,**

11 **QUESTIONS BY MS. KAREN CELESTINO-HORSEMAN:**

12 **Q** Mr. White, would you please state your full name
13 for the record?

14 **A** Charles Patrick White.

15 **Q** And in the interest, I'm going to jump right
16 into this --

17 **A** That's okay.

18 **Q** -- because we're limited on time. Mr. White,
19 you have an ex-wife, do you not?

20 **A** Yes.

21 **Q** And her name is Nicole Mills; correct?

22 **A** Nicole Sabrina Mills.

23 **Q** Okay. And when you were married to Ms. Mills,
24 you resided together at 7527 Broad Leaf,
25 Fishers, Indiana; is that right?

1 **A** We resided there, yes.

2 **Q** And from here on, I'm going to refer to that as
3 the Broad Leaf house, all right?

4 **A** Okay, but we didn't reside there the entire
5 marriage.

6 **Q** Right. But you did --

7 **A** Okay, yeah.

8 **Q** -- reside together there? Now you moved out of
9 the Broad Leaf house in 2006; is that correct?

10 **A** Yes.

11 **Q** And you subsequently went through a divorce with
12 Ms. Mills, and her married name is now Nicole
13 Mills; correct?

14 **A** Yes.

15 **Q** Now --

16 **CHAIRMAN T. WHEELER:** Let me -- let me stop
17 you there. I heard two questions, did he
18 subsequently divorce, and what was her married
19 name, if you could break those two up?

20 **MS. K. CELESTINO-HORSEMAN:** Okay.

21 **Q** You subsequently divorced Ms. Mills; correct?

22 **A** Subsequent to what?

23 **Q** You divorced Ms. Mills; correct?

24 **A** Yes, at the end of 2006.

25 **Q** And she then remarried, so her name is Nicole

1 Mills; correct?

2 **A** Yes.

3 **Q** Now when you moved out of the Broad Leaf house
4 you moved into 6994 Pintail Drive, Apartment
5 107, Fishers, Indiana; is that right?

6 **A** You said 6994, Apartment 107; correct?

7 **Q** Yes.

8 **A** Yes.

9 **Q** Yes, and I tend to speak softly, so please let
10 me know if you can't hear it?

11 **A** Well, that's all right.

12 **Q** I'm going to refer --

13 **CHAIRMAN T. WHEELER:** Let me -- let me hold
14 you for one second. Is the court reporter okay
15 with -- all right. I usually get criticized for
16 talking too fast. I know you want to move
17 through quickly.

18 **Q** So I'm going to refer to this now as the Pintail
19 apartment from here on out?

20 **A** Okay.

21 **Q** Now in January of 2007, you quitclaimed title to
22 the Broad Leaf house to your ex-wife, Nicole
23 Mills; correct?

24 **A** I do not remember the actual date that I
25 quitclaimed the apartment -- I mean, quitclaimed

1 the Broad Leaf Lane house. I know it was
2 somewhere in January, February, March, in that
3 ballpark, but I cannot remember when I did it,
4 but I know it was earlier that year, --

5 Q In 2007?

6 A -- pursuant to the divorce agreement -- yes.

7 Q I'm sorry, it was --

8 A Yeah.

9 Q -- in 2007?

10 A Yeah.

11 Q And then in June of 2009, you became engaged to
12 your current wife, Michelle Quigley-White;
13 correct?

14 A June of 2009, yes.

15 Q Now in September of 2009, you began looking for
16 your own place to purchase; is that right?

17 A No. I was looking around many places throughout
18 that whole summer. That was not...

19 Q No, but you were looking for a home to purchase;
20 correct, in September of 2009?

21 A Yes, I was looking at a -- at a place to
22 purchase.

23 Q And you and Miss Quigley-White looked at a
24 condominium, specifically, Unit 5B, located at
25 13086 Overview Drive, Fishers, Indiana; is that

1 correct?

2 **A** Yes.

3 **Q** And I'm going to refer to that from here on out
4 as the Overview condominium.

5 **A** Okay.

6 **Q** Now you signed a contract to purchase the
7 Overview condominium on September 19th of 2009;
8 is that correct?

9 **A** I don't remember the exact date, but I do -- it
10 was around -- on or about September 19th.

11 **Q** Now before you could get a mortgage to purchase
12 the Overview condominium, you had to be taken
13 off the mortgage on the Broad Leaf property;
14 correct?

15 **A** Yes.

16 **Q** So in October 2009, Nicole Mills assumed the
17 mortgage on the Broad Leaf property; correct?

18 **A** I'm sorry, could you repeat that?

19 **Q** Sure. So in October of 2009, Nicole Mills
20 assumed the mortgage on the Broad Leaf property;
21 correct?

22 **A** Yeah, on or about October/November. I can't
23 remember the exact month.

24 **Q** Now I would like you to turn -- there's a book
25 over there in front of you?

1 **A** Okay.

2 **Q** If you could turn to Tab No. 19?

3 **A** (The witness complied.)

4 **Q** And that's stipulated Exhibit No. 19.

5 **A** The lease agreement?

6 **Q** Yes.

7 **A** Okay.

8 **Q** Now if you will flip to the last page?

9 **A** Okay.

10 **Q** It appears to be your signature; correct?

11 **A** I'm sorry -- the last page of the agreement,
12 yes, that does appear to be my signature.

13 **Q** Okay. Now this is a lease to rent the Overview
14 condominium; correct?

15 **A** Yes.

16 **Q** And the reason why you were renting the Overview
17 condominium is because you wanted to purchase it
18 but could not get -- your mortgage was
19 not -- didn't have mortgage financing at that
20 time; correct, as of November of 2009?

21 **A** It -- that's not entirely correct.

22 **Q** Okay. Let me make an easier question.

23 **A** Yeah. Yeah.

24 **Q** You -- you wanted to purchase the Overview
25 condominium; correct?

1 **A** Yes, eventually.

2 **Q** And so to make sure that no one else was able to
3 purchase it, you went ahead and entered into a
4 lease agreement; correct, of the Overview...

5 **A** That's part of the reason why.

6 **Q** Okay. And in that lease agreement, you agreed
7 to pay -- Paragraph 1, on the first page, you
8 agreed to pay approximately \$1,700 a month for
9 that condominium; correct?

10 **A** Correct.

11 **Q** Now if you'll go to Paragraph 6 of this first
12 page of the lease agreement, you were prohibited
13 from assigning the lease or subleasing or
14 granting any concession or license to use the
15 Overview condo by anyone other than you;
16 correct?

17 **A** That's not the way I interpreted it but -- I
18 don't agree with the way you're interpreting No.
19 6.

20 **Q** Well, if you wanted anyone else to be able to
21 take possession of it without you being in
22 possession of it, you had to get the written
23 consent of the landlord; is that right?

24 **A** That is not what I see that saying. What you
25 said, I think, is different that what is says in

1 6.

2 Q Six says that you shall not assign this lease or
3 sublet or grant any concession or license to use
4 the premises or any part thereof without the
5 prior written consent of the landlord.

6 You had no such consent of the landlord for
7 anyone to have a license to use it or your
8 concession for them to use it; correct?

9 A I -- I don't agree with -- I mean, you are
10 saying things that --

11 Q Did you have a prior consent --

12 A You are saying things that are not in No. 6,
13 ma'am.

14 CHAIRMAN T. WHEELER: Let the -- let the
15 witness answer your question.

16 THE WITNESS: Excuse me?

17 CHAIRMAN T. WHEELER: I just asked her to
18 let you finish answering the question.

19 A No. You are saying things that are not in No.
20 6.

21 Q No, you're not understanding my question
22 perhaps. You had -- did not have written
23 consent of the landlord for a sublease --
24 sublease, a lease, a concession or license to
25 use the premises by anyone other than you;

1 correct, you did not have that from the
2 landlord?

3 **A** I will agree that it says what it says, but not
4 your interpretation of it, ma'am.

5 **Q** Did you have the prior written consent of the
6 landlord for anyone to use that property, to
7 take possession, to be primary possessor of that
8 property other than you?

9 **A** Ma'am.

10 **Q** Just in writing --

11 **A** Ma'am.

12 **Q** -- did you have that?

13 **A** Ma'am, if you look at the e-mails going back and
14 forth, it was obvious who was moving in --

15 **Q** Did you have --

16 **A** -- so I will view that as consent.

17 **Q** Do you have it -- but you were part of that
18 moving in. You didn't have -- you don't have a
19 document, do you, that says that own -- that
20 other people other than you can have exclusive
21 possession of that condo; isn't that right?

22 **A** Exclusive possession -- exclusive possession?

23 **Q** Yes.

24 **A** No.

25 **Q** Okay, thank you. Now --

1 **CHAIRMAN T. WHEELER:** Counsel, at this
2 moment, I need to make a disclosure in looking
3 at this document. I would note that at Page 2
4 of this document, there's an individual to whom
5 notice is going on this by the name of Thomas F.
6 Bedsole.

7 Mr. Bedsole is a partner in my law firm. I
8 have no knowledge. I have never talked with Mr.
9 Bedsole about this at all, but I want to make that
10 disclosure to -- to both parties. I wasn't aware
11 of that until I saw Mr. Bedsole's name on this
12 document.

13 **Q** Now in Paragraph 1 of stipulated Exhibit No. 19,
14 you were given possession on the 13th of
15 November; correct, of the Overview condominium?

16 **A** Miss, I do not remember when the possession was
17 because -- and the reason why was because it was
18 a model, and I do not remember -- because it was
19 a model, they had a lot of furniture in there
20 they had to move, so Miss, I cannot remember
21 after this was signed how long it took them to
22 move their furniture out of the condominium.

23 **Q** That wasn't my question, Mr. White. My question
24 to you was that pursuant to the terms of this
25 lease agreement in Paragraph 1, that it says

1 here that you shall tenant, and by the way, you
2 are the only person listed as tenant in this
3 lease agreement; isn't that right?

4 **A** That's correct.

5 **Q** And it says that the tenant shall have
6 possession of the property on November 13th,
7 2009; isn't that correct?

8 **A** Tenant shall have -- yes, that's correct.

9 **Q** Now I'd like you to turn, let's see, to
10 stipulated No. 16?

11 **A** Sixteen.

12 **Q** Oh, I'm sorry -- oh, I'm sorry, Paragraph 16 of
13 stipulated Exhibit No. 19?

14 **A** Okay, Paragraph 16 -- that means Tab 16; right?

15 **Q** I'm sorry, no, it's stipulated Exhibit No. 19,
16 Paragraph 16.

17 **CHAIRMAN T. WHEELER:** We're still on Tab
18 19, --

19 **MS. K. CELESTINO-HORSEMAN:** Yes.

20 **CHAIRMAN T. WHEELER:** -- Paragraph 16?

21 **MS. K. CELESTINO-HORSEMAN:** Yes.

22 **CHAIRMAN T. WHEELER:** Thank you.

23 **COMMISSION MEMBER B. PYLITT:** Titled
24 insurance?

25 **MS. K. CELESTINO-HORSEMAN:** Yes.

1 Q Now this Paragraph 16 required you to have
2 insurance on the property; isn't that correct?

3 A Yes.

4 Q And you had to insure the contents of the
5 property, isn't that right?

6 A Yes.

7 Q Now I'd like you to turn to Exhibit No. 20,
8 stipulated Exhibit No. 20.

9 A (The witness complied.)

10 Q Now this is a declarations page of a renters
11 policy; isn't that right?

12 A Let me see -- yeah, State Farm Fire & Casualty
13 Company Renters Policy, yes.

14 Q Who is the name insured on this policy?

15 A Charles P. White.

16 Q And what is the address for Charles P. White?

17 A 13086 Overview Drive, Unit 5B, Fishers, Indiana,
18 46037.

19 Q And up in the upper right-hand corner, what date
20 does it say that this was amended?

21 A Effected -- effective?

22 Q Effective date is -- well, no, amended; doesn't
23 it say up there in the upper right-hand corner
24 amended --

25 A Oh.

1 Q -- November 5th, 2009?

2 A Amended -- yeah, amended 5th, and it's cut off.
3 I assume it's 2009.

4 CHAIRMAN T. WHEELER: That is 2009?

5 THE WITNESS: Yeah.

6 MS. K. CELESTINO-HORSEMAN: Yes.

7 Q Now in that language -- now it says that your
8 policy is amended on November 5th, 2009
9 underneath that section titled renters policy,
10 and it says insured name and/or address change.
11 Well, your name hadn't changed from Charles P.
12 White, had it?

13 A No, it hadn't.

14 Q And you did have an additional interest which
15 was added, which was Townhome Partners; isn't
16 that true?

17 A If that's what that means at the top, yes, 131
18 Townhome Partners.

19 Q And they were the owners of the Overview Drive
20 condominium; isn't that right?

21 A I believe so.

22 Q And so -- and over here to the left here it says
23 location of resident's premises, same as
24 insured's address. So if the residence --
25 insured's address is 13087 Overview Drive, then

1 this insurance company is stating that your
2 residence and premises is also 13086 Overview
3 Drive; isn't that right?

4 **A** I don't know their standard policies, ma'am. I
5 mean, if you want me to...

6 **Q** You're a lawyer, Mr. White, aren't you?

7 **A** I'm a DNR attorney, and I was a family law
8 attorney, but not an insurance attorney.

9 **Q** So I'm sorry, you're having difficulty reading
10 the declarations page of an insurance policy.

11 **MR. J. BOPP:** You know, I'd --

12 **CHAIRMAN T. WHEELER:** Counsel, I'd
13 appreciate if you would refrain from that.

14 **MS. K. CELESTINO-HORSEMAN:** You're correct,
15 Mr. Chair, I'm sorry.

16 **Q** So the insurance company somehow came up with
17 the Overview Drive address. You were the one
18 that gave them the Overview Drive address,
19 didn't you?

20 **A** Yes.

21 **Q** Now I would like you to turn to stipulated
22 Exhibit No. 2 in the book, please?

23 **A** No. 2 -- Ashlee Johnson, okay.

24 **Q** And No. 3, if you could flip through those?

25 **A** Okay.

1 Q The electrical service in the Overview
2 condominium was through Duke Energy; is that
3 right?

4 A Yes, it was.

5 Q And these first bills in Exhibit 2 are from Duke
6 Energy; isn't that true?

7 A Yes.

8 Q And whose name were the electric utility bills
9 in at the Overview condominium, in whose name
10 were those bills?

11 A Those names were -- that name was Charles P.
12 White.

13 Q And what address is listed for Charles P. White
14 on those utility bills?

15 A 13086 Overview Drive, Building --

16 Q And when you go down --

17 A -- 5.

18 Q I'm sorry. When you go down further, it states
19 this bill was -- due date of January 7th, 2010,
20 that's up at the top?

21 A Okay. You're talking about...

22 Q I'm sorry, Page 156 -- the page numbers are in
23 the middle at the top.

24 A Oh, okay. What did you ask, ma'am?

25 Q Okay. The due date on this bill was January

1 7th, 2010; correct?

2 **A** Correct.

3 **Q** And if you go down to the middle of the page
4 thereabouts, it says it covers the period
5 November 11th through December 14th of 2009;
6 isn't that right?

7 **A** Just a second -- oh, November 11th to December
8 14th, yes.

9 **Q** Now if you'll flip to Exhibit No. 3, --

10 **A** No. 3?

11 **Q** -- those are the water bills. And the first
12 bill -- go to the very last page of Exhibit No.
13 3?

14 **A** The very last page?

15 **Q** Yes.

16 **A** Okay.

17 **Q** And it has the billing date of December 22nd of
18 2009; is that right?

19 **A** That's right.

20 **Q** And the person in whose name this water service
21 is listed?

22 **A** Charles P. White.

23 **Q** And what address is listed for Charles P. White?

24 **A** 13086 Overview Drive, Fishers.

25 **Q** I am --

1 **MS. K. CELESTINO-HORSEMAN:** May I approach
2 the witness, Mr. Chairman?

3 **CHAIRMAN T. WHEELER:** Yes, ma'am.

4 **Q** I'm going to hand you what has been marked as
5 Petitioner's Exhibit No. 2. You are familiar
6 with the GVC Mortgage, are you not?

7 **A** No -- I mean, my current loan is through Bank of
8 America, but I don't -- maybe they were the
9 original company. I don't...

10 **Q** You worked with Dale Monroe on getting the
11 financing?

12 **A** That was my mortgage broker, yes.

13 **Q** And he was with GVC?

14 **A** I -- I don't know.

15 **Q** Well, your lease on the Overview condominium was
16 to expire when you closed on the purchase of the
17 condominium; correct?

18 **A** If the closing occurred on or before April of
19 2010.

20 **Q** And so you needed to get a mortgage to purchase
21 that condominium, didn't you?

22 **A** What did you ask?

23 **Q** You needed to get a mortgage to purchase the
24 condominium, didn't you?

25 **A** Yes, I did.

1 Q And this wasn't the first time that you had
2 applied for a mortgage, was it?

3 A (The witness nodded.)

4 Q You applied for a mortgage at Broad Leaf, didn't
5 you?

6 A Yes, but that was a long time ago and...

7 Q But you knew that you don't lie on a mortgage
8 application; isn't that right?

9 A Sure, yeah.

10 Q And you wouldn't lie on a mortgage application,
11 would you, Mr. White?

12 A Of course, no.

13 Q So on -- if you'll flip to Page 6 of
14 Petitioner's Exhibit No. 2?

15 A (The witness complied.)

16 MR. J. BOPP: We don't have a copy of that.
17 Can we have a copy?

18 MS. K. CELESTINO-HORSEMAN: Those are the
19 records I sent yesterday. Those -- I mean, you
20 got the GVC records.

21 CHAIRMAN T. WHEELER: Do you have a copy
22 they can use?

23 MS. K. CELESTINO-HORSEMAN: I think this...

24 MR. J. BOPP: I asked her and I don't have
25 one.

1 **CHAIRMAN T. WHEELER:** Here. Mr. Bopp --
2 Mr. Bopp, you may use my copy. I will operate
3 off of Mr. Pylitt's copy, unless he has an
4 objection.

5 **MR. J. BOPP:** Thank you.

6 **COMMISSION MEMBER B. PYLITT:** Mr. Chairman,
7 I hate to interrupt. There is a lender case
8 number at the top of almost each one of these
9 pages that I think probably should be redacted,
10 along with home telephone numbers on Page 2. I
11 don't think it's proper that the record have
12 that information.

13 **CHAIRMAN T. WHEELER:** And I'll agree.
14 We'll order that redacted from the documents for
15 part of the public record.

16 **MR. J. BOPP:** Okay. The home phone number,
17 is that what you're saying, and what -- oh, the
18 lender case number up at...

19 **COMMISSION MEMBER B. PYLITT:** In the top
20 right corner.

21 **MR. J. BOPP:** Okay.

22 **COMMISSION MEMBER B. PYLITT:** And that
23 lender case number appears, Mr. Bopp, on a whole
24 variety of these pages.

25 **MR. J. BOPP:** Okay, thanks a lot.

1 **MS. K. CELESTINO-HORSEMAN:** May I proceed?

2 **CHAIRMAN T. WHEELER:** Please.

3 BY MS. K. CELESTINO-HORSEMAN:

4 **Q** You have Petitioner's Exhibit in front of -- oh,
5 No. 2 in front of you; correct, Mr. White?

6 **A** Ma'am, did you want me to turn to Page 6, is
7 that what you said?

8 **Q** Yes, please.

9 **A** Okay.

10 **Q** Now that appears to be your signature down at
11 the bottom there, doesn't it?

12 **A** Yes, it appears to be.

13 **Q** And that -- can you read aloud for me that
14 language right above your signature?

15 **A** Excuse me, I'm just trying to...

16 **Q** Do you need a magnifying glass. I use those
17 with my readers, too. Would that help you?

18 **A** Yeah, sorry, I don't...

19 **Q** That's all right.

20 **A** I have 2700 vision. Thank you. Okay, above my
21 signature?

22 **Q** Yes, above your signature.

23 **A** I -- we fully understand that it is a federal
24 crime --

25 **Q** Yes.

1 **A** -- punishable by fine or imprisonment or both --
2 I think it's to knowingly make any false
3 statements concerning any of the above facts as
4 applicable under the provisions of Title 18,
5 United States Code, Section 101, et seq, I -- I
6 think that -- yeah, it's a photocopy so...

7 **CHAIRMAN T. WHEELER:** And for the record,
8 it's a photocopy of a photocopy, and the copy
9 we've got up here is almost intelligible as well
10 so I applaud you for being able to read that
11 with a magnifying glass.

12 **THE WITNESS:** Okay.

13 **Q** Now if you would flip to Page 3?

14 **A** Page 3.

15 **Q** Now this document is titled, "Uniform
16 Residential Loan Application.

17 **A** Okay.

18 **Q** Now in the middle of the page --

19 **A** Yes.

20 **Q** -- it has borrower's name as Charles Patrick
21 White -- that is you; correct?

22 **A** Yes.

23 **Q** And then it has on there present address, and
24 could you read that address for me?

25 **A** Present address is 13086 Overview Drive, B5,

1 Fishers, Indiana, 46037.

2 Q All right. And could you flip back to Page 6
3 for me and give me the date that this was
4 signed?

5 A Signed on 1/28/10.

6 Q And could you also read for me what the mailing
7 address is for Charles Patrick White?

8 A Mailing address for this property was 13086
9 Overview Drive, B5, Fishers, Indiana, 46037.

10 Q Mailing address for Charles Patrick White, not
11 the property is 13086 Overview Drive; correct?

12 A I guess if you say, yeah.

13 Q All right. Now it says under there, under --
14 then the next box says former address?

15 A Okay.

16 Q What address is listed as a former address for
17 Charles Patrick White?

18 A 7527 Broad Leaf Lane, Fishers, Indiana, 46038.

19 Q Now you didn't lie on that mortgage application,
20 did you, Mr. White?

21 A Not lie, but these boxes, these fields do not
22 incorporate what was going on in my life back
23 then so...

24 Q That wasn't my question, Mr. White?

25 A And I did not prepare this document.

1 Q Mr. White, you signed and said that you
2 understood it's a federal crime to provide false
3 information in this document; isn't that right?

4 A And we did not provide false information.

5 Q So you did not, so the information contained in
6 this document is correct, thank you.

7 CHAIRMAN T. WHEELER: Did you want him to
8 answer that question?

9 MR. J. BOPP: That's final argument.

10 Q For -- now under there -- on Page 3 under
11 present address, it says that you had been
12 renting Overview Drive for approximately .2
13 years; correct?

14 A That's what it says, but that is not correct.

15 CHAIRMAN T. WHEELER: It says .2 years on
16 there?

17 MS. K. CELESTINO-HORSEMAN: Yes.

18 THE WITNESS: No, it says two.

19 CHAIRMAN T. WHEELER: I thought it said two
20 number. My copy looks like two.

21 MS. K. CELESTINO-HORSEMAN: Okay, .2 for
22 number of years for present -- in the present
23 address box?

24 COMMISSION MEMBER B. PYLITT: The copy we
25 have says 2, not .2. Do you have the original

1 maybe?

2 **MS. K. CELESTINO-HORSEMAN:** And I
3 apologize, these are the copies that they sent
4 me. I think they were faxed to them, .2.

5 **CHAIRMAN T. WHEELER:** Oh, I thought you
6 were referring to Broad Leaf.

7 **MS. K. CELESTINO-HORSEMAN:** Right, sorry.

8 **CHAIRMAN T. WHEELER:** You were referring to
9 Overview?

10 **MS. K. CELESTINO-HORSEMAN:** Overview.

11 **CHAIRMAN T. WHEELER:** I'm sorry.

12 BY MS. K. CELESTINO-HORSEMAN:

13 **Q** So you had been -- the box indicates that you
14 had been at the Overview property for .2 months,
15 and that's approximately two and a half months,
16 isn't it, Mr. White?

17 **CHAIRMAN T. WHEELER:** I think you misspoke,
18 .2 years.

19 **Q** .2 years, all right then, .2 years is,
20 approximately, two and a half months?

21 **A** I had written out checks to rent the Overview
22 Drive property for those...

23 **Q** And -- and you represented to this mortgage
24 company that Overview Drive was your present
25 address; correct?

1 **A** Because I was currently renting it.

2 **Q** Yes. And you also provided this address as your
3 present address, didn't you, Mr. White -- the
4 Overview condominium was the address that you
5 provided as your present address as of January
6 2010?

7 **MR. J. BOPP:** I object. It's asked and
8 answered. It's badgering the witness.

9 **CHAIRMAN T. WHEELER:** You can answer the
10 question.

11 **A** It was the property that we were buying, and I
12 thought that's what it meant by present address.
13 It's what we were buying at that time.

14 **Q** And what -- it says --

15 **A** And I don't know why it says Broad Leaf Lane
16 that I rented. I never rented Broad Leaf Lane
17 for two years. I don't know why it says that.

18 **Q** I have no idea why it says that either, Mr.
19 White.

20 **A** I don't know. You'll have to ask Dale Monroe.

21 **Q** You read this application before you signed it,
22 didn't you, Mr. White?

23 **A** No.

24 **Q** You signed a mortgage application that -- that
25 makes it a federal crime to make a

1 misrepresentation and you didn't bother to read
2 it, Mr. White; is that your testimony?

3 **A** I had signed many of them because of the length
4 of this transaction.

5 **Q** Okay. Mr. White, let's go on to the second one
6 that you signed, how about that, on Page 7, of
7 Petitioner's Exhibit 2?

8 **A** Page 7.

9 **CHAIRMAN T. WHEELER:** Warranty deed?

10 **A** Wait a minute, am I on Tab 7 or Page 7?

11 **CHAIRMAN T. WHEELER:** I'm under Tab 7.

12 **Q** It's Petitioner's Exhibit 2, sorry.

13 **A** 2?

14 **Q** Page 7 of Petitioner's Exhibit 2.

15 **A** Wait a minute. Wait a minute. Here's Exhibit
16 2, Page...

17 **COMMISSION MEMBER G. DURNIL:** It's the same
18 one, Exhibit 2.

19 **CHAIRMAN T. WHEELER:** It's the same one
20 you're still working on.

21 **THE WITNESS:** Oh, okay -- okay, and Page 7?

22 **CHAIRMAN T. WHEELER:** Page 7. They're at
23 No. 5 right now.

24 **THE WITNESS:** Okay.

25 **Q** Now this is another uniform residential loan

1 application, isn't it, Mr. White?

2 **A** Yes.

3 **Q** And if you would flip to Page 10, that again
4 appears to be your signature, doesn't it?

5 **A** Page 10 -- yes, signed 2/26/10.

6 **Q** And above it, again, it contains that language
7 that states that you understand it is a federal
8 crime punishable by fine or imprisonment or both
9 to knowingly make false statements concerning
10 any of the above facts; isn't that right?

11 **A** Knowingly make false statements, yes.

12 **Q** So going back to Page 7, Mr. White, borrower's
13 name is listed as Charles P. White; isn't that
14 correct?

15 **A** Yes.

16 **Q** Now what present address is listed for Mr.
17 Charles P. White?

18 **A** The address of the place that is being purchased
19 at 13086 Overview Drive.

20 **Q** And what is listed as the mailing address for
21 Mr. Charles P. White?

22 **A** Same.

23 **Q** And what is listed as the former address for
24 Charles P. White?

25 **A** Broad Leaf Lane.

1 Q And what date -- if you'll flip back to Page 10,
2 what date was this signed?

3 A Signed on 2/26/10.

4 Q And now if you will go to Page 11 of
5 Petitioner's Exhibit 2, same exhibit?

6 A (The witness complied.)

7 Q Now this is. HUD/VA Addendum to the Uniform
8 Residential Loan Application. Now you did get
9 an FHA loan; isn't that right?

10 A That's right.

11 Q That is a government backed loan; isn't that
12 correct?

13 A Yes.

14 Q So you were providing this information for the
15 purposes of the government evaluating your
16 ability to take on this loan; isn't that right?

17 A Yes.

18 Q Now if you will go to page 13?

19 A Okay.

20 Q Again, that appears to be your signature,
21 doesn't it?

22 A Page 13, yes.

23 Q Now can you read the language under your
24 signature, starting with federal statutes?

25 A Under my signatures?

1 Q Yes.

2 A Borrowers must sign both parts --

3 Q No, under your signature, sir -- under your
4 signature?

5 MR. J. BOPP: Hang on just a second.

6 Q Yes, I'm sorry, starting with the federal
7 statutes language?

8 MR. J. BOPP: You want him to read
9 everything that's in there?

10 MS. K. CELESTINO-HORSEMAN: He can if...

11 A Okay, wait a minute.

12 MS. K. CELESTINO-HORSEMAN: I'm just trying
13 to...

14 A Did you say -- okay, what -- ma'am, what do you
15 want me to read, I'm confused?

16 Q Under your signature there's a sentence that
17 starts federal statutes?

18 A Oh, okay -- all right, got it. The federal
19 statutes provides severe penalties for any
20 fraud, intentional misrepresentation or criminal
21 connivance or conspiracy proposed to influence
22 the issuance of any guarantee or insurance by
23 the VA secretary or the HUD/FHA commissioner.

24 Q Now if you go back to Page 11, the first page of
25 this document, it lists the borrower's name as

1 Charles Patrick White; isn't that correct?

2 **A** That's right.

3 **Q** And it says borrower's name and present address,
4 what present address is provided by you?

5 **A** 13086 Overview Drive.

6 **Q** You didn't tell them that you were living out of
7 a car, did you?

8 **MR. J. BOPP:** That is -- have you asked --
9 are you asking him that question?

10 **MS. K. CELESTINO-HORSEMAN:** Yeah, I'm
11 asking him that question.

12 **MR. J. BOPP:** Oh, okay.

13 **Q** You did not tell them that he -- you did not
14 tell this mortgage lender that you were living
15 out of your car. It doesn't say Charles Patrick
16 White automobile license place number, does it?

17 **A** Ma'am, living out of a car is a term of art, --

18 **Q** I understand.

19 **A** -- meaning that you are effectively working out
20 of your car.

21 **Q** Yes.

22 **A** No, I did not -- to be responsive, no, I did not
23 say I was living out of a car.

24 **Q** Now on Page 13, the date of this is 1/28/10.

25 **A** Okay, Page 13?

1 Q Yes. 1/28/10; correct?

2 A 1/28/10.

3 Q Now if you could, please, go to Page 16?

4 A (The witness complied.) Request for transcript
5 of tax return, yes.

6 Q Okay. Now this is a document wherein you
7 requests that a transcript of your tax return --
8 it's a request for a transcript; isn't that
9 right?

10 A Yes.

11 Q And it is sent to the Internal Revenue Service
12 at the United States of America; isn't that
13 right?

14 A Yes.

15 Q And can you please -- it has a box there that
16 says current name, address; what current address
17 is listed there?

18 A The address listed was 13086 Overview Drive.

19 Q And can you tell me, that appears to be your
20 signature at the bottom, doesn't it?

21 A Yes, it does.

22 Q And what is the date on that?

23 A 1/28/10.

24 Q Now on -- if you could turn to page -- to
25 stipulated Exhibit 10 in the book?

1 **A** Okay, Tab 10, Mortgage.

2 **Q** Okay. If you would go to Paragraph 5, and this
3 one is hard to read so you might need a
4 magnifying glass?

5 **A** Okay, got it.

6 **Q** Okay. The -- could you read the first two lines
7 after the title of the paragraph?

8 **MR. J. BOPP:** We're on Paragraph 5 -- I
9 just got in this front of me, I'm sorry, on
10 Page...

11 **MS. K. CELESTINO-HORSEMAN:** Yes, Paragraph
12 5.

13 **CHAIRMAN T. WHEELER:** Page 3 of 5?

14 **COMMISSION MEMBER B. PYLITT:** It's Tab 10.

15 **MS. K. CELESTINO-HORSEMAN:** Tab 10.

16 **CHAIRMAN T. WHEELER:** Tab 10, Page 3,
17 Paragraph 5.

18 **MR. J. BOPP:** Thank you.

19 **A** Okay, you want me to read the sentences after
20 the -- the title?

21 **Q** Yes, the first two lines after the title.

22 **A** Okay. Borrower's loan -- oh, wait a minute.

23 Okay, borrower's shall occupy, establish and use
24 the property as borrow -- borrower's principal
25 residence within 60 days after the execution of

1 this security instrument or within 60 days of a
2 later sale or transfer of property and shall
3 continue to occupy the property as borrower's
4 principal residence for at least one year after
5 the date of occupancy unless lender determines
6 that requirement will cause undue hardship for
7 borrower or unless extenuating circumstances
8 exists which are beyond borrower's control.

9 Q Now --

10 A Do you need me to read further?

11 Q No.

12 A Okay.

13 Q Now if you will go back to Page 1 of stipulated
14 Exhibit No. 10?

15 A The mortgage?

16 Q Yes.

17 A Okay.

18 Q It says that -- on that page it says that this
19 mortgage is given on February 26th, 2010, so it
20 would -- this mortgage by its terms required you
21 to occupy the property, if you had -- were
22 already occupying it, within 60 days of February
23 26th, 2010; isn't that right?

24 A What I just read now, yes.

25 Q Now I'm going to hand you what's been marked as

1 Petitioner's Exhibit No. 3?

2 **A** Okay.

3 **Q** Now in 2010, you were offered a job or a
4 position at Krieg DeVault; isn't that right?

5 **A** That's correct.

6 **Q** That's a law firm, correct?

7 **A** That's a law firm, is that what you said, ma'am?

8 **Q** Yes.

9 **A** Yes, that's correct.

10 **Q** And on Page 22 --

11 **A** 22.

12 **Q** -- on Petitioner's Exhibit 3, --

13 **A** Okay.

14 **Q** -- this is the letter that was offering you that
15 position; isn't that right?

16 **A** That's correct.

17 **Q** Now the letter is dated January 18th, 2009, but
18 it should actually say 2010; isn't that correct?

19 **A** It should have been sometime in 2010.

20 **Q** Now it's addressed to Mr. Charles P. White.

21 What address does Krieg send this letter to?

22 **A** 13086 Overview Drive.

23 **Q** And now if you'll flip to Page 28?

24 **A** 28, okay.

25 **MR. J. BOPP:** I'm sorry, we've lost our